



August 7, 2013

BY EMAIL AND HAND DELIVERY

City of South Portland Planning Board  
c/o Department of Planning & Development  
496 Ocean Street  
South Portland, ME 04106

IRVING OIL TERMINALS INC.

190 Commerce Way  
Portsmouth NH  
USA 03801  
T 506 202 5689  
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Re: Citizen-Initiated Waterfront Protection Ordinance ("WPO")

Dear Chair and Members of the Planning Board:

I am writing to you in my capacity as manager of US business development for Irving Oil Terminals Inc. ("Irving Oil" or "Irving"). Irving owns and utilizes major interests in two marine terminals in South Portland: the Irving/Citgo terminal located at 102 Mechanic Street (tax map/lot numbers 017/001 and 025/118) and the Irving/Buckeye terminal located at 168 Lincoln Street (tax map/lot numbers 032/111, 032/000L/111, and 028/004) (the "Irving Terminals"). Substantial portions of each of the Irving Terminals are located in the Shoreland Overlay area of the Commercial (C) District.

The purpose of this letter is to provide an overview of the petroleum supply chain in Northern New England, terminal operations in South Portland, and major trends in our highly regulated industry that force the need for constant improvements and enhancements to our terminals. While our co-owners, Citgo and Buckeye, who operate our terminals, will comment how the WPO may adversely impact their day-to-day operations, we thought it would also be beneficial to provide the Board the broader scale of the supply chain, which drives so many of the changes we anticipate, and explains why the WPO would adversely impact all of our operations.

**I. Overview of South Portland Terminal Operations and New England Supply Chain**

Irving Oil is a family-owned company established over 85 years ago. It currently owns and operates one of the largest and most complex refineries in North America. The refinery is

located 60 miles over the Maine border in Saint John, New Brunswick. A majority of the gasoline, heating oil and other products produced at the refinery are imported to the United States. Because of its proximity, the Irving refinery provides much of the gasoline and heating oil that people in Maine and the rest of New England rely upon to run their cars, heat their homes and power their businesses.

The working waterfront of South Portland has been and continues to be a critical distribution point within the Maine and New England energy supply chain. South Portland is home to one of the largest oil ports on the east coast, with five refined product bulk liquid petroleum terminals and the largest rail yard in New England. Irving's 40-year presence in South Portland helps meet energy demands in New England, a cold weather climate heavily dependent on heating oil and newer alternative fuels for home heat. Refined petroleum products delivered to our South Portland terminals typically supply customers in Southern, Western and Central Maine, Eastern and Northern New Hampshire and parts of Eastern Vermont.

Irving's South Portland Terminals receive, store and distribute finished petroleum products, such as gasoline, heating oil, propane, diesel, ethanol, and kerosene. Neither of Irving's South Portland Terminals handles any unrefined crude oil. The products received at the Irving Terminals typically are supplied via marine vessel from our Saint John refinery, or from other sources. When the Casco Bay Bridge goes up, often it is a result of one of our chartered marine ships making a delivery to port.

Marine shipment is one of the safest and most economical means of transportation for finished petroleum products. Delivering ships are berthed at the terminal piers along the Fore River. Hoses are then attached to the ship's manifold and the refined product is offloaded from segregated storage tanks on the ship to one or more of the terminal's storage tanks. Each ship may hold multiple grades of gasoline (7.8 RVP, 9 RVP or 13 RVP – different grades to meet seasonal air quality standards in state and federal law) in both regular and premium, heating oil, ultra low sulfur diesel and other petroleum products, depending on the seasonal demand and the available tankage at the terminal to accept receipt. As the products travel from ship to shore, they pass through segregated pipelines on the pier which then traverse the terminal premises and ultimately into the terminal's storage tanks. In order to retain the quality and meet the specifications of each grade of gasoline and other petroleum product types, separate tanks and lines are required. Thus, when a new product is mandated by law or customer demand, expanded tankage and modifications to terminal infrastructure (i.e. ancillary piping and product handling equipment) may be required to store and handle these products.

Products stored in terminal tanks are piped to a truck loading rack, blended with additives and/or bio-fuels, such as ethanol (mandated by law), loaded onto designated fuel delivery trucks, and we, our co-owners, and our commercial customers then distribute these products throughout Maine and Northern New England to your homes, the gasoline stations you frequent and to the businesses and industries who use our energy products for production purposes.

