

BP Cherry Point Refinery  
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Blaine, Washington 98230  
Telephone 360 371-1500

January 29, 2019

VIA EMAIL

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

Re: BP Cherry Point Refinery's Comments on the Ongoing Whatcom County  
Unrefined Fossil Fuels Moratorium, Ordinance 2019-064

Honorable Council Members:

BP Cherry Point Refinery ("Cherry Point Refinery") appreciates the opportunity to provide comments on Ordinance 2019-064. The Cherry Point Refinery is a committed member of this community and has long recognized the importance of the natural resources of our area and the need to operate in a manner that ensures long-term sustainability.

The Cherry Point Refinery opposes the Whatcom County Council's ongoing extension of the Unrefined Fossil Fuels Moratorium ("Moratorium"). The Council's repeated extensions render the Moratorium unreasonable and in violation of the relevant statutory requirements.

The Moratorium is unwarranted. It creates increased uncertainty for businesses and residents of Whatcom County and less investment in Cherry Point. Even in circumstances where authorized, a moratorium must be of reasonable duration in relation to the underlying rationale supporting changes in the Comprehensive Plan. The evidence in the record indicates that there is no justification for a multiple-year moratorium at Cherry Point.

First, the duration of this "interim" Moratorium far exceeds the reasonable duration of a temporary moratorium in Washington. The statute authorizing the issuance of the Moratorium limits the duration to six months. *See* RCW 36.70.795. The Council's decision to extend the Moratorium for a sixth time is unreasonable and not a legitimate exercise of the Council's authority.

Second, the Council's actions are inconsistent with RCW 36.70.790. This provision authorizes the Council to adopt an interim moratorium "if the planning agency in good faith, is conducting or intends to conduct studies within a reasonable time for the



purpose of, or is holding a hearing for the purpose of, or has held a hearing and has recommended to the board the adoption of any zoning map or amendment...." RCW 36.70.790.

The Council's recent actions during the January 15, 2019 Special Committee of the Whole meeting are inconsistent with the good faith requirements in RCW 36.70.790. The amendments constitute a significant departure from the prior proposed amendments. The restrictions proposed in the current Comprehensive Plan amendments are expansive and onerous. Under this proposal, even the most modest capital improvement or maintenance project will be required to undergo a costly and uncertain permitting process.

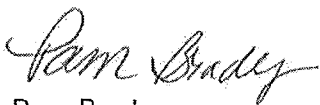
The proposed amendments appear to have been developed without the requisite transparency necessary to provide for informed public evaluation and discussion of the proposed changes. This lack of transparency is a departure from the Council's proper procedures. The Council's decision to approve forwarding the proposed January 15 Comprehensive Plan amendments to the Planning Commission prior to conducting a line-by-line review of the amendments is inconsistent with the Council's longstanding practice. It also violates the letter and the spirit of the County's public participation requirements, which require the County to provide the public with a meaningful opportunity to review and comment on any proposed Comprehensive Plan amendments. For that opportunity to be meaningful, the Council must broadly disseminate its proposals, provide opportunity for written comment, hold public meetings after effective notice, and consider and respond to public comment. With respect to the January 15 proposed Comprehensive Plan amendments, the Council has again exceeded the bounds of its own authority.

The Cherry Point Refinery supports the comments submitted by the Western States Petroleum Association regarding this matter in its January 29, 2019 comment letter. A copy of WSPA's letter is attached for your reference.

The Cherry Point Refinery respectfully urges Whatcom County to restore to its right to apply for and have processed any land use and development permit applications that are authorized by the Whatcom County Code. To do so, the current Moratorium should be allowed to expire without further renewal.

Thank you for your consideration of the Cherry Point Refinery's comments. We welcome any questions or comments you might have. Please contact me at 360-371-1519 or by email at [pamela.brady@bp.com](mailto:pamela.brady@bp.com).

Sincerely,



Pam Brady  
BP Cherry Point Refinery

