



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

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Oil Transportation Safety Committee (OTSC)

Meeting Minutes

13 February 2020

0900 - 1100

Attendees: Jaimie Bever (Chair/BPC), Eleanor Kirtley (Marine Environment/BPC), Sara Thompson (Ecology/BPC), Jason Hamilton (Other/BPC), Bob Poole (Oil Industry/WSPA), Charlie Costanzo (Tug Industry/AWO), Mark Homeyer (Tug Industry Alternate/Crowley), Blair Bouma (Pilot/PSP), Fred Felleman (Environment/Friends of the Earth), Blair Englebrecht (Environment/Puget Soundkeeper), Sheri Tonn (Ex-officio/BPC)

Public: Josh Ellis (Crowley), Jeff Slesinger (Delphi Maritime), Rein Attemann (WEC)

- 1. Welcome and Introductions** – Chair Bever welcomed all attendees. Each member introduced themselves and the organizations they represent.
- 2. Review of Committee Charter** – Chair Bever briefly outlined each section of the charter including Statement of Purpose, Membership, Alternates, Guidelines, and Responsibilities. She emphasized the outlined Guidelines and Responsibilities were crucial to the work of the committee. She reviewed the activities and deadlines listed in the charter highlighting that the goal is to provide recommendations regarding terms definitions and identification of geographic zones to the Board at the May 21, 2020 meeting, to allow the Board to consider adoption at the June 18, 2020 meeting. She recognized the tight timeline, with the hope that the work could be completed at monthly meetings. More frequent meetings could be scheduled, if needed. There were no questions or comments from OTSC members regarding the charter.

Chair Bever reminded OTSC members to promptly use the Doodle Poll sent out by BPC staff to help schedule meetings. Meeting dates will be chosen based on the highest number of OTSC members available, considering alternates as well.

OTSC meetings will be recorded to assist with meeting minute preparation. One question that came up in the December 9th Listening Sessions was having attributable perspectives. Chair Bever asked the OTCS members to weigh in on whether or not to prepare meeting minutes using

names/organizations versus general terms like “an OTCS member” or “an individual”. There was discussion at the table regarding the advantages and disadvantages of each approach. Consensus was reached to attribute the perspectives to individuals and organizations for the sake of transparency.

- 3. Discussion Regarding Public Involvement of Committee Work** – Questions were raised at the January 16, 2020 Board of Pilotage Commissioners (BPC) meeting regarding public involvement in OTSC work and it was announced that the OTSC would be discussing it at the first meeting. Chair Bever started the discussion by reminding everyone that the idea behind the size of the committee was to be productive. She encouraged the main conversations regarding the topics to occur at the table with OTSC members and alternates, but did not have an issue with the public in the room. She then requested the perspectives of the members. Bob Poole (Oil Industry/WSPA) asked if there a process could be developed to allow for management of the timeframe and public access during the meetings. Sara Thompson (BPC/Ecology) pointed out that the meetings were not publicized, which according to Chair Bever, was another question for the OTSC to consider. Charlie Costanzo (Tug Industry/AWO) pointed out several options to interface with the public about the work of the committee, including the April Harbor Safety Committee meeting. Bob Poole (Oil Industry/WSPA) also mentioned the monthly BPC meetings. Chair Bever added that there was a standing agenda item for OTSC updates at BPC public meetings. Charlie Costanzo (Tug Industry/AWO) voiced that he preferred the committee work stay in-house and to utilize the public forums mentioned to provide updates and receive feedback. Blair Bouma (Pilot/PSP) asked if there was a protocol for public engagements outside of meetings, pointing out the technical questions that will come up at the OTSC meetings that the current membership may not be able to address without industry input and help with solutions. Chair Bever offered that the OTSC could invite different subject matter experts to meetings to assist with certain questions/issues. Blair Englebrecht (Environment/Puget Soundkeeper) added that it was a value to her to have subject matter experts present, like the Washington Environmental Council representative who joined the meeting as a member of the public. Charlie Costanzo (Tug Industry/AWO) added that at AWO, he is in the first chair for the committee. However, Mark Homeyer, Jeff Slesinger, Josh Ellis (all present), and others would be augmenting his knowledge because he is not a mariner. They bring towing vessel and barge operation expertise. He wondered how to list the towing industry alternate because he felt it was important not to limit it to one person. Chair Bever agreed that was a good approach to include Mark Homeyer and “various” as alternates.

