



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

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Meeting Minutes – Oil Transportation Safety Committee (OTSC)

March 17, 2020, 1:00pm – 3:00pm

Via Skype/Conference Call

Attendees via Skype: Jaimie Bever (Chair/BPC), Sara Thompson (Ecology/BPC), Blair Bouma (Pilot/PSP), Fred Felleman (Environment/Friends of the Earth),

Attendees via Phone: Jason Hamilton (Other/BPC), Bob Poole (Oil Industry/WSPA), Charlie Costanzo (Tug Industry/AWO), Mark Homeyer (Tug Industry Alternate/Crowley), Blair Englebrecht (Environment/Puget Soundkeeper), Sheri Tonn (Ex-officio/BPC), Bettina Maki (BPC)

Advisor via Phone: Laird Hail (Advisor/USCG)

Public/Subject Matter Experts via Skype/Phone: Rick LaBlond (Oil Industry Alternate/Shell), Jim Peschel (Vane Brothers), Rein Attemann (WEC), Ben Ostroff (Centerline Logistics), Jonah Petrick (Centerline Logistics), Brian Kirk (Ecology),

Absent: Eleanor Kirtley (Marine Environment/BPC)

1. Welcome

Chair Bever laid out the plan for discussing agenda items due to the nature of teleconferencing and Skyping. She also pointed out that an OTSC roster was provided to all members of the committee. She will consider revising the Alternate(s) for the Oil Industry to read similar to the Alternate for Tug Industry. There were no questions from the OTSC regarding the roster. Bob Poole (Oil Industry/WSPA) supported the approach to list multiple alternates for the Oil Industry, given the technical nature and subject matter.

2. Review and Approval of February 13, 2020 Meeting Minutes

The OTSC received a draft of the February 13, 2020 prior to the meeting. Each OTSC member had an opportunity to respond to the minutes. Sara Thompson (Ecology/BPC) had no comments; Jason Hamilton (Other/BPC) had no substantive additions; Blair Bouma (Pilot/PSP) had nothing to add; Bob Poole (Oil Industry/WSPA) had no additional comments; Charlie Costanzo (Tug Industry/AWO) had no additional comments; Mark Homeyer (Tug Industry Alternate/Crowley) had no additional comments; Fred Felleman (Environment/Friends of the Earth) observed confusion regarding attributions, but nothing significant. On page 4 regarding the alternative geographic description of Rosario, he suggested adding the USGS as his source of authority. Chair Bever will revise page 4 to

include this reference in his statement. Going forward, he would also like the term pre-escort clarified that escort setup will take place prior to entering the escort zone; Blair Englebrecht (Environment/Puget Soundkeeper) had no additional comments.

Chair Bever will make the requested changes and send the final minutes back out to the OTSC and the distribution lists, post them to the BPC website, and include them on the agenda for the BPC at the next meeting as a part of the OTSC update.

3. Discuss/Finalize Remaining Definitions

Prior to the meeting, Chair Bever provided OTSC members with a draft of the Interpretive Statement document, which will include all the definitions and ultimately be adopted by the BPC.

“Rosario Strait”

Chair Bever reminded the OTSC that at the end of the last meeting, the two definitions being discussed were the USGS definition and the CFR. The OTSC received charts prepared by Blair Bouma (Pilot/PSP), prior to the meeting, of both those definitions and another proposed by Captain Bouma south of the USGS definition, but north of the CFR definition. Blair Bouma (Pilot/PSP) explained his new proposed northern boundary definition. Regarding the southern definition, he explained that Davidson rock to Whidbey Island was different from the VTS precautionary area. His proposed definition included Davidson Rock and west and east Lawson reef, which were close to the track of vessels. At the north end, he discussed the CA buoy precautionary area. After more thought, he pointed out how the waterway starts to narrow at this point and would be a reasonable place to identify the start of Rosario Strait. He did say, however, that he was fine with the USGS definition as well. Chair Bever then requested comments from each OTSC member.

