



conservation law foundation

Via Email

Mr. Steve Carten
Vice President of Operations, Gulf Oil, LP
80 William Street, Suite 400
Wellesley Hills, MA 02481
scarten@gulfoil.com

For a thriving New England

CLF Massachusetts 62 Summer Street
Boston MA 02110
P: 617.350.0990
F: 617.350.4030
www.clf.org

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Re: 500 Waterfront Street, New Haven, CT 06512

Dear Mr. Carten,

Conservation Law Foundation (“CLF”) writes this letter to express serious concerns with the modifications Gulf Oil plans to make to its bulk petroleum storage terminal at 500 Waterfront Street in New Haven, Connecticut. CLF is a 501(c)(3) nonprofit, member-supported organization dedicated to the conservation and protection of New England’s public health, environment, and natural resources. CLF has a particular interest in ensuring bulk petroleum storage terminals throughout New England can withstand the increasingly severe weather and rising sea levels brought about by climate change. These impacts are already occurring along the Connecticut coast and will only increase in severity over the next decade and beyond, during the service life of existing and new or modified facilities. In fact, CLF has sued ExxonMobil and Shell Oil for violating federal environmental statutes by failing to take these known risks into account at terminals in two other states similarly experiencing rising seas and increased severe weather. *See CLF v. ExxonMobil Corp., et al.*, No. 16-cv-11950-MLW (D. Mass.); *CLF v. Shell Oil Products US, et al.*, No. 17-c00396-WES (D. R.I.). It is in this light that CLF shares with you our concerns.

First and foremost, CLF recognizes the precarious location and nature of the Gulf Terminal: a bulk petroleum storage facility located right on the coast nearly at sea level and immediately adjacent to the confluence of the Mill River, the Quinnipiac River, and New Haven Harbor. The Terminal also sits in a Federal Environmental Management Agency (“FEMA”) flood zone and abuts a FEMA high velocity zone. These location characteristics make the Terminal—and therefore New Haven’s cherished waterbodies—exceptionally vulnerable to severe weather and sea level rise. Hurricane Sandy lingers in our collective memory and provides a reason to make decisions about the future of the Terminal with both care and caution, using the best data available to inform the deliberative process.

We have reviewed the Site Plan and Coastal Site Plan Review Gulf Oil recently submitted to the New Haven City Plan Commission for approval to, among other things, increase the height of its secondary containment berms. Coastal storage and handling of petroleum products is a major risk in the face of climate change. In fact, recent experiences with Hurricanes Katrina, Irene and Harvey, and Superstorm Sandy provide numerous tragic examples of catastrophic failures of coastal petrochemical storage, refining, and handling infrastructure. Gulf’s proposed infrastructure investment in New Haven must be evaluated through a multi-decade life-cycle lens. We are gravely concerned that this investment will exacerbate rather than rectify existing and future risks and that, as a result, Gulf’s proposed plan does not comply with local, state, or federal law.

Specifically, our review raised several questions based on the application materials and the March 25 approval by the Commission, as well as the facility's ability to meet the standards for a New Haven floodplain development permit, as required by the Flood Damage Ordinance. Please find our questions more specifically outlined below:

- 1) **How does Gulf Oil's Coastal Site Plan Review address the state-mandated sea-level rise scenario of an additional 20 inches by 2050?** The Connecticut Coastal Management Act requires that coastal site plan reviews consider the sea-level rise scenario adopted pursuant to Connecticut General Statutes § 25-68o. *See* Conn. Gen. Stat. §§ 22a-106; 22a-92(a)(5); 22a-93(19). The Connecticut Department of Energy and Environmental Protection has adopted a sea-level rise scenario of 20 inches by 2050 as the official Connecticut-state sea-level rise scenario. We saw nothing in Gulf Oil's application materials or the Commission's report discussing, let alone complying with, this requirement.
- 2) **How does Gulf Oil's Coastal Site Plan Review address the required standard for shoreline flood and erosion control structures?** The Coastal Management Act requires that approval of a "shoreline flood and erosion control structure" include "specific written findings that such structure is "necessary and unavoidable for the protection of infrastructural facilities," and "that there is no feasible, less environmentally damaging alternative and that all reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts." Conn. Gen. Stat. 22a-109(a). Gulf Oil's application identified the containment berms as "shoreline flood and erosion control structures," but CLF's review found no discussion of the required standard in either (i) Gulf Oil's application, or (ii) the Commission's report.
- 3) **How does Gulf's proposed "one foot above FEMA base flood elevation" [13 feet] design elevation compare with the methodology and standard of care applied in the ongoing US Army Corps of Engineers Coastal Storm Risk Management Project in New Haven which tentatively recommends a floodwall system with a top elevation of +15 feet NAVD88?** The Draft Integrated Feasibility Report & Environmental Assessment published jointly by the Connecticut Department of Energy and Environmental Protection and the US Army Corps in December 2019 explains that the +15 feet NAVD88 floodwall height considers sea-level rise scenarios with some allowance for wave action, supplemented by pumping components.
- 4) **What analysis has Gulf Oil done to ensure that the facility satisfies the Connecticut Building Code applicable to facilities adjacent to a coastal high hazard zone?** In particular, what analysis has Gulf Oil done to determine whether "the stillwater depth of the base flood above the eroded ground elevation is greater than or equal to 3.8ft" or "the eroded ground elevation under base flood conditions is 3ft or more below the maximum wave runup elevation," as required by IBC § 1612.4 and ASCE 24-14?
- 5) **How does Gulf plan to ensure that it maintains dry access to the facility during a 100-year flood event?**

- 6) **What is the basis for filing a separate site plan and coastal site plan review application for the above-discussed modifications rather than combining it with Gulf's site plan and coastal site plan review application for its proposed new 7 million gallon above-ground storage tank?** Separating the applications appears to segment one functional project into two seemingly inseparable permitting/construction actions.

- 7) **How does Gulf intend to anchor the new above-ground storage tank as required by the New Haven Flood Damage Prevention Ordinance?**

- 8) **What cumulative impacts of the proposed modifications and the installation of the 7 million gallon above-ground storage tank are capable of negatively affecting the current conditions in New Haven Harbor and the future development for plans for Long Wharf favored by the New Haven City Planning and Engineering Departments?**

We appreciate your attention to these matters. The health and safety of the New Haven community, as well as the Quinnipiac and Mill Rivers and the New Haven Harbor, depend upon your studied consideration of the above questions. We would greatly appreciate the opportunity to discuss these questions and our concerns with you. Given the importance and time sensitive nature of these issues, **we ask that you respond to this letter within fourteen (14) days.** Should you have any questions, please feel free to reach out via email at ckilian@clf.org or by phone at 802-917-3212.

Sincerely,



Christopher M. Kilian, Esq.
Senior Attorney
15 East State St., Suite 4
Montpelier, Vermont 05602
ckilian@clf.org
802-917-3212 (cell)

Cc: James Turcio, Building Official, City of New Haven, jturcio@newhavenct.gov
Aïcha Woods, City Plan Executive Director, City of New Haven,
awoods@newhavenct.gov
Giovanni Zinn, City Engineer, City of New Haven, gzinn@newhavenct.gov
Jenna Montesano, Deputy Director of Zoning, City of New Haven,
jmontesano@newhavenct.gov
Sue Jacobson, Supervisor–Southwest District, Land and Water Resources Division,
Connecticut Department of Energy and Environmental Protection,
susan.jacobson@ct.gov
Stephen J. Benben, Vice President, Triton Environmental, Inc.,
sbenben@tritonenvironmental.com