

# Whatcom Environmental Council

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June 8, 2026

To: Whatcom County Council  
Whatcom County Executive

Subject: Proposed Comprehensive Plan Amendments  
Cherry Point and Fossil Fuels

In 2021, after five years of drafting, re-drafting and public input, Whatcom County adopted [amendments](#) to the Comprehensive Plan and County Code regarding fossil fuel-based industries at Cherry Point. A stakeholder group comprised of industry representatives and environmental interests drafted the proposal, resulting in the unanimous approval of the amendments by the County Council.

Now, five years later, it appears that industry is working to amend the landmark 2021 amendments quickly with limited opportunity for thorough consultation or consent from the environmental community.<sup>1</sup> The Whatcom County Council should reject this attempt.

The Cherry Point Amendments were in response to the environmental and climate impact from increased train traffic, marine shipments and greenhouse gas emissions. The intent of the 2021 amendments was to allow upgrades at existing refineries and terminals, as well as limited expansion, but that development be subject to more rigorous environmental review including greenhouse gas analysis and permitting processes.

Both industry and the environmental community can likely agree that the 2021 code lacked clarity of language. But the intent behind them is clear. The Hearing Examiner, in the case of ALA Energy's unpermitted projects during the moratorium on expansion while the Cherry Point Amendments were being written, recently remanded the environmental review and project permit application to staff with specific questions of interpretation that "must be interpreted in context of its enabling ordinance and the Comprehensive Plan." At the hearing

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<sup>1</sup> The amendments appear to be initiated by Councilmember Elenbaas. Whatcom County received additional input from industry representatives (Lance Callow, et al) on May 29, 2026.

for the ALA Energy case, there were sharply divergent interpretations of what “maximum transshipment capacity” meant in the code. However, the [June 2<sup>nd</sup> amendments](#) proposed by County Council, with additional industry input pending, could reverse the policy intentions that were adopted in the 2021 Cherry Point Amendments.

The June 2<sup>nd</sup> amendments appear to create internal inconsistencies with other policies enunciated in the Cherry Point Amendments, which is in violation of the Growth Management Act (GMA). The policies also were not addressed in the Final Environmental Impact Statement (FEIS) for the 2025 Comprehensive Plan Update. This also is a mistake.

While the Whatcom County Council appears to be moving forward with industry recommendations for Cherry Point, it has rejected environmental recommendations that shouldn’t be controversial. On May 12<sup>th</sup>, the Committee of the Whole rejected:

- Factual sentences that 2023 and 2024 were the first years ***without any documented herring spawn*** at Cherry Point, once the largest source of herring spawn in Washington State. (Amendment 138) How does Whatcom County expect to “act conservatively in land use matters at Cherry Point to prevent further harm to habitat important to the Cherry Point Herring stock”<sup>2</sup> if it won’t accept the fact that the stock appears to have been decimated?
- Goals and policies that ***strengthen oversight, monitoring and enforcement*** to protect the Cherry Point Aquatic Reserve (Amendments 125, 139, 140, 141, 142, 143, 144, 145).

Too many amendments in the June 2<sup>nd</sup> draft ignore or avoid the plain intent of the Cherry Point Amendments. We therefore offer the following recommendations and responses to the Cherry Point policies that are reflected in the June 2<sup>nd</sup> draft, as well as response to suggestions from industry in their May 29<sup>th</sup> letter and spreadsheet.

### **Policy 2CC-19**

*(Amendment #168 offered by Councilmember Elenbaas and approved by consent)*

We would agree that regulatory certainty for ongoing industrial operations at Cherry Point should be supported. The ALA Energy Terminal application showed that there are major questions regarding the interpretation of the adopted code that should be resolved.

However, we do not agree with the full extent of the amendments as they are prescriptive and appear to preempt and re-create rather than reinforce existing permitting processes. The comprehensive plan must reflect policy, and the policy mandated by the Council is that expansion of fossil fuel facilities should not be supported. Our recommendations are as follows:

**Policy 2CC-19:** Whatcom County recognizes the importance of regulatory certainty for lawful existing industrial facilities in the Cherry Point Urban Growth Area. The County intends to allow ongoing capital investment in existing facilities for: maintenance and

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<sup>2</sup> See Land Use Policy 2CC-11.

replacement, operational reliability and safety improvements, emissions reduction and environmental performance improvements, energy efficiency improvements, regulatory compliance, product and market flexibility and fuel specification changes.

