



STATE OF WASHINGTON
BOARD OF PILOTAGE COMMISSIONERS

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Meeting Minutes – Oil Transportation Safety Committee (OTSC)

April 21, 2020, 1:00pm – 3:00pm

Conference Call/Skype

Attendees via Skype: Jaimie Bever (Chair/BPC), Sara Thompson (Ecology Alternate/BPC), Blair Bouma (Pilot/PSP), Eleanor Kirtley (Marine Environment/BPC), Charlie Costanzo (Tug Industry/AWO), JD Leahy (Ecology Alternate), Brian Kirk (Ecology Alternate), Sheri Tonn (Ex-officio/BPC), Bettina Maki (Staff/BPC), Jim Peschel (Tug Industry Alternate/Vane Brothers), Dan Morrison (Tug Industry Alternate/Centerline Logistics), Sven Titland (Tug Industry Alternate/Olympic Tug & Barge)

Attendees via Phone: Jason Hamilton (Other/BPC), Bob Poole (Oil Industry/WSPA), Fred Felleman (Environment/Friends of the Earth), Mark Homeyer (Tug Industry Alternate/Crowley), Blair Englebrecht (Environment Alternate/Puget Soundkeeper), Laird Hail (Advisor/USCG), Keith Kridler (Pilot Alternate/PSP), Igor Loch (Tug Industry Alternate/Vane Brothers),

1. Welcome

Chair Bever welcomed everyone to the meeting. She acknowledged the progress made at the last meeting with the hope to continue to make good progress.

2. Review and Approval of April 6, 2020 Meeting Minutes

The OTSC received a draft of the April 6, 2020 meeting minutes prior to the meeting. Chair Bever said that OTSC members Blair Bouma (Pilot/PSP) and Eleanor Kirtley (Marine Environment/BPC) previously offered suggested changes to clarify their points of view and minor adjustments to grammar/spelling. Chair Bever then asked for additional input from those present at the meeting. Blair Bouma (Pilot/PSP) had no additional comments. Keith Kridler (Pilot Alternate/PSP) had no comments. Bob Poole (Oil Industry/WSPA) was okay with the minutes as written. Charlie Costanzo (Tug Industry/AWO) had no comments. Fred Felleman (Environment/Friends of the Earth) supported the comprehensive nature of the minutes. He did ask for clarity when he was discussing traffic levels, that traffic increases were specific to ATBs and Barges, not tankers. Blair Englebrecht (Environment Alternate/Puget Soundkeeper) had no comments. Sara Thompson (Ecology Alternate/BPC) had no comments. Brian Kirk (Ecology Alternate/BPC) had no comments. JD Leahy (Ecology Alternate/BPC) had no comments. Jason Hamilton (Other/BPC) had no comments. Sheri Tonn (Ex-officio/BPC) had no

comments. Mark Homeyer (Tug Industry Alternate/Crowley) had no comments. Eleanor Kirtley (Marine Environment/BPC) had no additional comments and offered appreciation for the comprehensive minutes.

Chair Bever will make the requested changes and finalize the minutes, making them available to the public on the website and providing them to the Board for the May meeting as a part of the OTSC update.

3. Scope for Changing Vessels Trends Synopsis

Prior to the meeting, Chair Bever provided OTSC members with a draft of the scope for the Board's Changing Vessels Trends Synopsis due to the Legislature December 31, 2021. The Board reviewed drafts of the scope at the February and April meetings. Chair Bever reminded the group that the scope of work is between the Board and the Department of Ecology, as outlined in the Interagency Agreement. The scope was provided to the OTSC on an informational basis for review. She offered that OTSC members could comment to the Board directly, and that the group could spend some time on that during the OTSC meeting.