The OTSC members reached consensus not to post meeting times publicly, but OTSC members would be allowed to bring members of the public to meetings as subject matter experts. Sheri Tonn (Ex-officio/BPC) mentioned that the Coast Guard could be present in an advisory role.

- 4. Initial Consideration of ESHB 1578 Definitions** – The OTSC members reviewed and discussed the terms identified from the bill language and discussed at the December 9, 2019 Listening Sessions.

- **“Under the escort of a tug or tugs”** – The group considered CFR definitions, previous considerations by Captain Blair Bouma (Pilot/PSP) and feedback from the Listening Sessions. Blair Bouma (Pilot/PSP) offered that the definition should be broad considering the different modes that an escort might be in. Charlie Costanzo (Tug Industry/AWO) asked if anyone had issues with the CFR Title 33 Part 168 definition, adding that it seemed sound to him. Chair Bever added that any definitions directly relating back to federal regulations were a good approach. Fred Felleman (Environmental/Friends of the Earth) agreed that the definition should be broad. There was discussion regarding where the escorting was occurring versus the act of escorting, or what it meant to be under escort. Sara Thompson (Ecology/BPC) agreed that she liked the second bullet point definition of the CFR but was curious about a tug in sentinel status. Blair Bouma (Pilot/PSP) agreed that bullet two was the best definition, but needed to be reworded to match the question. The question was “What does under the escort of a tug mean”? Fred Felleman (Environmental/Friends of the Earth) brought up that it didn’t necessarily even need to be a tank vessel, to which Blair Bouma (Pilot/PSP) agreed. The group inquired if there was a WAC or RCW definition that could be helpful. Fred Felleman (Environmental/Friends of the Earth) expressed concern over the difference between tug escort and tug assistance. Eleanor Kirtley (Marine Environment/BPC) added that one term that stood out to her during the Listening Sessions was tug capability, which relates to whether it was capable for a tethered escort service, close escort service or sentinel escort service. Fred Felleman (Environmental/Friends of the Earth) added that an escort-capable tug could be in sentinel mode, and that its capability did not automatically define its utilization. He urged the need for clarity for the implementation process. Mark Homeyer (Tug Industry Alternate/Crowley) stated that they needed to be mindful that there are regulations that govern the escort of tankers now and if the OTSC redefines them for a different class of vessel, consider the impact it could have on the current equipment that is being used. Jason Hamilton (Other/BPC) responded that it was why going back to the CFR was a good approach. He added that the RCW referred back to the CFR as well. Fred Felleman (Environmental/Friends of the Earth) questioned if the term “proximity” was defined anywhere adding that he believed there was a certain distance the tugs had to be to their escorted vessels. Blair Bouma (Pilot/PSP) answered that the Puget Sound Harbor Safety Plan had some references to that. Charlie Costanzo (Tug Industry/AWO) replied that he would rather leave that type of specificity up to the pilot or mariner’s discretion. Fred Felleman (Environmental/Friends of the Earth) agreed with that approach, but still wondered if there was a definition. Charlie Costanzo (Tug Industry/AWO) suggested there might not be a definition because of the need for discretion. He referenced the California code, which reads similar to the CFR. Fred Felleman (Environmental/Friends of the Earth) suggested that they should look at the Puget Sound Harbor Safety Plan. The OTSC members considered combining the Puget Sound Harbor Safety Plan definition with the CFR. Fred Felleman (Environmental/Friends of the Earth) stated that he believed the issue was one of behavior versus capability. Sara Thompson (Ecology/BPC) stated that she preferred the CFR definition combined with a portion of the Harbor Safety Plan definition but wondered if the BPC’s Assistant Attorney General should weigh-in.

