

From: [Alex Ramel](#)
To: [Eddy Ury](#); [PDS Planning Commission](#)
Cc: [Ashley Ubil](#); [Matt Aamot](#); [Mark Personius](#); [Royce Buckingham](#)
Subject: Re: Planning Commission Packet for 07/09/2020 - Supplemental Memo
Date: Wednesday, July 08, 2020 9:35:19 AM

Planning Commissioners,

I'm grateful to PDS staff for flagging the question of "value added processing" and giving us an opportunity to voice our opinion. Thanks for the chance to participate in the discussion.

Stand.earth is in full agreement with RE Sources that the proposed definition, as revised, remains inadequate to the task of protecting our community from transshipment of fossil fuels. We have heard at community hearing after community hearing about the concerns that the public has about the potential for the existing refineries to use the existing logistical infrastructure to accept unrefined crude by train or by pipeline and load it at the piers - regardless of the final destination there is needless risk to local jobs, the salish sea and communities all along the rail and pipeline. Those concerns are not assuaged by an assurance that the crude oil might have the pressure changed or have impurities removed prior to transshipment. The net effect of including this language would be to undermine months of work, overwhelmingly public testimony, and clear Council intent.

Our position remains that new fossil fuel expansion projects, including all new storage capacity, should be subject to the CUP requirements. We urge you to remove the reference to value added processing altogether.

Thanks for considering our input.

Sincerely,

--

Alex Ramel

Climate Policy Advisor
Alex@Stand.earth
c. 360.305.5079

On Tue, Jul 7, 2020 at 4:59 PM Eddy Ury <eddyu@re-sources.org> wrote:

Planning Commissioners,

Please note my forwarded message below in response to an earlier email, which may be received as a public comment on the Cherry Point Amendments.

To reiterate in sum, the revised VAP definition presented in today's memo from PDS is wholly unworkable. Moreover, revising the definition of value-added processing is unnecessary if the Commissioners simply remove the whole phrase "for the transshipment of fossil fuels outside of Whatcom County without value-added processing" from proposed WCC 20.68.153. This phrase was added

spontaneously by Commissioners during the January 30th work session. Regardless of how the term "value added processing" (VAP) is defined, the effect of this phrase is to practically exclude all new fossil fuel storage tanks from being classified as an expansion, regardless of volume, unless the permit applications explicitly specified their intended purpose was for transshipment of crude oil without refining. The effect of withdrawing the phrase would be that storage tanks larger than the specified volume would require conditional use permits, for which the approval criteria listed are altogether consistent with current standards and expected practices.

I look forward to resolving these matters at the upcoming work session Thursday. Thank you for your time and attention to public input.

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Eddy Ury

Climate & Energy Policy Manager
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----- Forwarded message -----

From: **Eddy Ury** <eddyu@re-sources.org>

Date: Tue, Jul 7, 2020 at 12:09 PM

Subject: Re: Planning Commission Packet for 07/09/2020 - Supplemental Memo

To: Matt Aamot <MAamot@co.whatcom.wa.us>, Mark Personius <MPersoni@co.whatcom.wa.us>, Alex Ramel <alex@stand.earth>

Matt et al,

Thank you for sharing this supplementary memo directly and inviting our input. If I understand correctly, the revisions of the definition in this memo are to remove reference to vapor pressure, and make the definition more expansive by adding "including but not limited to". All of the criticisms from my previous memo, attached, still apply to this nearly identical definition. As I stated, the final sentence "Provided, however, value added processing does not include export of unrefined crude oil which is not processed or consumed at Cherry Point" is improper, while the first two sub-points would otherwise wholly include crude export within the definition. I would suggest again that PDS and Commissioners review the portion of the CLG report (page 7) referenced in my letter, outlining the "three-prong test" articulated by the U.S. Supreme Court for use in reviewing state or local laws for compliance with the constitution's dormant Commerce Clause. Perhaps Mr. Buckingham could provide an opinion on how this definition holds up to those standards.

At this point, the best solution I see is simply to strike the term "value-added processing" from the draft code altogether. It is used only under the defining terms of "expansion," being the threshold for triggering a conditional use permit requirement. To strike it would render the effect of having a CUP required for storage tanks larger than 200,000 barrels used for the transshipment of fossil fuels outside of whatcom county. I would go further and again suggest striking

"transshipment of fossil fuels outside of whatcom county."

Even with a reasonable definition, using the terms "value added processing" and "transshipment" make little functional difference in this context (for reasons I've explained in previous comments about storage tanks last year) unless a meaningful Change of Use provision is included in the final ordinance. Storage tanks should be permitted conditionally, above all, precisely because of their versatility and fundamental necessity for different uses. Alternatively (absent a CUP), storage tanks could be conditioned through standard permit criteria coupled with a specific change of use provision that ensures adherence to those criteria.

I respectfully request permission to address the Commission on this matter if the subject is discussed during the work session this Thursday, or on other matters of interest at the will of Commissioners, as an attendee in the video conference. In the meantime, please alert me to any areas for which clarification or elaboration of my insights would be useful. Please forward this message to all Commissioners and stakeholders, any of whom would be more than welcome to reach out to me directly in advance of the upcoming public meeting.

Regards,

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Eddy Ury

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On Tue, Jul 7, 2020 at 10:30 AM Matt Aamot <MAamot@co.whatcom.wa.us> wrote:

Hello Environmental Reps:

Here's a memo PDS sent to Planning Commission this morning relating to the proposed "value added processing" definition.

Please let us know if you have any comments.

Thanks,

Matt

From: Matt Aamot
Sent: Tuesday, July 07, 2020 9:08 AM
To: Atul Deshmane; Dominic Mocerì; JIM HANSEN; Jon Maberry; Kelvin Barton; Kim Lund; Natalie McClendon; Robert Bartel; Stephen Jackson
Cc: Mark Personius; Ashley Ubil
Subject: Planning Commission Packet for 07/09/2020 - Supplemental Memo

Hi Planning Commissioners:

Please see the attached memo relating to a proposed definition of “value added processing” for discussion at the July 9 meeting.

Ashley – please post this memo on the website.

Thanks,

Matt

From: Ashley Ubil
Sent: Wednesday, July 01, 2020 3:46 PM
To: Atul Deshmane; Dominic Mocerì; JIM HANSEN; Jon Maberry; Kelvin Barton; Kim Lund; Natalie McClendon; Robert Bartel; Stephen Jackson
Cc: Matt Aamot; Mark Personius
Subject: Planning Commission Packet for 07/09/2020

Hi everyone,

Please see the attached packet for the 07/09/2020 meeting.

Thank you,

Ashley Ubil

Coordinator

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