Fred Felleman (Environment/Friends of the Earth) had attended the Board meeting and pointed out that the purpose of the scope is evaluation, which is what the OTSC is doing. He believes there is a clear nexus between action and evaluation, which is very much in line with committee objectives. He added that his primary concerns are that since the evaluation is supposed to be both pre and post statute, to have a sense of prior traffic only in the last year is not sufficient. He pointed out that over the 5 past years, there's been an increasing trend in the use of ATBs and barges. Therefore, it is not credible to look at one year's impact compared to next year, which won't even be a full year of data. He also stated that there was ample time before the report is due to the Legislature to get a full year of data post implementation of the tug escort statute. Those data are available to Ecology and vessel routing could be done with crossing line data obtained from Marine Exchange. He was surprised to see that Marine Exchange was not listed in the resources in the scope. He also mentioned that the scope only refers to transits of laden tank vessels. Since the Board is supposed to be looking at changes in vessel traffic, they should be looking at all vessel traffic. Finally, he suggested that routing should include not just the waterways, but to terminals and anchorages. Eleanor Kirtley (Marine Environment/BPC) responded that her understanding at the April 16, 2020 Board meeting was that the Board delayed approval of the scope to allow time for review and input from the OTSC. She wondered if the committee would have an opportunity to provide substantive input or if the scope was just an FYI. Sara Thompson (Ecology Alternate/BPC) clarified that the scope of work was presented to the Board at the January meeting originally. There were some minor edits to that version, which is what the Board saw at the meeting last week. She suggested that because a lot of time had gone by since the Board first saw the scope, it wasn't fresh in their memory anymore. Chair Bever said her impression of the Board decision regarding the scope was that the OTSC would have a chance to review it but that it wasn't necessarily something that needed OTSC recommendations. She prefaced that by acknowledging that she had not reviewed the meeting audio to prepare the minutes yet. Sheri Tonn (Ex-officio/BPC) offered that comments from the OTSC would be very welcome to the

Board and that it will be an agenda item for the May 21, 2020 Board meeting. Eleanor Kirtley (Marine Environment/BPC) then made some suggestions for Board consideration. She said a two-page scope document seemed very undetailed. She went back to the legislation and verified that all the Board is responding to is the sentence "By December 31, 2021, complete a synopsis of changing vessel trends", which she thought would yield a more detailed scope of work. She further suggested that any specificity that can be added to the scope of work would be helpful. For example, she mentioned the area that talks about route selection and asked if there was interest in the divergence of traffic from Rosario Strait to Boundary Pass and Haro Strait, or in vessel traffic leaving the area in its entirety. She suggested that including language like "such as" or "not limited to" would add some minimum considerations, keeping in mind what decisions the report might inform. She urged working within the realm of feasibility for the resources available, pointing out the Board should act as a steward for the money to spend on future engagements based on the information in the synopsis. She reiterated that adding specificity would be her main comment. Sheri Tonn (Ex-officio/BPC) suggested that it was important to remember that the individuals engaged in this activity aren't going anywhere and will be able to provide frequent updates on the work. She thus wouldn't describe it as a standard consultant scope of work. Fred Felleman (Environment/Friends of the Earth) supported Eleanor's point in that the OTSC will be trying to evaluate the results of the changing vessel trends and therefore there are certain questions that need to be answered. Haro Strait is the most basic one, but also changes in the vessels, and changes to uses of anchorages and terminals. It also raises the question of whether Dale Jensen, the Board's Ecology representative, will need to recuse himself from Board decisions regarding this work, as Fred sees a huge conflict of interest for someone to vote on something they helped to craft. Sheri Tonn (Ex-officio/BPC) responded that the short answer was she didn't know why he would need to, but that the Board would consult with their Assistant Attorney General on the matter. Eleanor Kirtley (Marine Environment/BPC) added that she agreed with Fred in terms of greater data collection, even pushing back the end data collection date two months and compress that schedule to have a full year. She also had a question regarding enforcement and looking not just at vessel traffic data but also vessel infractions after the requirements go into effect. She also suggested that under deliverables, expand the route selection and in the context of normalization of the vessel traffic, consider the effect of the COVID-19 pandemic on shipping this year. Sara Thompson (Ecology Alternate/BPC) observed that there were many ideas discussed, some that could easily be incorporated into the scope and some that would be a little more challenging, such as the back end of the data collection due to the review process at Ecology and the BPC approval needed before submission to the Legislature. She requested the notes from this meeting before the next Board meeting so that any adjustments that could be made to the scope will be ready for Board review and approval.

