

**From:** [Council](#)  
**To:** [Jill Nixon](#); [Kristi Felbinger](#); [NaDean Hanson](#); [Jennifer Schneider](#); [Matt Aamot](#); [Mark Personius](#); [Becky Boxx](#); [Ashley Ubil](#)  
**Subject:** FW: WSPA Comments on AB 2020-217  
**Date:** Monday, June 01, 2020 11:57:00 AM  
**Attachments:** [WSPA letter Whatcom County Council AB2020-217 .pdf](#)  
[image001.png](#)

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**From:** Holli Johnson <hjohnson@wspa.org>  
**Sent:** Monday, June 01, 2020 11:45 AM  
**To:** Council <Council@co.whatcom.wa.us>; Rud Browne <RBrowne@co.whatcom.wa.us>; Todd Donovan <TDonovan@co.whatcom.wa.us>; Tyler Byrd <TByrd@co.whatcom.wa.us>; Kathy Kershner <KKershne@co.whatcom.wa.us>; Ben Elenbaas <BElenbaa@co.whatcom.wa.us>; Barry Buchanan <BBuchana@co.whatcom.wa.us>; Carol Frazey <CFrazey@co.whatcom.wa.us>  
**Cc:** Satpal Sidhu <SSidhu@co.whatcom.wa.us>  
**Subject:** WSPA Comments on AB 2020-217

Dear Whatcom County Council,

Attached are comments from Western States Petroleum Association (WSPA) on AB 2020-217 Renewal of Fossil Fuel Moratorium. I hope you will have time to review prior to Tuesday nights meeting.

If you have any questions, please reach out to me.

Thanks!

Holli Johnson  
MANAGER, NW REGION



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P 360.239.2248 [wspa.org](http://wspa.org)



Holli Johnson  
NW External Affairs

June 1, 2020

Sent via email

Whatcom County Council  
311 Grand Avenue, STE 105  
Bellingham WA 98225

Re: WSPA Comments on AB2020-217

Honorable Council Members:

I am writing on behalf of the Western States Petroleum Association (WSPA) to express WSPA's opposition to AB2020-217, a proposed Ordinance extending the County's moratorium on new or expanded fossil fuel shipment facilities in the Cherry Point UGA. WSPA is a non-profit trade association representing companies that explore for, produce, refine, transport, and market petroleum and petroleum products in five western states, including Washington. WSPA members have operated refineries along Cherry Point in Whatcom County for decades. This area provides key energy and emergency infrastructure as recognized by various city, state, and federal documents and is a regional hub for energy production and distribution.

WSPA urges the Council to refrain from improperly extending the moratorium for the ninth consecutive six-month increment. Instead, the County should allow the existing moratorium (the eighth installment) to lapse. WSPA has explained its interest in and opposition to the County's interim moratorium in previously submitted letters.<sup>1</sup> The current iteration of the moratorium repeats the legal flaws detailed in WSPA's prior letters. In short, the ordinance violates both state and federal law and is inconsistent with the County's comprehensive plan policies. Moreover, this ninth extension of the purportedly "interim controls" prolongs an unnecessary rolling moratorium that sends the wrong message to businesses that will have a significant impact on providing the continued employment and tax revenue needed as we climb out of the recession.

It is unquestionable that this ninth installment of the County's rolling moratorium violates the Growth Management Act and frustrates its purpose. Moratoria are a kind of "interim control" or temporary measure that the GMA authorizes for only a short period. RCW 36.70A.390. While the statute allows "one or more" six-month renewals, the Growth Management Hearings Board has correctly concluded that there are limits to how many times a County can repeatedly adopt a six month extensions. With its ninth installment, the County has long ago crossed the threshold – the moratorium is neither interim nor temporary. The County's systematic and continuous renewal of nominally "interim" controls constitutes de facto permanent regulations and therefore abuses the GMA's interim control provisions.

The County's action on AB2020-217 also violates the Governor's stay-at-home order and associated Proclamation 20-05 related to the Open Public Meetings Act. In response to the

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<sup>1</sup> We are incorporating WSPA's comment letter dated September 2016, March 2017, September 2017, February 2018, August 2018, January 2019, July 9, 2019, and December 3, 2019.

pandemic, Proclamation 20-05 provided flexibility to allow only certain actions to be taken at public meetings that are conducted remotely – specifically, public agencies can take action at remote meetings on non-COVID-related matters only if the action is both “necessary and routine.” As noted by the updated guidance from the State Attorney General’s office dated March 26, 2020, whether an action is “routine” turns on whether it is “unusual, special, and/or expected to be controversial and for which there will be a high public interest.” A moratorium is by definition *not* routine. It is an action taken in limited circumstances (notwithstanding the County’s improper repeated use of it). Moreover, the moratorium is not “routine” because of the continued high levels of public interest and controversy around the moratorium.

Most importantly, the County’s consideration of AB2020-217 sends the wrong message at a terrible time. The County, the state, and the entire country are battling through a crippling recession caused by a global pandemic. The County should be supporting businesses that create jobs and significant tax revenue. Instead, the County continues to take action that communicates hostility and distrust towards business – in particular, the very businesses that have been and continue to be crucial to the region’s economy. These businesses create jobs and significant tax revenue upon which the County relies. Additionally, they create transportation fuels and other petroleum products which are and will remain vital to the region’s economy. WSPA has opposed from the outset the County’s quixotic campaign against these businesses that have been a cornerstone to the state and regional economy. But in the midst of a recession, the County’s continued political crusade seems particularly tone deaf to regional concerns about the economy, joblessness and decreasing tax revenue.

We have heard some suggest that WSPA’s economic concerns are misplaced because the moratorium has not blocked any specific project that the refineries want to advance at this time. This assertion misses the point of WSPA’s broader economic concerns. The very existence of the moratorium reflects the County’s hostility to this industry and influences company capital investment, as companies may be more inclined to redirect their capital investments to other more hospitable areas in the Country. This kind of hostile message is particularly problematic now, at a time where the County, in particular, and the state, more generally, ought to be interested in new capital project investment with the associated jobs, tax revenues, and positive influence on other sectors of the local economy.

Thank you for your consideration of WSPA's comments. We welcome any questions or comments you might have. Please contact me at (360) 352-4506 or by email at [holli@wspa.org](mailto:holli@wspa.org).

Sincerely,



cc: Jessica Spiegel - WSPA  
Jodie Muller - WSPA