The OTSC reached consensus regarding a combined CFR and Harbor Safety Plan definition, which would read: *Escort vessel means any vessel that is assigned and dedicated to a tank vessel during the escort transit. All escorts must be in close proximity for timely and effective*

response taking into consideration ambient sea and weather conditions, escort configuration, maneuvering characteristics of the vessels, emergency connection procedures, surrounding vessel traffic and other factors that may affect response capability. Chair Bever will provide the definition again at the next meeting for final review.

- **“Rosario Strait”** - The group considered CFR definitions, previous considerations by Captain Blair Bouma (Pilot/PSP), feedback from the Listening Sessions, and the Puget Sound Harbor Safety Plan. For the southern boundary, they discussed extending the current definition found in 33 CFR 161.55 south to Davidson Rock. Blair Bouma (Pilot/PSP) offered that he started his tethered escort at that point, as opposed to buoy RB, due to rock reefs on either side. However, he did warn that it could be dangerous due to weather out at Davidson Rock. Charlie Costanzo (Tug Industry/AWO) added that the definition could work as long as there was allowance for discretion regarding safety. Fred Felleman (Environmental/Friends of the Earth) asked for clarification whether or not the vessel would be required to be in active escort status by the time it entered the strait, or whether it would cross the line then set up the escort. He also wondered if to be in escort in the identified escort zone meant that the arrangement had already been made. Blair Bouma (Pilot/PSP) confirmed. Josh Ellis (Public/Crowley) offered that a pre-escort conference is entered into the log and that the conference is part of the whole process of coordination between the pilot and the master. Blair Bouma (Pilot/PSP) added that that conversation starts at the line from Discovery to New Dungeness. He clarified that crossing the line with the escort in place was logical and true, but warned that there were sometimes weather considerations that may change the location of hook-up. Mark Homeyer (Tug Industry Alternate/Crowley) added that there are also commercial considerations because when one was in escort mode, the customer is paying for that. Jason Hamilton (Other/BPC) added that there are also liability implications of being in escort mode. He wondered why the group would change the definition of Rosario Strait from what is in the CFR. Blair Bouma (Pilot/PSP) confirmed that he was fine with the definition in the CFR as is, if that’s how the group wanted to go.

Fred Felleman (Environmental/Friends of the Earth) shifted the conversation to the north end of Rosario Strait and provided a graphic of the US Geological Survey (USGS) geomorphic definition of Rosario Strait. The group then looked at a map, compared the potential definitions, and talked through likely scenarios. Blair Bouma (Pilot/PSP) warned that the CFR definition function is for one-way traffic, which was regulated by VTS, and for passing within certain distances. It does not mention escorting. Chair Bever pointed out that the Puget Sound Harbor Safety Plan refers to the CFR definition. Eleanor Kirtley (Marine Environment/BPC) asked if vessels below 40,000 DWT are already voluntarily taking tug escorts. Blair Bouma (Pilot/PSP) answered no.

Chair Bever clarified that the definitions in question were either the CFR, Blair Bouma’s suggestion, or Fred Felleman’s suggestion from the USGS, which was more specific to the geomorphology of the waterway. Blair Bouma (Pilot/PSP) confirmed that the CFR definition of “waterways east” covered all the locations a tank vessel would go and that it was very thorough. Jeff Slesinger (Public/Delphi Marine) added a tug industry perspective by warning that the definition shouldn’t create a conflict. Tug companies may have tugs that are dedicated to escorting vessels through Rosario and different tugs that assist them to the dock. He warned the group not to box themselves in where the few tugs that may come out