Chair Bever suggested that if there were any more comments, to email them to or call her and that they will be delivered to the Board. She then proceeded to the next agenda item.

4. Review/Finalize Interpretive Statement

Chair Bever reviewed the status of the Interpretive Statement, suggesting that some definitions had been finalized at the previous OTSC meeting and some still needed work. She provided a draft with the changes recommended at the last meeting as well as some proposed language from Fred Felleman (Environment/Friends of the Earth). She started with the changes she had made based on feedback from the last meeting. Then reviewed the changes proposed by Fred Felleman (Environment/Friends of the Earth) and Blair Bouma (Pilot/PSP).

Intro/Disclaimer

Chair Bever added language suggested by Eleanor Kirtley (Marine Environment/BPC) as a disclaimer regarding the sources for some of the definitions. Chair Bever checked with OTSC members for any concerns regarding the proposed language. Sheri Tonn (Ex-officio/BPC) suggested that the Interpretive Statement include a list of references at the end to assist in finding the sources in the future. Jason Hamilton (Other/BPC) concurred with Sheri and added that whatever is referenced should be cited appropriately in blue book form. He added that this was his concern with the USGS definition in the first place, making sure we were able to cite it appropriately. There were no other committee comments.

“Under the Escort of a Tug or Tugs”

The only proposed change was Fred Felleman’s (Environment/Friends of the Earth) suggestion to use the term “tug” instead of “vessel”. He added that he underlined the words “tug or tugs” in the title to show the emphasis on a specific type of vessel. Chair Bever pointed out that the reason the definition says “vessel” is because that section is a direct reference to the CFR, which uses that term. Fred suggested brackets after “vessel”. Charlie Costanzo (Tug Industry/AWO) suggested that they might be giving up clarity by focusing on a narrower word like “tugs”. He added the term “vessel” aligns with the bill and that there are rules in code around what kind of vessel can conduct the escort or assist. By insisting on a narrower use of the word, he was not sure what is gained in terms of clarity. Blair Bouma (Pilot/PSP) pointed out that the bill does use the term “tug or tugs” but he didn’t have a strong feeling either way. Bob Poole (Oil Industry/WSPA) thought Charlie’s point made sense to him. Fred Felleman (Environment/Friends of the Earth) responded that he was of the belief that they could add the term “tug” in brackets and italics, and still be within the framework of the bill. He doesn’t want to it to be left for interpretation in the future, also pointing out that the USCG escorts vessels into port with vessels that are not tugs. Chair Bever wondered if there was enough specificity in the referenced CFR for clarity regarding which vessels are being considered in this definition. She pointed out that the reference falls under the section titled “Escort Requirements for Certain Tankers”, and that it is specific to tankers. Blair Bouma (Pilot/PSP) acknowledged that the CFR uses the term “vessels”, while the bill uses the term “tug or tugs”. Fred Felleman (Environment/Friends of the Earth) voiced frustrations that the group was debating the terms. However, he said he would back down, but under protest. Eleanor Kirtley (Marine Environment/BPC) added that she was happy to call a tug a tug.

Chair Bever suggested that the group move on to the next definition.

“Rosario Strait”

Regarding the question from the last meeting as to whether or not to include a reference to the USGS definition, Chair Bever added language suggesting the definition was inspired by the USGS definition. Fred Felleman (Environment/Friends of the Earth) proposed the word “defined” as opposed to “inspired”. Chair Bever asked the group if there were major concerns about revising the definition from “inspired” to “defined”, as proposed by Fred. Jason Hamilton (Other/BPC) responded that he had no concerns, but wanted to make sure it was cited appropriately. She agreed and, hearing no other comments, informed the group that they would move forward with “defined”. Chair Bever also added a note for clarity, per the recommendation of Laird Hail (Advisor/USCG) pointing out that the OTSC definition was different from the CFR VTS Special Area definition. Fred Felleman (Environment/Friends of the Earth) also suggested adding the reference “W. Point” to the definition, as it is where the latitude/longitude lands. Blair Bouma (Pilot/PSP) suggested adding the word “near” to Fred’s suggestion because it is not actually right on W. Point. Fred agreed with that approach.

