

From: [Jacob Pederson](#)
To: [PDS Planning Commission](#)
Subject: Public Comment From Concerned Citizen
Date: Monday, October 21, 2019 6:11:43 PM

Dear Whatcom County Planning Commission,

My name is Jacob Pederson, a resident and voter of Whatcom County and Environmental Journalism student at Western Washington University. Before anything else, I would like to thank you for hearing from a diversity of stakeholders on the October 10th Work Session, including REsources, the Northwest Clean Air Agency (NWCAA), the Cherry Point Citizen Stewardship Committee, Renewable Energy Group, and BP. I will also offer my advice on a few of the points brought up at the Work Session about the Cherry Point Code Amendments. First, the addition of a “de minus” threshold for greenhouse gas (GHG) emissions should be set at one ton over the baseline established by the county, second, the range of years for GHG emissions should be set by the industry, third, I stress the importance of county-level GHG regulation, fourth, the section of code that implies the prohibition of new tanks should be modified, finally biofuel facilities should be exempt from carbon mitigation by the county but they should require conditional use permits.

The current code language details the county’s proposed mitigation requirements for GHG emissions, but it is vague about the minimum amount of GHG that will trigger these measures. On page 3 of Matt Aamot’s October 3rd Memorandum it states “it’s unclear whether even 1 pound of increase in GHG emissions triggers and analysis.” To resolve this, the code should say that mitigation will be required started at the first ton that projections show will go over the threshold. This way, future county staff will know that projections predicting anything less than a ton over the baseline will trigger no action by the county. As the Memorandum also points out, GHGs are measured in tons for regulatory purposes, not pounds, so it would be nonsensical to mitigate levels that are any lower.

Regarding the baseline that will serve as the threshold for mitigation, I believe that the county should take the NWCAA recommendation to let the refineries choose a range of years to serve as a basis for their GHG emission averages. This way, they can choose years where they had no shutdowns or turnarounds, resulting in a baseline that is truly reflective of their average GHG emissions at normal levels of operation, and it will increase the fairness of this new rule.

Commissioner Hancoop asked why the county should mitigate GHGs when the NWCAA already regulates these if they 25K to 75K tons are emitted by a stationary source. The reason why it is important for the county to have mitigation requirements of their own in place is that non-stationary sources, such as trains, trucks, and other shipping infrastructure is used to ship crude oil and other raw materials to the refineries. Tankers and other transport ships are needed to distribute the finished product to its markets. None

of these non-stationary sources have their emissions regulated by the state or federal government, so it is up to the county to do so, otherwise they are unaccounted for and just as harmful as stationary sources in their contribution to climate change. There is also a clear gap in mitigation for stationary emission sources that emit less than 25K tons of GHGs, which is below the threshold for NWCAA or Department of Ecology authority to regulate. This creates a loophole for Cherry Point refineries to apply for projects that emit just under 25K tons repeatedly until they've added enough infrastructure to fall within the 25-75K range overtime, but since each individual project was under that threshold, no mitigation would be required. Under the county's proposed GHG mitigation rule however, projects that emit anywhere between a ton and 24K tons of GHGs will require mitigation. Under 20.68.801 of the amendments, the refineries have a choice to either initiate a GHG-reducing project themselves, or they can pay a fee of \$60 per ton to fund "local" GHG mitigation projects. Although these measures taken by the proposed code are highly contested, the refineries have an extremely wide profit margin. They are not humble family-owned businesses, but facilities that are operated by large oil corporations that operate all over the world. According to the Energy Transition Laboratory's report "*A Refining History in Washington State*" published in August 2015, Phillips 66 made \$4.2 billion in profits in 2014. BP made \$2.9 billion and has \$353.6 billion in liquid assets. These companies can afford to clean up after themselves, in this case, mitigate some of the carbon they're emitting. For this reason, they should be required to help strengthen our community's ability to be resilient in the face of climate change, which they worsen with each project. With a workable GHG mitigation strategy to fill the void left by Clean Air agencies, State-level Departments, and Federal regulations that guide these, counties around the country with refineries and other fossil fuel facilities can start curbing climate change with a steady stream of regulatory revenue relatively painless for their industry's bottom lines, but crucial to the planet's health.

Section 20.68.205 of the amendments lists "new fossil fuel transshipment facilities, including bulk storage or transfer facilities for fossil fuels" as a prohibited use. This implies that any new tanks are prohibited, which is problematic and should be changed. It should be clear in the code that new tanks can be built as long as they are not converted for the export of unrefined fossil fuels later. One of the chief purposes of the code revisions are to prohibit non-refined fuels from being shipped using Cherry Point's existing and future transshipment infrastructure. It is not there to stunt the growth of the existing fossil fuel refining operations. I propose that this line is reworded to match the prohibited use under 20.74.055 where the conversion of "Renewable Fuel Refinery or Renewable Fuel Transshipment Facilities to fossil fuel facilities" is prohibited, but not the construction of the permitting and construction of new infrastructure itself. This way, tanks and other storage facilities can be built, but certain uses of them for purposes other than refining will not be allowed.

Lastly, I support Commissioner Deshmane's motion to exempt renewable fuel facilities from greenhouse gas mitigation. This could either be completed through a simple deletion of renewable fuel facilities from section 20.68.800 where it says "this section applies to

fossil fuel refineries,, fossil-fuel transshipment facilities, renewable fuel refineries, or renewable fuel transshipment facilities.” This way, the higher cost of refining biofuel is accounted for by not requiring mitigation, and the calculation of GHG emissions will not have to be reported to both the county and the federal government, which already requires the tracking of this data. As far as Conditional Use Permit (CUP) requirements, I feel that concerns about converting renewable fuel facilities to fossil fuel facilities are covered by the aforementioned 20.74.055 prohibiting such conversions, however they should still mandate a CUP. The *Cascadia Law Group* outlined the non-discrimination clause of the Constitution in its report “*Reducing Impacts from Fossil Fuel Projects Report to the Whatcom County Council.*” This suggests that making it easier for renewable fuel projects to be permitted would be discriminating against fossil fuel refinery projects, which can result in litigation that may invalidate all or part of the code on the basis of discriminatory regulation. As I mentioned in a public comment submitted on Tuesday, October 8th, CUPs are needed for preventing negative environmental and public health impacts for Whatcom County.

Thank you and I look forward to hearing further discussion about improvements to the code in your October 24th work session. I hope that some of the insights from my own familiarity with the draft amendments will help inform and guide some of those decisions.

Sincerely,
Jacob Pederson