

From: [Council](#)
To: [Barbara Brenner](#); [Barry Buchanan](#); [Rud Browne](#); [Satpal Sidhu](#); [Timothy Ballew](#); [Todd Donovan](#); [Tyler Byrd](#)
Cc: [Becky Boxx](#); [Matt Aamot](#); [Mark Personius](#); [Dana Brown-Davis](#); [Jill Nixon](#); [Kristi Felbinger](#); [Marina Engels](#); [NaDean Hanson](#)
Subject: FW: Changing Tactics For Cherry Point Resolution
Date: Thursday, August 02, 2018 8:06:45 AM

From: Wendy Harris [mailto:w.harris2007@comcast.net]
Sent: Thursday, August 02, 2018 7:12 AM
To: Council
Subject: Changing Tactics For Cherry Point Resolution

Air Quality Issues Must Be Raised At Cherry Point To Control Development

On July 17, 2018 the Benicia, California City Council was asked to reconsider directing City Staff to review and make recommendations on a City Industrial Safety Ordinance. This video, linked at the bottom, provides a presentation from Valero, wherein they disclose refinery air monitoring data that is not normally released to the public, and they discuss their ability to add in a full time public monitor. They were willing to go further with disclosure then ever before as a means of heading off a more onerous industrial safety ordinance.

We can not control Cherry Point growth through a change in permit processing. Instead, we must understand and lead with concerns regarding objective, quantifiable air quality issues. The proposed ordinance will not get us to this leveraged position. We will only make industry responsible and accountable for the pollution that is released when we understand it and can ask pointed questions regarding monitoring data and reports. We need to see the quantifiable evidence that exists but is not being released to the public. Why isn't this information being shared with the county and the public? It qualifies as a public record.

Instead we are being manipulated and told half truths by NWCAA and the refineries. For example, NWCAA has posted Purple Air monitors at the same location as their normal expensive, private monitors. These are a favorite with citizen air monitoring activists and they should be releasing the differing levels of information that they are obtaining from the NWCAA monitors and

the Purple Air monitors. They are not doing so. Most activists are finding that the pollution reports from regional air agencies and industry is substantially understated. How will this thing change by requiring a CUP?

I issued a public record request for air quality monitors involved in the June 1, 2017 sulfur compound release from Phillips 66 that sickened neighbors and middle school children. My request was issued in February of 2018 but the information was never provided to me, with one exception. I learned that the Phillips 66 sulfur monitor failed to register any large sulfur release at the same time adults and children were feeling ill, some of them vomiting and on the verge of passing out. That suggests that something is wrong with the Phillips monitor. It has either been placed in an inappropriate location, or it is not functioning correctly. Either way, this requires follow through. Instead, NWCAA ignores the fact that I asked for these public documents and does not respond if I raise the issue directly. This willful and deliberate refusal to acknowledge and respond to a public record request will not change as a result of the permit process.

For us to protect public health and safety against Cherry Point industries, we need to understand what is occurring to air quality at Cherry Point and surrounding areas, how this needs to be monitored, what type of technology is needed to do this, and where the monitors need to be placed for optimal measurements. We need to understand when "maintenance" or "replacement" parts also increase operational or holding capacity. We are not being told this information.

We were told that Phillips was not involved in the June 1st sickening incident since this happened in the morning. However, the cleanup of the tank blurps occurred in the afternoon, at the same time that when everyone became ill. At this time, there was a prevailing wind blowing towards the middle schools. It appears to me that NWCAA is attempting to protect Phillips 66 by asserting there were other potential causes. There was not.

There was a rumor, started by Phillips of leaking gas at one of the schools. The gas company checked the schools and they were fine. There was a rumor

that a sulfur leaking tanker that had created bad odors in Samish and Bellingham Bay was involved, but it did not arrive near Cherry Point until the day after this incident. There was also the rumor that this was a dead animal, never identified, again started by Phillips, who initially was not forthcoming to the NWCAA. Phillips 66 also expected NWCAA to deal with an earlier story from a local radio station that reported the problem was created by Phillips. I find that particularly odd. Doesn't NWCAA work for the public and not the refineries?

This file was allegedly open for almost one year, although most of the work was done in the first couple of weeks and few site reviews done a month or so later. This should alert you to the fact that the NWCAA is concerned only with partnering with the refineries and to this end, is unlikely to enforce some violations.

Why didn't the city of Ferndale investigate this incident? Why didn't the county investigate this incident? You both would have learned that this is not an isolated incident and that there were other problems with the way the refineries and businesses are operating. I have also heard that trains fall over routinely on the Cherry Point tracks and are uprighted by large cranes and the tracks fixed. Based on what I have witnessed with the idling trains by me, I would tend to believe this assertion.

We need to have a citizen monitoring project, where people mount \$250-\$300 unsophisticated monitors, which only measure particulate counts, on their homes to compare with NWCAA and industry data. We know from other activist groups, primarily in the Northern California, that the govt. data is much, much higher than what is reported. Moreover, this allows for a closer neighborhood review which is important since air pollution can vary greatly within just a few blocks. One thing we have learned is that the worst pollution releases occur during any kind of upset or turn a round.

In Benicia, the activists were able to get an admission from industry that they were not forthcoming with information and that they needed to do a better job in communicating with the city and community. I am still not convinced, like

some of the other Benicia council members, that they were receiving the whole truth, but they are certainly on a better track in managing their local refineries.

We have NEVER held Cherry Point industry accountable before the county council and public and we never will until we include quantifiable air quality data in the issues that we review. There have been too many near misses at Cherry Point for us to keep taking chances and that is before you consider the idling trains that I routinely document in 4 different county locations (and one in Skagit.)

Cherry Point representatives are trying to tell the council they do not want to get into this complex area of air quality. Why? The law specially allows it as long as council enacts local regulations at least as protective as state and regional laws. If we need someone technical to assist us, it should be a council employee who works for the county and not NWCAA or industry. And we need to establish a community network of inexpensive monitors in our community.

Instead, our extreme tolerance has resulted in the **industry trying to dictate terms to us and making up rights that do not exist, such as the inherent right to expand operations to remain competitive**. It is important to see this for what it is... an attempt to get the county to exceed its authority by treating a permitted business as containing some secret vested right to expand in the future to remain competitive. I suggest that you request legal authority for this position. I would be very interested in reviewing this authority as I am confident it does not exist as a legal right.

We will never be able to control Cherry Point growth through only a land use plan involving large development permits and conditional use permits. That simply does not match the type of creeping, hidden growth that we are seeing at Cherry point. It is a good solution to the wrong problem. The SEPA process has been manipulated to benefit the large business corporations at the expense of small business, start ups, and the environment. It is crucial that we finally

begin to look at air quality issues as a matter of grave importance in determining what businesses to allow at Cherry Point, if any, how to properly manage them and how to ensure that we are being provided with accurate and complete information. It is very clear that up till now, we have not. We need to maneuver into the same place as the Benicia city council.

As much as I appreciate the efforts by our current council to do something about this uncontrollable and gradual growth being permitted by the executive and NWCAA, you are not going about it in an effective manner. We must change course and this may take more time than was expected. I believe the tangible results of a new focus on air quality changes and the monitoring data to reflect it will be worth it.

The video of part of the Benicia council meeting can be found here.

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[Benicia, California City Council: Industrial Safety Ordinance - Valero opposition](#)

Sincerely,
Wendy Harris