“Connected Waterways East”

Chair Bever reminded the group that there was some concern at the last meeting that because the proposed southern boundary extended further down than the CFR definition, Deception Pass could be considered a connected waterway east of Rosario Strait. To prevent future confusion, Blair Bouma (Pilot/PSP) added a latitude line at the top of March Point, exempting Deception Pass from the definition of the waterway. Chair Bever also added a note for clarity, per the recommendation of Laird Hail (Advisor/USCG) pointing out that our definition was different from the CFR VTS Special Area definition.

“Oil”

At the last meeting, Fred Felleman (Environment/Friends of the Earth) suggested that the definition specifically call out dilbit for transparency that the OTSC consider it part of the adopted definition. Chair Bever added a note to the bottom stating the Board includes dilbit in the definition. Bob Poole (Oil Industry/WSPA) questioned if the term “dilbit” was going to be added in the actual definition along with the other products listed or if it was being treated separately. Chair Bever responded that it would be included at the bottom for clarity that the Board considers “dilbit” to be included in the list of products. Fred Felleman (Environment/Friends of the Earth) wondered if it would be more appropriate to specify “diluted bitumen” instead, pointing out that “dilbit” takes on a specific terminology. Sara Thompson (Ecology Alternate/BPC) thought the approach was good. Bob Poole (Oil Industry/WSPA) wondered, since bitumen was included in the list in the RCW definition, if there was a need to specifically call out “diluted bitumen”. Sara Thompson (Ecology Alternate/BPC) answered that yes, it is included in the list in the definition, but the request from Fred was to make it especially clear that it was included by adding the note at the bottom.

Chair Bever will revise “dilbit” to “diluted bitumen”.

“Laden/Unladen (In Ballast)”

Chair Bever removed the language that referred to the Board’s existing policy statement concerning the interpretation of “in ballast” in regards to LPG, as it is not an oil product. The existing policy statement will stay in place for reference to vessels outside ESHB 1578. Charlie Costanzo (Tug Industry/AWO) informed the group that there has been some concern among the barge operators regarding some operational difficulties with the definition as is. There were suggestions that the OTSC needed to rethink “unladen” for a tanker versus “unladen” for a barge using some of the operational feedback. Blair Bouma (Pilot/PSP) responded that it was a legitimate concern, especially when pumping heavy cargo. Sometimes it’s more difficult to get all of it out. It may be that in some of these cases, they get to a point of unpumpable cargo, which might be over the 0.5% stated in the proposed definition. He suggested that barge operators could come up with some recommendations and some guidance. Chair Bever asked Charlie Costanzo (Tug Industry/AWO) if he thought he would be able to get some recommendations, to which he said yes, adding that he already had a couple suggestions now. Charlie then asked if anyone at the meeting from the tanker operator side wanted to comment. Bob Wilson (Tug Industry Alternate/Centerline Logistics) commented that he had spoken to one of their tank barge operations managers and Centerline Logistics thinks that between 1% or 2% might be a more realistic target, confirming that they would have trouble getting that quantity out and adding that 0.5% could be in the sumps and pipelines themselves. He specified that it could be dependent on the barge itself. Fred Felleman (Environment/Friends of the Earth) asked again for the origin of the proposed definition. Chair Bever explained that it came from an existing Board policy, which was developed by a previous committee Board in 2005 or so, and models some language from other districts. Dan Morrison (Tug Industry Alternate/Centerline Logistics) mentioned that in California, it is driven by product onboard the vessel. Anything 5,000 long tons and over is considered escortable, and anything under 5,000 long tons is not. He wondered if we could follow something along those lines in our area. Blair Bouma (Pilot/PSP) pointed out that the bill is already written for the deadweight tonnage of the vessel. He added that there could be some flexibility with the percent onboard. He said the hard part with a hard number is that a really small barge could be heavily loaded. He suggested that maybe the percentage needed to be reconsidered. Fred Felleman (Environment/Friends of the Earth) wondered if the USCG or the BC/States Oil Task Force had some definition that each of the coastal states used, adding that it was odd for the committee to be making the determination in such an informal fashion. Sheri Tonn (Ex-officio) responded that the Board’s existing definition is the definition that has been used for a number of years. She wasn’t sure that she would call it “informal”. She would call it the operating definition as it stands right now. Fred Felleman (Environment/Friends of the Earth) acknowledged that it was the definition and clarified his response by saying that modifying that existing definition should include references to other sources. Charlie Costanzo (Tug Industry/AWO) reminded everyone that the original definition was established to apply to a different class of tank vessel. Applying that definition to a smaller class of tank vessel reveals operational constraints that the original