to assist going into Ferndale or Cherry Point may not be escort capable as defined for the transit. He could see where there would be more tugs dedicated to going back and forth, and other tugs dedicated to docking. He suggested being mindful of the potential increase in traffic in that area. Mark Homeyer (Tug Industry Alternate/Crowley) added that industry would adapt to the regulation, but that in long-standing practice the tugs utilized to come off the dock would end up escorting and would be with the vessel through the transit. They don't have the capacity to wander off and do something else, then come back and meet the vessel at the dock. It is all set up during pre-planning. He also suggested that the CFR definition was satisfactory. Josh Ellis (Public/Crowley) added that consistency was important and that perhaps changing the location of tug pick-up would be better handled in defining geographic zones. Fred Felleman (Environment/Friends of the Earth) took exception to that suggestion, pointing out that the escorting process is already beginning outside the CFR definition and offered that he would accept Blair Bouma's suggestion. Mark Homeyer (Tug Industry Alternate/Crowley) admitted that he was surprised that the current northern boundary in the CFR was so far south but he urged caution in establishing two different standards for vessels over 40,000 DWT and under 40,000 DWT. Blair Bouma (Pilot/PSP) suggested it is in fact what ESHB 1578 is requiring. Mark Homeyer (Tug Industry Alternate/Crowley) wondered what would happen when it was time for the BPC to do rulemaking. Chair Bever answered that the BPC would have an opportunity at that time to reevaluate the regulations. Eleanor Kirtley (Marine Environment/BPC) clarified the conversation by saying that in practice now, the escort is also serving as an assist, say in the outbound leg, getting off the dock and proceeding to transit. There is no meeting the tanker in the middle of the waterway. The concern she was hearing was that now that there is this limited zone of Rosario Strait and connected waterways east where the escort would be required, the escort tug would now be the assist tug. Blair Bouma (Pilot/PSP) confirmed that it was a concern. He added that the CFR doesn't really relate to escorting. The new category specifies Rosario Strait. To him the question was does the OTSC recommend the CFR definition, which was for other purposes, as a new escort purpose, or does the committee look at the geography. He did point out that some of the vessels in the new class may be small enough to not need a tug coming off the dock, and could then rendezvous with the tug for escort. Eleanor Kirtley (Marine Environment/BPC) added to that comment by recognizing that it could be a discreet number of vessels that would be subject to the new regulation and that it would be helpful for her to know where those vessels were going. Fred Felleman (Environment/Friends of the Earth) pointed to the Vessel Traffic Risk Assessment for that information. He was curious about the population of vessels in question. How many barges were greater than 5,000 GT. Sara Thompson (Ecology/BPC) offered that Ecology had the list of vessels, but not the deadweight tonnages. She referenced a spreadsheet she was working on and was trying to find information to fill in the blanks. She also added that she would prefer not to rely on the internet for that missing information and to have a more reliable source.

Chair Bever confirmed that the question on the table was whether or not to use the CFR or the US Geological Survey definition. Fred Felleman (Environment/Friends of the Earth) reiterated that the CFR did not include escorts and that a new zone needed to be defined. Blair Bouma (Pilot/PSP) again stated that his preference as a pilot would be to define Rosario as Davidson Rock to Charlie Alfa buoy, which would take into consideration the geography of

the waterway.

All agreed that the group would decide between the two proposed definitions at the next meeting and that a chart or a visual would be provided to assist. Sara Thompson (Ecology/BPC) and Charlie Costanzo (Tug Industry/AWO) offered to combine and share information regarding barges in the area with the OTSC at the next meeting.

- **“Connected Waterways East”** – The OTSC agreed on the 33 CFR 161.55 Special Area definition for connected waterways east to include Guemes Channel, Bellingham Channel, Padilla Bay and Southern Bellingham Bay (Samish Bay). However, Fred Felleman (Environment/Friends of the Earth) questioned why only a portion of Bellingham Bay was included. Blair Bouma (Pilot/PSP) answered that the CFR was specific to the collision of vessels, not escorting. He also added that there was virtually no tanker traffic in northern Bellingham Bay. He pointed out that the CFR did include the anchorages.
- **“Bunkering or refueling”** – Chair Bever deferred discussing these terms to the next meeting. Fred Felleman mentioned that he thought the definition was very straight forward. At the end of the meeting, Charlie Costanzo asked for Fred Felleman to elaborate on his statement. He stated that he believed the intent was to reduce oil spills and that the simplest interpretation of the terms would be that if you are sitting and bunkering in Rosario Strait you are not being escorted. You will be escorted to and from the bunkering site, but not while in the act of transferring product. If the destination is to bunker, you will be escorted through the transit through Rosario Strait. He didn’t understand how it could be interpreted any other way. Charlie Costanzo said there was another way to interpret it. He provided an example by engaging in getting a cup of coffee. He walked to the coffee machine and poured coffee and sat back down, all the while explaining that he was engaged in getting a cup of coffee. Fred reiterated that the committee needed to resolve the question of as long as the vessel is in transit it is subject to escort. He also added that bunkering, to him, is an activity that is different from being in transit.