Sara Thompson (Ecology/BPC) preferred the northern boundary with USGS definition, and southern boundary with pilot proposed definition at Davidson Rock; Jason Hamilton (Other/BPC) deferred to Laird Hail (Advisor/USCG) for his thoughts on differing definitions regarding the waterways. After hearing Captain Hail’s opinion, he was still concerned about potential confusion caused by two definitions; Laird Hail (Advisor/USCG) expressed concern about differing definitions. He cautioned that the Interpretive Statement should be very clear that the definition was different from the CFR definition of the VTS special area. He added that it would be very difficult for the USCG to change the federal definition to match. Bob Poole (Oil Industry/WSPA) asked Captain Bouma to reiterate his comments regarding the USGS definition versus the one he proposed further south. Blair Bouma (Pilot/PSP) responded that he didn’t have the exact USGS definition. He was utilizing the physical features of the waterway for his proposed definition further south. Bob Poole (Oil Industry/WSPA) then asked Rick LaBlond from Shell if he had any comments; Rick LaBlond (Oil Industry Alternate/Shell) thought that dual definitions were convoluted and confusing. He stated that if there was ever an incident that went to litigation, he could see a gray area about where the tethered escort area begins and ends based on two definitions. He urged settling on one.

Blair Bouma (Pilot/PSP) responded that the CFR definition was not necessarily a definition of Rosario Strait. It was a definition of the Special Area, which specifically addressed meeting, overtaking, crossing, and one-way traffic, not escorting. Therefore, on the practical side, he believed it would be fairly easy to keep the definitions straight. Bob Poole (Oil Industry/WSPA) expressed that the pilot definition made more sense. Charlie Costanzo (Tug Industry/AWO) had some misgivings about the inconsistency based on the conversations so far. He was comfortable with the pilot definition, but was curious what industry had to say. Mark Homeyer (Tug Industry Alternate/Crowley) was comfortable with the pilot definition, as he believed it met what the OTSC was trying to accomplish. Charlie Costanzo (Tug Industry/AWO) had nothing else to add. Fred Felleman (Environment/Friends of the Earth) expressed that the entire waterway was subject to escort requirements for vessels larger than 40k DWT. He didn't understand the confusion. The requirement was far larger than Rosario Strait. He also didn't understand the proposed line, or "dog leg", for the proposed USGS line on the document provided. He wanted to be sure that escorting was all set up and ready to go before entering whatever ends up being the definition of Rosario Strait. He mentioned that being further north was preferential.

Chair Bever confirmed that there was majority consensus, so far, for the pilot definition. She asked for Blair Bouma's perspective of where the escort set up would take place if the OTSC used the northern definition. Blair Bouma (Pilot/PSP) responded that when the line was crossed, compliance to the conditions in the zone was required. Chair Bever mentioned that those expectations could be further identified during the zone identification. Fred Felleman (Environment/Friends of the Earth) urged for understanding as to where the "dog leg" line for the USGS boundary came from, and whether it matched the USGS definition or if it was an interpretation. Blair Bouma (Pilot/PSP) answered that he drew the line because he was orienting on the CA buoy precautionary area and that the line made sense in terms of markers for the vessels to know when they are entering the zone. He reiterated that his proposed definition met the same criteria as the proposed definition for the south end. He also added that he was fine whichever way the OTSC wanted to go. Fred Felleman (Environment/Friends of the Earth) reviewed the diagram he provided at the last meeting, which described Rosario Strait as water body from the USGS. He supported the rationale of the southern boundary to be further south to avoid navigational hazards, but he would support using the USGS definition in the north. He then asked for count of actual members of the committees, not the alternates.

Sara Thompson (Ecology/BPC) said she could support either pilot or USGS line on the north and the pilot line on the south; Jason Hamilton (Other/BPC) said he still had concerns about the USGS definition and what the actual geomorphic definition was; Bob Poole (Oil Industry/WSPA) was fine with either the USGS or pilot definition; Charlie Costanzo (Tug Industry/AWO) said he understood both sides, but from an operational side he would defer to his members; Mark Homeyer (Tug Industry Alternate/Crowley) was satisfied with the pilot definition for the northern boundary and recommended

following the recommendations of the pilots, who were subject matter experts. With that, Charlie Costanzo (Tug Industry/AWO) chose the pilot definition. Rick LaBlond (Oil Industry Alternate/Shell) concurred with Mark Homeyer and therefore Bob Poole (Oil Industry/WSPA) chose the pilot definition.