definition did not consider. Fred Felleman (Environment/Friends of the Earth) asked for clarification if that was because of the pumps on a barge versus a tank vessel or something about the design of the cargo tanks. Dan Morrison (Tug Industry Alternate/Centerline Logistics) answered that it was based on the product and the location of the suction. He suggested the question be taken to the operators offline for input.

Chair Bever suggested the group postpone the discussion and in the meantime, Charlie Costanzo could work with the operators to draft some language for OTSC consideration at the next meeting. Sara Thompson (Ecology Alternate/BPC) wondered if while the committee is considering reducing the 0.5%, if they should also consider the 3,000 barrel threshold, since it was tied to the original language as well. Blair Bouma (Pilot/PSP) proposed that the definition be split, leaving the 0.5% and 3,000 barrel threshold in place for the 40,000 DWT vessels and over, and adding the adjusted definition for the smaller size, although unsure where that cutoff should be. He wanted to make sure that the number isn't being reduced for the bigger vessels. Sheri Tonn (Ex-officio/BPC) wondered if there was a difference between the smaller tankers and the barges and if the definition should continue to apply to all tankers whether they are over or under 40,000 DWT and then a different definition be applied to the barges, which seemed to be more unpumpable. Charlie Costanzo (Tug Industry/AWO) responded that he didn't have an answer to that question at the moment, but that it would for sure be a part of the discussion with operators in preparation for the next meeting. Fred Felleman (Environment/Friends of the Earth) requested that someone from the Board determine if there were definitions for barges or ATBs in California or Oregon and a USCG CFR reference, which could be useful in the conversation. Sheri Tonn (Ex-officio/BPC) concurred.

Chair Bever reminded the committee that the definitions will need to go before the Board at the May 21, 2020 Board meeting and that the Board will have to make the final determination, in particular on those definitions where the OTSC is unable to reach consensus. The group then moved on to the next definition.

“A Vessel Providing Bunkering or Refueling Services”

Chair Bever pointed the group to the proposed definition provided by Fred Felleman (Environment/Friends of the Earth) for OTSC review. She also, prior to the meeting, sent around an email exchange between Fred Felleman and Dale Jenson, Department of Ecology Spills Program Manager from early last year, which contains explanations regarding the intent of the bunkering exemption language. Chair Bever acknowledged there were many questions regarding the legislative intent of this portion of the bill. She informed the group that she had scheduled a meeting with a key legislator that morning, but unfortunately the legislator was unable to attend. She also reached out to legislative staffers who worked on the bill and was told that they are not allowed to comment on legislative intent. She then searched her archived emails and found the exchange between Fred and Dale. Fred Felleman (Environment/Friends of the Earth) believed the info provided in the email further supported his view while several other members of the committee interpreted the language as clear exemption of any bunkering including transiting in