~~Modernization and reinvestment projects that do not exceed expansion thresholds established in county code shall be treated as permitted activities consistent with the continued operation of lawful existing facilities. Expansions of fossil fuel infrastructure remain subject to conditional use permits, shoreline review, and environmental review.~~  
(p 2-82)

The sentence deleted above could, if left in, completely avoid application of the Cherry Point Amendments by “treat[ing] as permitted’ activities that the Amendments intended to undergo public review (conditional use permit) and additional environmental review.

In addition, we urge rejection of AltaGas recommendations (Row 89) in the May 29<sup>th</sup> comment to add “Regardless of expected construction costs...” Construction costs are a factor in determining the significance of modernization projects. It can distinguish between maintenance replacement-in-kind and extending the life of the facility such that it can be considered a new source. This is established in air permit regulations for new source review.

### **Policy 2CC-20**

*(Amendment #169 offered by Councilmember Elenbaas and approved by consent)*

This amendment is prescriptive in detail and includes very little land use policy direction. It entirely avoids addressing the issue of safety of storage tanks in our community.

Capacity is constrained by the bottlenecked element in an integration of a large number of complex operations. The bottlenecked element can be a small detail that would otherwise enable increased capacity – such as storage tank logistics. The objective of clarity, certainty, and consistency with policy in the permitting process would be improved by revising County Code to ensure that any bottlenecking elements associated with storage tanks, related logistics infrastructure, and any regulatory limits are not misconstrued as optional.

We recommend that Policy 2CC-20 be rewritten to focus on the safety, efficiency and economic viability of storage capacity at Cherry Point as follows:

**Policy 2CC-20:** ~~Storage tanks and related logistics infrastructure are necessary for safe operations, product blending, regulatory compliance, renewable fuel handling, and market supply flexibility. Such infrastructure should not necessarily be considered an expansion of refinery capacity solely because they increase storage volume.~~ Adequate storage capacity is essential to maintaining safe, efficient, and economically viable operations within modern fuel supply systems. Whatcom County recognizes that modifications designed to comply with new fuel standards may require additional infrastructure to meet market demands ~~and should be allowed~~ to facilitate job creation and meet climate goals as outlined in Chapter 12 – Climate. (p 2-82)

In addition, we urge rejection of AltaGas recommendations in the May 29<sup>th</sup> comments (Rows 90 and 91). Refineries and transshipment facilities have distinctly different purposes and benefits. Refineries provide transportation fuels primarily for the West Coast of the United States and are large employers. Transshipment facilities move unrefined fuels from outside the County to the Far East and are small employers. County Code for maximum transshipment capacity limits is specific to transshipment facilities.

### **Policy 2CC-21**

*(Amendment #170 offered by Councilmember Elenbaas and approved by consent)*

This amendment is a policy shift that de-emphasizes existing permitting processes that balance environmental outcomes with expansion. The amendment introduces vague expressions of policy, such as demonstrating an environmental outcome is an improvement relative to existing facility operations. What does that mean? Is one benefit enough even though it increases impacts to other environmental outcomes? The ALA Energy Terminal development proposal was an example of one environmental benefit (flare) that wasn't balanced against other harms, such as an increase in marine vessels from 16 to 48 or an increase in rail cars importing Liquid Petroleum Gas from 1,000 to 16,000.

The Growth Management Act requires Whatcom County to adopt a climate element that results in a reduction in greenhouse gas emissions. The permitting process is still in the early stages of developing regulation of global greenhouse gas emissions. At the State level, local emissions of greenhouse gases from refinery operations are regulated by Ecology's relatively new Cap-and-Invest program of the State's Climate Commitment Act. This program will reduce allowances for local greenhouse gas emissions over time. At the County level, global greenhouse gases from transshipment operations are regulated by County Code. Whatcom County, in its ordinances, needs to continue to work towards the policy of limiting expansion of fossil fuel facilities that would result in an increase in greenhouse gas emissions, while avoiding vague pronouncements of policy unrelated to that goal.

With this in mind, we recommend that Policy 2CC-21 be rewritten as follows:

**Policy 2CC-21:** Whatcom County recognizes that the regional energy system is undergoing a long-term transition toward lower-carbon fuels and technologies. The County intends to support this transition in a manner that is orderly, predictable, and protective of public safety, environmental quality, and economic stability. Existing lawful industrial facilities within the Cherry Point Urban Growth Area may continue to operate and invest in modernization, safety improvements, emissions reductions, fuel flexibility, and renewable fuel infrastructure necessary to adapt to evolving energy markets. The County should regulate new fossil-fuel infrastructure ~~and capacity expansion~~ while providing clear ~~and predictable~~ policy guidance that allows existing facilities to safely adapt to changing fuel demand, environmental standards, and emerging energy technologies. ~~It is the intent of this policy to support responsible environmental progress without creating unintended incentives for premature facility closure, disinvestment, or supply disruptions during the energy transition. Whatcom County~~