Fred Felleman (Environment/Friends of the Earth) then asked what the negative impacts of using the USGS definition were. Blair Bouma (Pilot/PSP) answered that there was no risk increase. Chair Bever asked members if there were strong feelings against it the USGS definition. Charlie Costanzo (Tug Industry/AWO) answered that he had a strong feeling that the committee should rely on the subject matter experts. Blair Bouma (Pilot/PSP) reiterated that he was okay with the USGS definition. While it may add a little more time, it ultimately wouldn't change anything significantly. The group then discussed where to obtain the actual USGS definition.

At this point, Chair Bever recommended that the conversation be postponed until the next meeting. In the meantime, the USGS definition will be obtained and provided for the committee to make a final decision at the next meeting. Blair Bouma will add the actual definition to the northern boundary chart for consideration.

“Connected Waterways East”

Fred Felleman (Environment/Friends of the Earth) mentioned that the current proposed definition specifically called out certain anchorages. He would prefer the language say that it included all the anchorages, codified or otherwise, as some used are not codified anchorages, and included north Bellingham Bay. Laird Hail (Advisor/USCG) offered that a couple of anchorages weren't mentioned, including ATB anchorages at Samish Island and Jack Island. He also added that Vendovi was not a codified anchorage, but usual and accustomed, as are some others. He also added that the anchorages were within in the current definition, therefore calling them out would be duplicative. Fred Felleman (Environment/Friends of the Earth) agreed with him. Blair Bouma (Pilot/PSP) agreed and suggested the language “all connected waters”, which would be inclusive. Jason Hamilton (Other/BPC) believed removing the sentence calling out specific anchorages would be more clear. Charlie Costanzo (Tug Industry/AWO) agreed with him. Fred Felleman (Environment/Friends of the Earth) wanted the record to show that he undermined his own argument. He originally wanted the anchorages to show, but now realized that it was unnecessary to specifically call them out. He wondered if the area should be defined by latitude and longitude instead. Chair Bever reminded the committee that they were trying to align with already established definitions, such as the Harbor Safety Plan or the CFR, as much as it made sense, which was why the CFR definition for the VTS special area was chosen in the first place. Laird Hail (Advisor/USCG) pointed out the call-out of the anchorages was not in the existing CFR definitions. The call-out of the anchorages was added as a recommendation at a previous meeting. Fred Felleman (Environment/Friends of the Earth) recommended drawing a box around the area for defining it. Blair Bouma (Pilot/PSP) suggested that since the OTSC wasn't going

with the special area for the Rosario Strait definition, it wasn't necessary for this area either. He offered defining it as "all connecting waters east of Rosario Strait". Sara Thompson (Ecology/BPC) liked the idea of a visual to review at the next meeting.

Chair Bever and Blair Bouma (Pilot/PSP) will work on suggested language and a visual. There were no other concerns with that approach.

"Under the Escort of a Tug or Tugs"

Chair Bever acknowledged that there was general concern regarding tug capability as it was outlined in the ESHB 1578 language. She inquired whether or not the OTSC wanted to consider defining tug capability as a part of this definition or somewhere else. The current proposed definition came from the last OTSC meeting and was a combination of CFR and Puget Sound Harbor Safety Plan language. Blair Bouma (Pilot/PSP) offered that it depended on which level the OTSC wanted to approach the definition. He said from a high level the proposed definition was sufficient. There may be another level where there was specification regarding type of tug (i.e. tractor) or something more specific. He urged a more specific definition for industry and for practical aspects of escorting. However, he was not convinced that the appropriate place was in this definition. Chair Bever suggested that another location for definition could be in the zone identification. Fred Felleman (Environment/Friends of the Earth) thought that it would be overly prescriptive to try to define the tugs. His sense was that if industry was going to have to pay for the services, they were not going use equipment that was not right for the job. He suggested saying something along the lines of specifying a tug that is capable of doing the job. Chair Bever invited input from the Oil Industry. Rick LaBlond (Oil Industry Alternate/Shell) suggested that a clear understanding of bollard pull horsepower capability would be necessary. Sara Thompson (Ecology/BPC) asked for clarification regarding the intent of the conversation. She warned that the OTSC should stay within the bounds of the definition of "under escort of a tug". Anything related to capability should be considered separately as a part of rulemaking. Blair Bouma agreed with Sara Thompson (Ecology/BPC). He believed the current proposed definition had the right amount of specificity for what the OTSC was trying to define. The technical details should come in an entirely different context. Fred Felleman (Environment/Friends of the Earth) wondered if the language could refer to a future matrix of capability, which could be added to the Puget Sound Harbor Safety Plan as an addendum to the tug escort section. Chair Bever mentioned that were conversations about mirroring the Harbor Safety Plan in some areas. She then asked the OTSC if they were comfortable with the proposed language in the Interpretive Statement as presented.

