February 9th, 2026

Representative Thuy Tran, Chair
House Committee on Emergency Management and Veterans

RE: *Comments on HB 4100*

Dear Representative Tran and Members of the Committee on Emergency Management and Veterans:

Thank you for your leadership on this critical issue to all Oregonians, and for the opportunity to comment on HB 4100, which will establish financial responsibility for worst-case disasters and spills at certain bulk fuel storage facilities at risk from a Cascadia Subduction Zone earthquake or other, more routine accidents.

Center for Sustainable Economy (CSE), a nonprofit organization, first proposed the concept of fossil fuel risk bonds in 2016 as a way to shield taxpayers from the externalized costs of fossil fuel infrastructure, which includes costs associated with catastrophic and routine accidents and spills as well as the increasing risks associated with infrastructure abandonment. The primary mechanism for this is financial assurance. Fossil fuel risk bond programs also provide the opportunity for states, counties, and cities to shift the financial burden of climate adaptation on polluters rather than taxpayers with a surcharge on fossil fuel transactions. You can read more about fossil fuel risk bonds at Brookings.edu, in a report we prepared in 2024 and learn more about how such programs can help finance climate adaptation in Oregon here, in a report we co-published with the Forum on Oregon Climate Change Economics last spring.

We are pleased by your interest in moving the financial assurance component along in Oregon in the context of HB 4100, which is an improved version of a bill introduced last session (HB 2949-5, 2025). While this version remedies some of the concerns community leaders expressed last year, there are still some major issues that need to be addressed before this bill is reported out of this committee and sent to Ways and Means. In particular:

Preemption – Only three counties will enjoy the protections offered by this bill while the remaining 33 counties will be barred from enacting any financial assurance requirements at all.

We oppose preemption in principle: It was not a requirement for passage of a risk bonds bill in Washington and it shouldn't be in Oregon. Furthermore, the preemption language you have in the bill is apparently random.

We believe committee members may not realize this and, below, have suggested two approaches to remedy this deficiency. As you do know, this bill would add sections to ORS 468B.510 to 468B.525 and, unless otherwise specified, would incorporate definitions set forth in Section 510. However, the definition of "covered entity" established under Section 510 only applies to *three counties* – Multnomah, Columbia, and Lane. There is no reason for this legislation to be restricted to these three counties. Bulk terminals exist in other places, and many more may be constructed in the future given the Trump Administration's abandonment of the federal climate action agenda and push for more oil and gas drilling and domestic consumption.

Out of fairness to citizens of 33 Oregon counties that would not benefit from the protections offered by this bill, it should be left up to those counties to enact whatever financial assurance requirements they deem necessary to safeguard county finances and the public from the externalized costs associated with accidents at facilities under their jurisdiction. A simple remedy would be to change the preemption language in the bill to read as follows:

> Section 4 (6): A local government in Multnomah, Columbia and Lane counties, as defined in ORS 174.116, may not adopt or enforce any ordinance, rule or regulation requiring the owner or operator of a bulk oils or liquid fuels terminal to obtain a financial assurance mechanism that exceeds or is in addition to the requirements of this section or rules adopted by the commission pursuant to this section.

Or, as an alternative, the protections offered by this bill could be extended to all counties by adding the following definition:

> Section 3 (6): 'Covered entity' means a 'bulk oils or liquid fuels terminal' located anywhere in the State of Oregon…

There is no need for a financial assurance cap of $300 million

In Section 4, the current legislation states: "(3)(a) Rules adopted under this section may not require a covered entity to obtain an amount of financial assurance that is greater than $300 million." This is problematic for two reasons: 1) a $300 million cap on insurance works out to $6,300 a barrel for an entity with 2 million gallons of storage, which is far below most damage estimates from the scientific literature and; 2) a cap of $300 million is what industry can now buy on the open market and such a cap is one of the reasons why we believe this legislation is needed: in order to incentivize the highest possible safety standards, not the lowest, for Oregon. Again, Oregon's infrastructure is uniquely vulnerable to a 9.0 quake. There is no other region in the country this vulnerable to such a catastrophic incident. Therefore, caps of $300 million are inappropriate, given *the risk of the largest spill in U.S. history.*

Moreover, the origins of the $300 million figure was an erroneous interpretation of Washington's financial assurance legislation. The figure is based on insurance availability alone, and not the full suite of financial assurance mechanisms available. The relevant section from Washington law is as follows:

> RCW 88.40.025: …."consider such matters as the worst case amount of oil that could be spilled, as calculated in the applicant's oil spill contingency plan approved under chapter

90.56 RCW, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill, and the commercial availability and affordability of financial responsibility."