Rosario Strait. Bob Poole (Oil Industry/WSPA) pointed out that the email was helpful, but wondered if it wasn't the OTSC's job just to capture the definition of a bunkering operation compared to when and where it happens. Sheri Tonn (Ex-officio/BPC) reiterated that the question regarding the legislative intent was whether to include the barge traveling across the water or the barge just transferring the fuel. She explained further that what Dale's email said to her is that it is the whole thing, travel and transfer. In addition, she said the email really clarified for her the intent. Bob Poole (Oil Industry/WSPA) responded that this email really clarified the definition. Fred Felleman (Environment/Friends of the Earth) said his suggested language no longer contesting that, the only question is in what geographic area that behavior requires an escort. He added that he believes Dale's email further specified that escorts were not required between New Dungeness and Rosario, which implies that they are required in Rosario. He also stated that to him it reads that if one is bunkering just in Rosario, tug escorts aren't required, which is what he recommended in his proposed definition. Sheri Tonn (Ex-officio/BPC) responded that Dale's email does seem to clarify that if the "barge is over 5,000 DWT and conducting a bunkering at Vendovi, it would not be escorted in Rosario and waters east". Therefore, the barge is not escorted through Rosario. Fred Felleman (Environment/Friends of the Earth) clarified that his language supports that statement, when there is just bunkering within Rosario. He pointed out the next sentence, which states "it is also not required when it's transiting between New Dungeness and West of Rosario". Eleanor Kirtley (Marine Environment/BPC) pointed out that the act is referring to the exemption of a vessel not the exemption of a transit. The scope of the exemption is identifying the escort requirements in the region of Rosario and connected waterways east. Therefore, she wasn't following the exact geographical landmarks in the email. Sheri Tonn (Ex-officio/BPC) suggested that it didn't make sense that a barge that's doing a transfer within Vendovi would not need to be escorted through Rosario while one that is not doing a transfer would need to be escorted. Fred Felleman (Environment/Friends of the Earth) said it gets back to Blair Bouma's (Pilot/PSP) earlier suggestion of 15 miles, which Fred assumed was based on that notion that you wouldn't just want an escort from Marathon to Vendovi, but that if you are going a longer distance escorts make more sense. Chair Bever thought that if the legislature was being that specific with the bunkering exemption, they would have stated so. Fred responded that the email appeared to represent Ecology's intention and that their lack of clarity in the first place is why there is confusion now. Chair Bever added that while she was searching through the archives she found another email from Rob Duff, who was the Governor's Environmental Policy Advisor at the time, in which he says, "the substitute bill excludes bunkering from the escort requirement". Fred Felleman (Environment/Friends of the Earth) continued to reiterate that his focus was specifically on Rosario Strait and that everything else was outside of the scope of the study. Chair Bever confirmed that rulemaking for tug escorts for the whole area was a future endeavor, not something that needed consideration in time for the September 2020 implementation in Rosario Strait and connected waterways east. Fred Felleman (Environment/Friends of the Earth) requested that the OTSC read his proposed definition, which he believes is an equitable interpretation. Chair Bever read his suggestion, which was "the transit of a laden tank vessel from its location of cargo fuel procurement to the delivery and transfer of that fuel to the receiving vessel for its propulsion within Rosario Strait as defined by the OTSC". He then added "and waters east". Sheri Tonn (Ex-

officio/BPC) asked Fred for clarification that he was arguing that taking a bunker barge through Rosario from waters north or waters west to some other waters, is not exempt. He answered exempt within Rosario and waters east and suggested that the spirit of the law is that if you're going to transit through these waters, you are escorted. Brian Kirk (Ecology Alternate/BPC) responded that his recollection of all of the discussions around the time that email was written, were that the intent of the bunkering exemption was to exclude bunkering as an activity including any transit of the bunkering barge, not that the bunkering transit would only be exempted if it was fully contained within Rosario Strait. Fred Felleman (Environment/Friends of the Earth) responded that exempting bunkering is exempting a behavior that is occurring in the waterways we're trying to protect because it is a unique behavior that's not a normal transit. Jason Hamilton (Other/BPC) suggested that's what the language says. Sheri Tonn (Ex-officio/BPC) responded that the legislative intent was definitely murky and that, to her, the language looks like a compromise to get the legislation passed. She added that if that was the case, it wasn't the job of the OTSC to fix it, the legislature would have to fix it. Fred Felleman (Environment/Friends of the Earth) then wondered why Ecology had separated Rosario bunker transits out on the spreadsheet they provided if there wasn't intention to exempt them. Brian Kirk (Ecology Alternate/BPC) responded that the spreadsheet was set up that way because that's what was asked of the Ecology employee who put it together, with the assumption that that is what the OTSC wanted to see. Fred Felleman (Environment/Friends of the Earth) continued to urge the OTSC to focus on Rosario and to only think about other waters when the bill calls for the group to think about the other waters.

