

**Analysis; Department of Ecology Hazardous Waste and Toxics Reduction Program Financial Assurance Information for Oil Companies with Facilities in Washington State – 2020, by Richards, Joanna (ECY)**

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Good Evening Planning Commission members. My name is Dirk Vermeeren, we retired in Bellingham in 2014 after 30+ years in International Oil with Chevron plus 11 years with the largest global, national oil company. Coming from a lifetime career in international oil, my views do not reflect anti oil, my international career has afforded us numerous learning experiences. My views represent my desire to avoid using Whatcom County taxpayer funds to bailout industry.

Today I will reiterate my June 25 comments to the Planning Commission...Please assist Whatcom County Council fulfill their fiduciary duties to Whatcom County Taxpayers by including pollution remediation insurance for all Cherry Point Industries.

Since the June 25 Planning Commission meeting I have had the opportunity to review a WA State Department of Ecology spreadsheet titled **Hazardous Waste and Toxics Reduction Program, Financial Assurance Information for Oil Companies with Facilities in WA State – 2016**, dated June 16, 2020.

I will highlight the areas that should be concerning to our elected leadership and all Whatcom county residents.

**General Comments**

While the summary spreadsheet is helpful and provides a minimal level of information regarding the various insurance documents/tools the local refineries have in place, the details of their provisions are missing. Unfortunately this Ecology document raises more concerns in my mind versus answering questions; especially if we in Whatcom County are to depend on Department of Ecology to regulate WA industries on behalf of our community Stakeholders. More transparency is required in order to make any sort of evaluation. As such my comments regarding the limited data provided is noted below –

- **BP Cherry Point appears to have no financial assurance provisions;** whether this is the actual case cannot be deduced from this document; it is quite common for oil companies to not publicly share insurance documents and label these proprietary and or safety/security related unless local agencies require ‘proof’ in their local regulations. Therefore updating the Cherry Point Amendments to require proof of Environment Impairment Liability (EIL) Insurance or an equivalent assurance bond becomes critical if Whatcom County’s goal is to guarantee local taxpayers are left whole when the refinery eventually closes for business or declares bankruptcy due to a major catastrophe spill resulting from a Cascadia Rising earthquake.

- Liability Insurance; ...while the spreadsheet indicates existence of Liability policies, as we now understand from previous online insurance related documents, liability insurance has narrow limitations and is generally focused toward contractual obligations. General liability insurance will have numerous exclusions and limitations for pollution cleanup. Therefore any spills resulting from refinery operations and or natural disasters are not covered. We must be able to review each policy in detail in order to understand what the actual exclusion and limitations are in the specific policy.
  - In any case...Even if general liability policy covers pollution spill cleanup, the current limits for Phillips 66 and Shell, which are both located on navigable waterways would surely not cover the cleanup costs associated with a major catastrophe. Most oil companies therefore rely on The Oil Spill Liability Trust Fund (OSLTF) which has a \$1billion limit. As seen under the current administration, in 2017 the levies/tax placed on the oil barrel was suspended and not enforced. I don't see this fund as a dependable resource in the future as we cycle through a different admin. every four years. Therefore, I see a high risk we the local taxpayers will end up subsidizing the industry cleanup.
  - Both Phillip66 and Shell are 'self insured' which is risky for the County and its taxpayers. While Phillips66 has a corporate guarantee for only \$20Million. The oil industry is transitioning, these companies will likely not have the monies to cover pollution cleanup; they can simply restructure the refinery assets into a standalone subsidiary company which will then declare bankruptcy/insolvency. This is similar in the case of Shell which has its own in house subsidiary whereby Noble Insurance Company provides the 'guaranty' for \$10Million.
- The larger question for me after reviewing this document...*Should we rely solely on Ecology to protect our community?*... specifically pertaining to the column heading "corrective action" which has nothing other than 'N/A' ; specifically –
  - How does Ecology determine the true estimated \$ cost/value of Liability Insurance required for a major catastrophic pollution spill (if this includes pollution cleanup)? There is the added value of engaging the global EIL insurance industry professional who will do an actual scenario evaluation in writing a policy dollar limit.
  - BP, Shell Puget Sound and Tesoro do not have any form of Liability insurance shown, yet Ecology does not require corrective action; I presume this is because we don't require any assurance?
  - In my 35 year experience the oil industry has been forced to 're engineer' itself; how does Ecology determine whether the costs of 'Closure' and /or 'Post Closure' of these refineries are adequate? How are these monies held in a 'safe place' so that they are available when the time comes? Who pays for the cleanup/remediation required when these refineries shutdown or declare bankruptcy?

In summary, the Washington State Ecology data indicates Whatcom County taxpayers (and Skagit County for Anacortes) are exposed to bailing out Cherry Point industries with pollution remediation funds.

**We as local Stakeholders must lead in protecting our community.**

I would encourage members of the Planning Commission to review the article titled 'Fossil Fuel Risk Bonding' by Laura Feinstein and Eric de Place, (<https://www.sightline.org/2020/07/08/fossil-fuel-risk-bonding/>) which provides an excellent summary of the tools available to our local officials for assuring our local taxpayers are not accountable for industry cleanups.

Dirk Vermeeren

Bellingham, WA