Sara Thompson (Ecology/BPC) said yes; Jason Hamilton (Other/BPC) said yes; Blair Bouma (Pilot/PSP) said yes; Bob Poole (Oil Industry/WSPA) said yes; Charlie Costanzo (Tug Industry/AWO) said yes; Fred Felleman (Environment/Friends of the Earth) said he would prefer the addition of a sentence stating that tug capability would be added to the Harbor Safety Plan. His ultimate decision was yes, with a reference to the Harbor

Safety Plan and the CFR. Blair Englebrecht questioned the definition of tank vessel and was concerned that it wouldn't include ATBs or waterborne vessels. Blair Bouma read the language directly from RCW 88.16.190(2), which provided specific definitions. Chair Bever also pointed out the Interpretive Statement clarified that the definitions were specifically for ESHB 1578 and RCW 88.16.190. Blair Englebrecht was okay with proceeding as stated above.

With the additional language referenced above, Chair Bever declared this definition complete with complete consensus of the OTSC.

“Laden”, “Unladen”, “In Ballast”

Fred Felleman (Environment/Friends of the Earth) asked for clarification regarding LPG definition in the Board's existing definition. He wondered if LPG was considered oil and if it included LNG (see below). Chair Bever pointed out that the policy was put in place by the Board in 2005. Fred Felleman (Environment/Friends of the Earth) pressed regarding the definition of in ballast. A conversation followed regarding how much oil a vessel could carry and be considered in ballast. Fred Felleman (Environment/Friends of the Earth) argued that a vessel carrying 3,000 barrels should not be considered in ballast.

Chair Bever deferred these definitions to the next meeting.

“Oil”

The discussion above led to discussing a definition of oil. The committee was provided a definition used by the Department of Ecology. Fred Felleman (Environment/Friends of the Earth) asked if synthetic crude was inclusive of dilbit and asked that it be added to the definition. Chair Bever said it would be discussed at the next meeting.

“Bunkering or Refueling”

Realizing that this topic was contentious, Chair Bever wanted to hear from the committee as to their interpretations of the statutory language. She also pointed out that getting an answer regarding the intent of the legislation from the legislators was not a realistic approach.

Bob Poole (Oil Industry/WSPA) said the operative word was “service”, which was an inclusive thing and that coming and going were part of the service; Sara Thompson (Ecology/BPC) said she had checked with Ecology individuals who participated in the development of the legislation and that their understanding was that the transit and activity would be exempt; Jason Hamilton (Other/BPC) deferred to the other members; Blair Bouma (Pilot/PSP) agreed with Sara and said that was his assumption when he read the language; Charlie Costanzo (Tug Industry/AWO) had nothing further to add; Fred Felleman (Environment/Friends of the Earth) stated that when talking about the term service, the act of bunkering or refueling was the service; an activity, not the transit. He suggested Ecology failed to define the distribution of the size and number of vessels

subject to the rule due to fear of an enormous potential of vessels. He said that according to the current calculations, 2 escorts/per day would be the result if all vessels were captured in the rule, which he saw as a modest increase.

