



755 Winslow Way East
Suite 105B
Bainbridge Island, WA 98110

PHONE: 203.980.3051
EMAIL: ccostanzo@americanwaterways.com

Charles P. Costanzo
General Counsel & Vice President – Pacific Region

September 30, 2021

Mr. Alex Hess
Maritime Risk Lead Spills Prevention Section
Spill Prevention, Preparedness, and Response Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Re: Emergency Response Towing Vessel
Analysis - Scope of Work under RCW
88.46.250 Subsection 2.

Dear Mr. Hess:

The American Waterways Operators is the national trade association for the tugboat, towboat, and barge industry, a vital segment of America's transportation system. Sixteen AWO member companies are headquartered in Washington, and many more operate tugboats, towboats, tank barges and deck barges in Washington waters. Towing vessels move tens of millions of tons of freight every year on Washington waterways, reducing congestion on the state's highways and railroads while producing fewer pollutants than trucks and trains. In addition, harbor and ship assist tugboats perform shipdocking, tanker escort, and fueling services in Washington's harbors and ports. The tugboat, towboat, and barge industry provides the nation with a safe, secure, low-cost, environmentally-friendly means of transportation.

In the past AWO has worked collaboratively with the Department of Ecology on a range of transportation matters to better inform Ecology about maritime operations and safety practices within our industry. AWO served as a member of the 2013 Oil Spill Rulemaking Advisory Committee and the 2016 Columbia River Vessel Traffic Management and Safety Assessment Working Group and provided significant input to Ecology's study modeling and assessment report to the state legislature. In 2018, AWO helped to inform the work of the Southern Resident Killer Whale Task Force. AWO has also served on the Board of Pilotage Commissioners' Oil Transportation Safety Committee that was charged with providing guidance on the implementation of towing vessel escort laws under Washington ESHB 1578. It is in this spirit of collaboration that I comment today on the quantitative assessment and scope of work for an emergency response towing vessel (ERTV) serving Haro Strait, Boundary Pass, Rosario Strait, and connected navigable waterways codified now in RCW 88.46.250

Subsection 2.

First, AWO urges the Department of Ecology to use the association and its members as a resource as it considers the many factors that will inform its recommendations. AWO members have extensive practical experience as both the service providers and theoretical service recipients of the existing ERTV stationed in Neah Bay. An AWO representative has always served on the ERTV Compliance Group Board, and we have been involved in questions of ERTV funding since the inception of the system.

While AWO recognizes some key distinctions between the geographical locations and risk management benefits of the proposed interior Puget Sound ERTV and the existing Neah Bay resource, we want to highlight some structural similarities. While the initial plan for the Neah Bay ERTV funded the program through state resources, the state-funded system was short-lived. For many years, the costs of the program have been borne by industry through an imperfect system that allocates theoretical oil spill risk of a vessel and then splits costs between tank and non-tank vessels based on the perceived risk. Under this system, tank vessels generally pay more for the Neah Bay ERTV than non-tank vessels. While this appears rational given that tank vessels are carrying oil as cargo, there has not been a cargo oil spill from a vessel allision, collision, or grounding in Puget Sound in decades, and safety management regimes for tank vessels are sometimes more robust than for non-tank vessels. The fair apportionment of ERTV costs must be more carefully considered as these costs impact efficiencies and trade competition.

In addition to probable risk profile asymmetry in cost assessment, there has also been a “free-rider” question as vessels calling in Canada received the risk mitigation benefit but may not pay for the service. In an era of intense competition between Canadian ports and our own Northwest Seaport Alliance, Ecology should not institute a program that picks economic winners by conferring benefits on marine business activity that impairs Washington’s standing in international maritime trade.

The rationale behind emergency rescue towing vessels is well understood – to rescue a vessel in distress (typically) when the vessel loses power or steering. This raises obvious questions:

1. Are there examples of vessels losing propulsion, steering or other critical systems inside Puget Sound where a responding vessel would have prevented a marine casualty?
2. Could a strengthened vessel of opportunity system provide equivalent risk mitigation to a dedicated ERTV?

Several conditions seem to argue against the establishment of an additional ERTV inside Puget Sound – specifically a) the presence of numerous large towing vessels in the subject area and b) recent legislation mandating expanded towing vessel escorts in Puget Sound for tank vessels. These shifts in risk mitigation resources appear to substantially reduce spill risk without the cost of dedicated stand-by resources. On the other hand, AWO recognizes the commercial benefit to the towing industry from the establishment of additional emergency

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rescue towing vessels, as AWO members typically operate these resources. AWO members welcome the opportunity to serve as vital protection for marine safety and the environment.

At this time, AWO does not have a position whether a second dedicated ERTV in Washington waters is wise or not. However, AWO strongly encourages Ecology to consider carefully the risk mitigation benefit threshold for determining whether another dedicated ERTV is warranted for Haro Strait, Boundary Pass, Rosario Strait, and connected navigable waterways. A second ERTV in that area might reduce some risk but questions still persist about whether other systems could provide the same reduction, how to equitably apportion the costs, and how the system can be structured to truly account for the actual risk involved with each particular type of payee vessels. These are questions that must be answered as the agency considers its scope of work under RCW 88.46.250 Subsection 2.

AWO stands ready to help the state carefully consider the usefulness of a second dedicated ERTV. Please do not hesitate to contact us anytime during this process.

Sincerely,



Charles Costanzo
General Counsel and Vice President – Pacific Region