Importantly, 'commercial availability and affordability of financial responsibility' means *all* financial assurance instruments, not just insurance. Yet the state has simply focused on insurance, and that decision is being actively contested as the financial assurance amounts are being updated. The whole point of the risk bond idea is to go beyond just insurance and, if insurance does not provide adequate coverage, stack the financial assurances with surety bonds, performance bonds, letters of credit or - our preference - third party administered trust funds. That way if insurance only provides $300 million then the rest is provided by these other mechanisms.

Comply with OSSPAC recommendations and lower threshold for compliance from 2,000,000 to 10,000 gallons.

We are further concerned that the current language in this bill is restricted to facilities with combined storage capacity of 2 million gallons or more. Again, this is a problem caused by omitting a definition of covered entities. According to a PSU honors study of CEI Hub infrastructure, about 98% of the CEI Hub Capacity would be covered if risk bonding applied to all tanks 100,000 gallons or more (Bal 2021) and probably 99% or more if it is set at 10,000 gallons. In many cases, smaller spills can be more expensive to clean up than larger ones and can also lead to cascading accidents and explosions when infrastructure is tightly packed together.

If the threshold is set at 10,000 gallons, it would be consistent with the recommendations from the Oregon Seismic Safety Policy Advisory Commission (OSSPAC 2019), which recommends "…focusing first on regulatory authority of above-ground liquid fuel tanks of more than 10,000 gallons, which are of primary concern in terms of limiting threats to safety, environment, and recovery. Tanks of this size constitute the bulk of liquid fuel stored in the state, and this size exempts smaller tanks located at farms, schools or fire stations." Small tanks can pose just as many threats as large ones if they are located in the wrong place, such as across from schools or if they are mobile.

Adding a definition of covered entity could solve this issue (in addition to the preemption issue, as discussed above). A full definition based on ORS 468B.510 could be as follows:

> Section 3 (6): 'Covered entity' means a 'bulk oils or liquid fuels terminal' located anywhere in the State of Oregon that is primarily engaged in the transport or bulk storage of oils or liquid fuel products and is characterized by having:
>
> (a) Marine, pipeline, railroad or vehicular transport access;
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> (b) Transloading facilities for transferring shipments of oils or liquid fuel products between transportation modes; and
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> (c) One or more bulk storage tanks with a combined capacity of ten thousand gallons or more.

Decommissioning costs should be included in this bill.

As the transition to renewable energy accelerates, taxpayers will increasingly be on the hook for paying the costs of dismantling and removing abandoned fossil fuel infrastructure and cleaning up toxic sites like the CEI Hub. As such, the legislation should require financial assurances that not only cover potential taxpayer costs in the event of a catastrophic accident at fossil fuel infrastructure sites but also require financial assurance for *decommissioning* of fossil fuel infrastructure once it's no longer needed. The bill as written does not make such requirements and therefore exposes Oregon taxpayers to picking up the tab for cleanup when the infrastructure in abandoned. Oregon taxpayers cannot afford this additional burden.

The Oregon Department of Energy finds the state is on track for a roughly 70 percent reduction in liquid and gaseous fuel use by 2050. Another recent study from Parametrix, a consultant to Portland's Bureau of Planning and Sustainability (BPS), finds that the Critical Energy Infrastructure (CEI) Hub is already using only about 35 to 40 percent of its storage capacity. Thus, decommissioning can and should begin now, focusing on those storage tanks that are the oldest and most hazardous, with the polluters paying for the decommissioning, removal and restoration of the sites.

Thank you for your time and consideration of the issues we have raised. We look forward to reviewing a subsequent draft that incorporates these concerns.

Sincerely,

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