

From: [Alex Ramel](#)
To: [PDS Planning Commission](#)
Subject: Response to Cherry Point Issues Raised on 9/12
Date: Monday, September 16, 2019 1:57:43 PM

Whatcom County Planning Commissioners,

Thanks so much for your continued service to Whatcom County and for your thoughtful attention to the Cherry Point policy. I'm writing to follow up on the discussion and to respond to several of the points that were made at the hearing on September 12.

1.

Prohibition of new refineries, new fossil fuel export facilities, another pier at Cherry Point or conversion of existing facilities to transshipment facilities are uncontested. We heard from a lot of people, with a lot of perspectives on Thursday, and I didn't hear anyone object to these provisions.

2.

Existing facilities are under regulated. As I mentioned, the oil train facilities were permitted at both facilities with little more review than a Mitigated Determination of Non-Significance. When a similar facility was proposed at the Shell Refinery in Anacortes a few years later, an EIS was required that identified the risk of oil train derailment as a significant and unmitigated impact. Because of Whatcom County's failure to identify this risk, an oil train headed for BP Cherry Point in 2015 derailed and [spilled 35,000 gallons in 2015](#). The risk of additional derailments and spills is on-going.

3.

Existing refineries have never been required to complete an EIS by Whatcom County. After this was noted last Thursday, a representative for BP stated that they are doing an EIS for their pier expansion right now. The truth is that [that EIS is required by the Army Corps](#), *not the County*. What the BP representative also failed to state was the only reason the EIS was required--AFTER the construction of the pier--was in response to a lawsuit filed out of concern for the pier's impact on the Cherry Point reach, herring, and potentially orcas.

4.

Conditional Use Permits are required for many refinery projects in Anacortes. [You can see for yourself](#).

5.

Conditional Use Permits are decided by the Hearing Examiner. It was asserted at the hearing that under the new policy these decisions would be made by the County Council which is incorrect.

6.

Conditional Use Permits must be decided within 120 days. In July, County staff informed Council that there is a maximum period of time for permit decision making. This is the same statutory deadline as for building permits.

7.

Conditional Use Permits require additional public notification and involvement. While industry may view that as risk, it shouldn't be a problem if the proposed project isn't harmful to the climate, the Salish Sea or their neighbors.

8.

GHG emissions requirements don't put local industry as a disadvantage compared to California and BC refineries. Refineries in other jurisdictions already pay carbon fees. CA has a cap and trade program and BC has a carbon tax. Under both of these systems, they pay for all emissions associated with their facilities, while the offsets required under the proposed Cherry Point ordinance would only apply

to emissions that increase beyond the baseline. *It would be far more accurate to say that this policy would eliminate some, but not all, of the competitive advantages that these refineries currently enjoy.*

9.

Regulating emissions at the local level is an effective policy. We were told several times last night that addressing emissions at a local level is insufficient to solve the problem of global warming. While confronting a global crisis is a daunting challenge, I would submit that the combined impacts of proposed and existing fossil fuel facilities at Cherry Point make this one of the most impactful decisions we can ever make. The carbon footprint from the proposed coal terminal alone would have doubled Washington state.

10.

SEPA already authorizes emissions offset requirements for some refinery projects. As staff mentioned in the briefing, the exercise of the authority is discretionary (subjective). The occasional use of this authority has not disrupted projects in the past--for example BP's ultra-low sulphur diesel project in 2012, which paid a [\\$4.4 million offset to the NWCAA](#). The draft policy, I think wisely, attempts to standardize and consistently apply this requirement. Businesses and the public should know what the rules are before they apply.

11.

Availability of the insurance policies has been addressed. Several speakers repeated the talking point that the refineries might not be able to find commercially available insurance policies to meet the provisions identified in the draft. The notes from Cascadia Law in the draft indicate that "Minimum insurance amounts could be increased, but at levels above \$50 million to \$ 100 million may not be available in the insurance market." To me that suggests that they have reviewed that question. I would encourage you to verify that.

12.

Manufacturing and construction jobs in Whatcom County are increasing. We heard the point that the companies may not invest in these facilities if permitting is uncertain. I have heard the refineries argue this point since the passage of the moratorium. Before that we heard that if we didn't approve the coal terminal that no one would want to do business in Whatcom County. Since the moratorium has passed and the terminal was denied, the refineries have completed numerous projects, and initiated several more. Despite claims that this policy is already harming the economy, the year after the moratorium was implemented our community [added 800 local manufacturing jobs and 400 construction jobs](#). The following year, [we added another 300 manufacturing jobs and another 200 construction jobs](#). Moreover, numerous refinery upgrade projects have been permitted promptly since the moratorium was enacted, and the first permit application was just submitted for a new renewable diesel refinery. The claims about the moratorium squarely contradict reality, and we should question when the same people say the same things about these code amendments.

13.

There is room for some improvements. I heard some other points that I think we should all spend a bit of time exploring. I'd encourage you to consider the points about definitions, to consider the list of project types excluded from CUPs, and look carefully at the GHG quantification standards and offset requirements (including how offsets can lead to local, prevailing wage jobs). The details in these sections matter a lot, so I'd discourage you from making changes without consultation with multiple stakeholders, but I'd be open to considering how these areas can be improved.

Thanks again for the time and attention that you have all paid to this process. Please don't hesitate to contact me if I can provide any additional information or details.

Warm regards,

--

Alex Ramel

Field Director, Extreme Oil Campaign

Alex@Stand.earth
c. 360.305.5079