## II. A Dynamic Industry: Why Terminals Need the Flexibility to Change

The forces that cause change in fuel demand are many – political, environmental, social, technology advancements, and resource availability. In an industry that is as dynamic as this one, we do not control but must be able to react to these external forces. It is impossible to predict with certainty the energy needs of the future or know what new requirements may be placed on our marine terminals. Over the past 40 years, we have responded to constant change within our industry, from safer and larger double hulled vessels for delivery of products, to new standards for tanks and associated piping storing the product (such as double bottom tank requirements), as well as the constant advancement of the fuels themselves. Product demand at these terminals has transitioned over the years from heavy oils, to transportation fuels, to ultra low sulfur fuels, and, most recently, to the introduction of biofuels/renewable fuels. In order to meet changing product demands, our structures, equipment, tanks and machinery at the marine terminals must be continuously modified to accommodate these changes in the safest, most efficient way possible. The next generation of low carbon fuel alternatives will only increase the pace of change.

There are also many demands on us to protect you and your neighbors from supply chain disruptions, whether caused by natural disasters or intentional acts. All terminals have undertaken material upgrades since 2001 in order to comply with US Coast Guard and Homeland Security safety and security requirements, in many cases going above and beyond what is required by law. Information from Hurricane Sandy is already driving enhancements in infrastructure to improve the ability of our terminals to withstand storm events. Much of this hardware must be located in the shoreland area of our terminal. Security improvements are constantly evolving as we learn how better to protect our facilities, and will require many future changes and enhancements, many of which may be in direct conflict with the proposed WPO.

As we look forward, we see additional changes on the horizon, and we know that our marine terminals must have the ability to adapt. Some of the regulations and industry changes we anticipate include:

- Tier 3 gasoline regulations to reduce the sulfur content of gasoline, which will likely require additional tank infrastructure at our terminals due to the need to segregate and maintain product quality to regulated standards.<sup>1</sup>
- Federal renewable fuel standards will continue to adjust annually, dictating the need to blend new types and additional volumes of renewable fuels, such as E15 gasoline,

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<sup>1</sup> We have been advised by counsel that even though these changes may be good for our environment and improve safety, they are concerned the City will interpret an exemption in the WPO for “pollution control” activities as limited to preventing pollution emanating from the terminals and therefore these other compliance activities related to our customers’ use of our fuels would not be exempt from the prohibitions of Section 4 of the WPO.

biodiesel and cellulosic-based fuels. These increases will require new, specialized storage tanks and piping for heating and blending these products.

- As federal air quality standards change, new or upgraded vapor recovery units will likely be required to deal with fugitive emissions from refined products terminals.
- Changes to above-ground storage tank regulations and industry best practices will likely require modifications to existing above-ground tank systems in coming years.

The above are examples of how market forces, industry standards and state and federal regulations require the Terminals to constantly evolve. Section 4 of the WPO, if enacted, will limit the Terminals' ability to change and adapt to these demands – and it will do so at the worst possible time. Right now, terminals need to be able to evolve and improve as the more efficient, less carbon-intensive fuels of tomorrow come on line. The WPO would stifle these changes. It would place unnecessary and unsafe restrictions and prohibitions on our marine terminals, discourage capital investments, incentivize keeping older facilities in operation, and it would likely over time increase the risk of our terminals becoming inefficient and obsolete. It would strain a critical distribution point within the Maine and New England energy supply chain, put jobs and tax dollars at risk, and force the City of South Portland and many other communities to become more reliant on transporting fuel to the area from greater distances, increasing highway and other transportation risks, and potentially leading to cost increases and supply disruptions. In sum, if the WPO is enacted, Maine consumers will likely suffer the consequences of Section 4 of the WPO through a less stable, secure and efficient fuel supply chain.

### III. Conclusion

For the foregoing reasons, Irving respectfully requests that the Planning Board find:

- 1) that the WPO would have negative implications for existing land uses and activities at the refined petroleum products marine terminals in the Commercial (C) District, and
- 2) recommend that the City Council remove Section 4 from the WPO.

Thank you for your consideration of these comments. I will be at the August 13 hearing, and I would be glad to answer any questions that you may have.

Sincerely,



Frank Day