~~recognizes that modernization of existing refinery infrastructure may improve safety, environmental performance, and operational efficiency. Modifications to refinery processing systems that increase processing capacity may be considered where such projects demonstrate a net environmental benefit compared to existing operations. A net environmental benefit may include reductions in emissions intensity, improvements in energy efficiency, reductions in environmental risk, improved fuel specifications, or other measurable environmental performance improvements. Projects proposing increased processing capacity shall demonstrate that the overall environmental outcome represents an improvement relative to existing facility operations. The intent is not to encourage refinery expansion, but to allow modernization projects that leave the environment better off than it is today. If a project can demonstrate a net environmental benefit through lower emissions intensity, improved efficiency, or safer operations it should be considered.~~ (pp 2-82, 2-83)

Finally, we urge reconsideration of amendments that were rejected or withdrawn as follows:

### **Environmental**

The Cherry Point shoreline has great importance to the fisheries and ecology of Northern Puget Sound because it provides essential spawning habitat for what once was the largest herring stock in Washington State. This herring stock has supported important commercial fisheries in the past and provides forage for salmonids and other important marine species. 2023 was the first year without herring spawning confirmed at Cherry Point by WDFW and partners since monitoring began in the 1970s. No spawn was detected in 2024, either. In 2000, 2010, and 2017 the State Lands Commissioner ordered the Cherry Point tidelands and bedlands withdrawn from the state's general leasing program and designated them as the "Cherry Point Aquatic Reserve."..... (pg. 2-74)

### **Cherry Point UGA Features**

The characteristics that make Cherry Point unique as a site for major industrial developments include the following:

#### Port Access

The marine waters off Cherry Point provide deepwater access for shipping. Deepwater access for shipping was a major siting consideration for the three major industries currently located at Cherry Point. The AltaGas pier has the least depth of the three industrial piers at Cherry Point, requiring dredging or deberthing to anchor during low tide events. (p 2-77)

#### Rail Access

Cherry Point is served by a branch line of the BNSF Railway mainline serving western Washington. Rail service is considered to be vital to statewide as well as local interests for the competitive movement of freight. Rail service is particularly important in relation to waterborne commerce. The Cherry Point area has the rail access to support marine

terminals and industrial users in the area. Cherry Point industries use rail to ship and receive multiple feedstocks and products. Both the Cherry Point Refinery and the Ferndale Refinery receive crude oil shipments by rail, and AltaGas receives liquid petroleum gas shipments by rail. (p 2-77)

**Policy 2CC-11:** It is the policy of Whatcom County to limit the number of industrial piers at Cherry Point to the existing three piers, taking into account the need to:

- Act conservatively in land use matters at Cherry Point to prevent further harm to habitat important to the Cherry Point Herring stock and Southern Resident Killer Whales;
- Optimally implement the Whatcom County Shoreline Master Program to fulfill the Shoreline Management Act's shorelines of statewide significance policy to preserve natural character, result in long-term over short-term benefit, and protect the resources and ecology of the shoreline;
- Encourage the continued agency use of best available science;
- Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry Point tidelands and bedlands from the general leasing program and the species recovery goals of the Cherry Point Aquatic Reserve designation and Management Plan;
- Recognize federal actions upholding treaty rights;
- Protect traditional commercial and tribal fishing; ~~and~~
- Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil or fuel spills;
- Address the cumulative impact of increased vessel traffic; and
- Complete an assessment of impacts – and a restoration plan to address identified impacts – to Cherry Point herring and other forage fish that might be caused by impediments to littoral drift, beach armoring, creosote and treated wood, light penetration through piers, anchoring, dredging and stormwater discharge. (pp 2-80, 2-81)

In order to implement the policies at Cherry Point, we recommend that the County Council and Administration work together with industry and the environmental community to address these issues. Here are some practical recommendations:

- 1) Budget. Whatcom County should convene experts to scope out the research needed to assess how to reverse the decline of Cherry Point herring and other forage fish stock. A budget proposal for the studies should be included, and Whatcom County should allocate funds and seek legislative and stakeholder support for funding.
- 2) Code Amendments. Whatcom County should convene stakeholders to address the ambiguous code language included in the 2021 Cherry Point code.

Thank you for considering our comments.

Charles Brown and David Stalheim on behalf of  
Whatcom Environmental Council

Cc: Friends of the San Juans  
Re Sources  
Evergreen Islands  
Sierra Club  
Washington Conservation Action Education Fund  
Earthjustice