Chair Bever reiterated that the purpose of the discussion was to see where everyone was at with the terms. She then suggested moving on to geographic zones. Charlie Costanzo (Tug Industry/AWO) wanted to know why the definition couldn't be decided on at the current meeting. Fred Felleman (Environment/Friends of the Earth) reiterated that he wanted to know how many vessels would be affected and pushed for the data from Ecology regarding Advanced Notice of Transfers and AIS data. Chair Bever asked if Laird Hail (Advisor/USCG) had a perspective. He said no, and that the USCG didn't have the information to answer Fred's question. Charlie Costanzo (Tug Industry/AWO) asked if Fred Felleman (Environment/Friends of the Earth) was advocating as the environmental representative or as a commissioner of the Port of Seattle. Fred responded that he was on the committee as a representative of Friends of the Earth. Blair Englebrecht (Environment Alternate/Puget Soundkeeper) added that Fred was selected by the environmental community to represent them on the OTSC.

Chair Bever acknowledged everyone's perspectives and moved on to zones.

4. Discuss Identification of Geographic Zones

Chair Bever started off by acknowledging that there were various suggested starting places for the conversation. She had worked with Blair Bouma, who suggested starting with the waterways themselves. He provided visuals for three major zones in the northern area and explained that the depictions, while rough, were driven by depth, with the different colors representing grounding points. Within the zones, there were areas where one might take additional action, but one wouldn't want to change the operation mode every 10 minutes. He talked through the various channels and waterways that he had suggested. Chair Bever asked for thoughts from the OTSC members regarding the proposed approach.

Sara Thompson (Ecology/BPC) said that the suggestions looked logical; Jason Hamilton (Other/BPC) said they were a good point to start from; Bob (Oil Industry/WSPA) was in agreement; Charlie Costanzo (Tug Industry/AWO) said they looked good; Fred Felleman (Environment/Friends of the Earth) wanted clarification whether the zones were just speed or if other considerations were taken into account. Captain Bouma answered that there were multiple factors, including speed, tethering, etc. He added that what happens in the zones was another conversation. Fred Felleman (Environment/Friends of the Earth) added that this was a logical approach, as long as operational procedures in each zone were discussed at another time. Blair Bouma (Pilot/PSP) added that the next logical step would be to discuss operations in each zone. He cautioned that the committee shouldn't be too specific due to allowance for variables, but to provide enough specifics to cover the operation.

Chair Bever asked for comments from others attending the meeting. Laird Hail (Advisor/USCG) said the approach seemed logical. Fred Felleman (Environment/Friends of the Earth) asked if the VTRA zones could be overlaid over the proposed waterway zones. Sara Thompson (Ecology/BPC) said that all they had were the slides but that looking at them side by side should be sufficient. Chair Bever said she would work to provide a copy of those slides to OTSC.

Going back to the information requested of Ecology by Fred Felleman, Sara Thompson (Ecology/BPC) asked for clarification regarding the spreadsheet she sent out with ATBs and barges and whether or not adding bunkering to that spreadsheet would be sufficient. Sheri Tonn (Ex-officio/BPC) thought that would be very helpful and useful for the Board as well. She also suggested indicating the areas where the data is unavailable, perhaps with a question mark. Regarding sources for DWT, Laird Hail (Advisor/USCG) suggested Lloyd's of London.

The OTSC will revisit the proposed north end waterways and the remaining Puget Sound waterways as well as the VTRA slides at the next meeting.

5. Next Steps/Final Thoughts

Chair Bever reminded everyone that there was a lot of work to do in a short period of time and that they may need two meetings in April. The committee will utilize the same setup with phone and Skype.

Fred Felleman (Environment/Friends of the Earth) offered that he felt the OTSC wasn't too far from consensus on most items, with the exception of the bunkering definition and which vessels the escort exemption would apply to. Charlie Costanzo (Tug Industry/AWO) stated that questions of geography should be left to professional mariners. Bob Poole (Oil Industry/WSPA) recognized the need to define services. Sheri Tonn (Ex-officio/BPC) suggested the next meeting should perhaps be longer.

Action Items

Sara Thompson (Ecology/BPC) will provide an update to the spreadsheet to include Advanced Notice of Transfers information.

Blair Bouma (Pilot/PSP) and Chair Bever will work on definition revisions and accompanying visuals.

Next Meeting

Doodle Poll will be sent out to determine days in April to hold two meetings.