The group will give these terms more thought and come ready to discuss them at the next meeting.

- **“Laden”, “Unladen”, “In ballast”** – There was discussion that as a result of the Listening Sessions, the group should focus on defining laden or unladen because some of the barges don’t take ballast. However, Chair Bever pointed out that the legislation mentioned both laden and in ballast thus may need to be defined. Fred Felleman (Environment/Friends of the Earth) pointed out that the CFR was specific to an escort requirement whereas in ballast was not specific to that question. There was consensus to include the Board’s current definition of “in ballast” in the overall definitions. Blair Bouma (Pilot/PSP) mentioned that there could be questions about what products would be covered by the definition. The CFR included a list of products. Charlie Costanzo (Tug Industry/AWO) pointed out that the State bill was defined by the configuration of the vessel, not the cargo. In the CFR, the cargo was the scoping mechanism. Blair Bouma (Pilot/PSP) believed the current BPC definition was fine, unless they wanted to reference the CFR table. Chair Bever asked the committee for consensus for either calling out crude oil and petroleum specifically versus referencing the CFR table of products. Sara Thompson (Ecology/BPC) inquired about the already existing Ecology definition of oil and how that would fit into what the committee was trying to define. She mentioned she could bring that to the table at the next meeting.

It was decided that the group would review a draft of the proposed definition of each of the terms, as discussed above, at the next meeting.

- 5. Discussion Regarding Zone Identification Process** – Chair Bever reminded the committee that Brian Kirk from the Department of Ecology introduced the zone identification project at the Listening Sessions. He could be called in to an OTSC meeting to help with the definition process. She asked committee members for input regarding the process. Fred Felleman (Environment/Friends of the Earth) suggested that it would be easier to start with a draft as opposed to starting from scratch. He also suggested starting with the Vessel Traffic Risk Assessment (VTRA) zones. Eleanor Kirtley (Marine Environment/BPC) questioned if it would be appropriate at some point to speak with the legislators or authors of the bill regarding intent. Fred Felleman (Environment/Friends of the Earth) responded that he believed the state had intent for tug escorts and reiterated the goal of the spills program, which was zero spills. Sara Thompson (Ecology/BPC) offered that Ecology had been thinking about that question as well, especially regarding the zones, which would inform the risk model. She suggested that the usefulness of having zones was common language. Blair Bouma (Pilot/PSP) reminded everyone that it didn't need to be overly complicated. Practical experience could help shape the conversation. Fred Felleman (Environment/Friends of the Earth) agreed with him, but added that the nature of the traffic could complicate it. Jason Hamilton (Other/BPC) inquired whether or not Canadian waters were included. Blair Bouma (Pilot/PSP) pointed out that due to the restrictions in Rosario, traffic could move to Haro Strait. Regulating Haro could be cumbersome. Sara Thompson (Ecology/BPC) reminded the group that the zone definitions were not directly tied to rulemaking, only the risk model. Fred Felleman (Environment/Friends of the Earth) reiterated using the VTRA as a base line.

The group will discuss zones in more detail at the next OTSC meeting.

6. Next Steps

- Sara Thompson will provide information regarding barges operating in Rosario Strait, and will be seeking help with deadweight tonnages.
- Chair Bever will start the definition document for review at each meeting.
- Committee members will think about the Rosario Strait and Laden, Unladen, and In Ballast definitions discussed previously and come to the next meeting ready to make a decision.
- The next meeting will be in March, either the second or third week. Jolene Hamel, BPC staff, will send a Doodle Poll.