Chair Bever then went around the table for perspectives on the definition. Blair Bouma (Pilot/PSP) responded that he does not know what to think at this particular point given all the perspectives. Bob Poole (Oil Industry/WSPA) acknowledged that he was not around when the legislation was being developed but at the same time he didn't think the OTSC could take the definition and try to interpret it geographically at this point, perhaps further down the road. He said that he appreciated everything that Fred Felleman was saying, but he keeps coming back to the fact that it would be making decisions that are not within the charge of the OTSC. Charlie Costanzo (Tug Industry/AWO) replied that AWO had warned the legislature at the time that the language needed clarity. He added that the group is fortunate, in this case, to have a real time conversation via the email between Fred and Dale, about what some of the promulgators of the legislation wanted to try to do. He acknowledged that Fred's contentions were well understood. Sara Thompson (Ecology Alternate/BPC) shared that her views were the same as the last meeting, which was that bunkering would apply to transits to bunkering in any location and the return transit. Eleanor Kirtley (Marine Environment/BPC) responded that perhaps simplistic, the language in the act exempts bunker barges and that it's clear that it's not just transfer because that is a stationary act not a transit. Thereby the exemption is also inclusive of a transit and that the transit is exempted irrespective of where the transfer occurs. Jason Hamilton (Other/BPC) believed Eleanor said it fairly succinctly, the language exempts bunker barges, irrespective of whether the group wants them to be or not. He added that the legislative intent appears to be clear about this exemption. He appreciated Fred's argument and agreed that it would be great if we had different language to work with. Sheri Tonn (Ex-officio/BPC) observed that it's common in after-the-fact

legislation to be murky and that she believes this is a case where there was a lot of discussion about noise and orcas, and that there were likely some tradeoffs. She concluded that while she may not agree with lack of escorts on bunkers, it appears that is the direction the committee should go and that there's plenty of time to fix it legislatively. Laird Hail (Advisor/USCG) responded that it was beyond his authority to speak on this topic legally, but as an outsider looking in, he offered that legislators frequently make laws that can be somewhat contradictory in nature and that Sheri was probably right in suggesting that some deal making was a part of the final product to get the votes. Mark Homeyer (Tug Industry Alternate/Crowley) deferred to Charlie Costanzo's comments. Blair Englebrecht (Environment Alternate (Puget Soundkeeper) didn't believe she had anything productive to add to the conversation. She did say that Puget Soundkeeper was in the room when the language was being developed and that there was a last minute backdoor deal made by Ecology that Puget Soundkeeper objected to then and still objects to now. Keith Kridler (Pilot Alternate/PSP) had no additional comments other than acknowledging that the committee has to work within the laws as they are written, and that if they want that to change, they may have to look at another route. Brian Kirk (Ecology Alternate/BPC) assured the group that he and Sara Thompson had tried to be as clear as possible with the committee regarding their understanding of the legislative intent. JD Leahy (Ecology Alternate/BPC) had nothing to add and yielded to Brian and Sara's comments. Jim Peschel (Tug Industry Alternate/Vane Brothers) agreed with Fred that the intent of the language was not to discuss transits outside of Rosario and believes the legislative intent was to exempt bunker barges within Rosario. In the future, escorts outside of those zones can be discussed for future rulemaking. Fred Felleman (Environment/Friends of the Earth) requested clarification that the legislation was referring to bunkering not bunker barges. Charlie Costanzo (Tug Industry/AWO) answered that the language was specific to "vessels providing bunkering and refueling services". Fred then asked if the group thought his definition of bunkering was a good one, if the language regarding "in Rosario was" removed, acknowledging that there was not consensus regarding that piece. There were no responses.

At this point, Chair Bever suggested moving on from the definition, pointing to all the information provided to help inform a final decision, and reminding everyone that the group may not reach consensus and that the decision will be up to the Board. Fred Felleman (Environment/Friends of the Earth) again suggested that Dale Jensen should not have a say in the Board vote.

5. Identification of Geographic Zones

Chair Bever, prior to the meeting, sent more documents prepared by Blair Bouma (Pilot/PSP) with detailed zone suggestions in Rosario Strait and connected waterways east based on tables of information regarding the specifics of the waterways. In addition, Fred Felleman (Environment/Friends of the Earth) provided suggested zones for the committee to review. She began the discussion by providing information regarding the timelines of the two September 1, 2020 initiatives: implementation of tug escorts in Rosario Strait and connected waterways east and geographic zone identification to inform the risk model. The Interpretive Statement provides clarification regarding the terms in the legislation and is designed to help with the tug escort law going into effect September 1,

2020. The plan is to provide OTSC recommendations to the Board at the May 21, 2020 meeting, and for the Board to adopt the document at the June 2020 meeting, allowing some time for all to prepare for the September 1, 2020 tug escort implementation. The geographic zones to inform the risk model are not due to the legislature nor do they impact operations. Therefore, they can be adopted by the Board any time before September 1, 2020, allowing a little more time for development.

Blair Bouma (Pilot/PSP) added that the worksheets were not intended to accompany official documentation of the zones. They are internal working documents that contain specific information of the characteristics of the waterways to help identify the zones. He also mentioned that his proposals seem to intersect with Fred Felleman's (Environment/Friends of the Earth) proposals for the zones.

The committee then reviewed Rosario Strait as an example and Blair Bouma (Pilot/PSP) walked them through his thought process. He reminded them that the things to consider are hazards as in how close is the vessel to the ground, traffic, weather, currents, vessel capability, etc. The worksheet is a way to track that information starting at one end of the waterway and identify those items. He suggested that the subzones are the critical spots in each passage. He wasn't suggesting that tug escorting requirements should change for every subzone, but that when strung all together a cohesive transit plan would emerge. He reiterated that the process is based on physical characteristics and practical points. Fred Felleman (Environment/Friends of the Earth) questioned where the fuel was being produced, and where were the sources of the transit. Blair Bouma (Pilot/PSP) thought that most of it came from Marathon in Anacortes, but he did not have a definitive answer. Bob Poole (Oil Industry/WSPA) offered to research the question and provide some information.

Chair Bever then asked committee members to share their views on this approach to move through the waterways. Bob Poole (Oil Industry/WSPA) thought it made sense and was methodical and comprehensive, and qualified that by deferring to the experts. Charlie Costanzo (Tug Industry/AWO) concurred and had nothing else to add. Fred Felleman (Environment/Friends of the Earth) had no reason to question the subdivision, he was just wondering if for the purposes of Ecology's analysis, if they were at the level necessary to provide the needed information for the model, pointing out that the proposed zones were based on operational information. He added that he thought the info was tremendously insightful and thorough. Sara Thompson (Ecology Alternate/BPC) liked defining the larger zones with the subzones as information that can be used to inform the model, but not naming them so distinctly right now so that the group is locked into them. Eleanor Kirtley (Marine Environment/BPC) had nothing further to add. Sheri Tonn (Ex-officio/BPC) wanted to hear more from Ecology, and what JD Leahy and Brian Kirk had to say. She did say that she really appreciated the on-the-water focus because she didn't think there was a way that it could be criticized as being subjective. She thanked Blair Bouma for his work. Jason Hamilton (Other/BPC) also thanked Blair Bouma for his diligence and hard work, which seems like a logical approach and very detailed. Brian Kirk (Ecology Alternate/BPC) reported that he and Blair Bouma (Pilot/PSP) had a good conversation earlier and he appreciated Blair's thoughts. He echoed what Sara Thompson said, that this was a useful way to proceed and makes complete sense. Regarding the definition of the subzones, coming

to Ecology as informational would be the most helpful. He then acknowledged how much personal time Blair Bouma was contributing. JD Leahy (Ecology Alternate/BPC) had nothing to add. Mark Homeyer (Tug Industry Alternate/Crowley) had nothing to add. Keith Kridler (Pilot Alternate/PSP) had nothing to add. Blair Englebrecht (Environment Alternate/Puget Soundkeeper) had nothing to add.

6. Next Steps

Next Meeting

The next meeting is targeted for the first couple weeks of May in order to prepare for the May 21, 2020 Board meeting. Jolene Hamel from the BPC will be sending out a Doodle Poll. The meeting will likely continue through Skype/Conference Call.