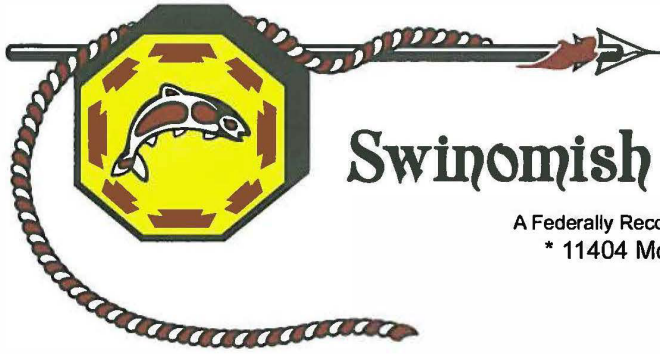


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Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 5123
* 11404 Moorage Way * La Conner, Washington 98257 *

July 31, 2025

Board of Pilotage Commissioners
2901 3rd Avenue, Suite 500
Seattle, WA 9812

RE: Tug Escort Rulemaking Chapter 363-116 (Pilotage Rules)

Dear Board of Pilotage Commissioners,

The Swinomish Indian Tribal Community (“Swinomish” or “Tribe”) is pleased to submit these comments on the Draft Environmental Impact Study (DEIS) concerning proposed amendments to existing Pilotage Rules. The Swinomish Tribe is a federally recognized Indian tribe and political successor in interest to certain tribes and bands that signed the 1855 Treaty of Point Elliott, which among other things reserved fishing, hunting and gathering rights and established the Swinomish Reservation on Fidalgo Island in Skagit County, Washington. The Swinomish Reservation sits at the mouth of the Skagit River, the largest river system draining to Puget Sound and the only river in the Lower 48 states that still has all species of wild Pacific salmon spawning in its waters. Since time immemorial, the Swinomish Tribe and its predecessors have occupied and utilized vast areas of land and water in Puget Sound up to the Canadian border to support the Swinomish way of life.

Fish and fish habitat are crucial to the cultural, spiritual, subsistence and commercial activities of the Swinomish Tribe, and the Tribe exercises Treaty-protected fishing rights in its usual and accustomed fishing areas (“U&A”), which include an extensive portion of the Salish Sea and the entirety of the Skagit River and its tributaries. See *United States v. Washington*, 459 F. Supp. 1020, 1049 (W.D. Wash. 1975). For generations, Tribal fishers have fished Puget Sound and the Salish Sea for a variety of fish and shellfish species, including but not limited to Chinook, coho, and chum salmon, steelhead trout, halibut, and Dungeness crab. Over the last 75 years, oil transportation, storage, and refinement has dramatically increased on Puget Sound. The Tribe has been directly impacted by that increase.

Today, more than 27% of the Tribe's U&A is now occupied by traffic lanes for vessels and anchorages. The Swinomish Tribe is regularly forced to forgo fishing in areas in which it has a Treaty-protected right to fish because the safety of its fishers and fishing gear is routinely threatened by or lost to vessel traffic. Danger to fishers, lost gear, and missed fishing opportunities are now a way of life for the Tribe, and one that impairs the rights secured to the Tribe by the Treaty. Additionally, the existence of four oil refineries within the Tribe's U&A, and the increase in oil shipped to and from Canada, means the threat of an oil spill is a constant for Tribal fisheries, Tribal fishers, and Tribal lands. Ensuring that the quality of the marine waters in Puget Sound remain free of oil spills and hazardous contamination is of the utmost importance to the Swinomish Tribe.

The Swinomish Reservation is within the area studied for this DEIS and all the area studied is within Swinomish U&A. Swinomish has a strong incentive to both limit additional vessel traffic in this already overburdened area and to limit the potential for a catastrophic oil spill in the study area which would fundamentally alter the Swinomish way of life and further impair its Treaty rights.

Swinomish supports the adoption of Option C, with the expanded Tug Escort Zone and addition of Functional and Operational Requirements, as a reasonable additional safeguard against an unlikely but devastating oil spill. Overall vessel traffic would essentially be unchanged from the existing baseline due to the extension of existing tug escorts rather than adding new escorts. We are also pleased that commutes from Anacortes to Cherry Point would be reduced. The minimal increase in vessel activity is offset by the reduced possibility of a catastrophic oil spill due to a drift grounding in Swinomish U&A.

We understand the challenges in addressing mitigation measures specifically for Tribal resources and appreciate the inclusion of supporting the Puget Sound Harbor Safety Committee's Tribal Fisheries Lost Gear Subcommittee. Support and participation from the Board of Pilotage Commissioners in that subcommittee will be a positive development in assisting Tribes to recover from the significant impacts of oil shipments and other vessel traffic.

One specific statement in the DEIS is patently incorrect and must be corrected in the final EIS. In the Tribal Resources Discipline Report, the table on page 23 of the report, pdf page 25, lists the Samish Indian Nation as established through the Treaty of Point Elliott, 1855. While the Samish Indian Nation gained Federal Recognition in 1996 and has long claimed to be a party to the Treaty of Point Elliott, since 1979 at the urging of the United States, the Federal courts have held repeatedly and consistently that *the Samish Indian Nation is not a successor to any tribe that participated in the Treaty of Point Elliott*, including the aboriginal Samish tribe and the Nuwaha or Stick Samish tribes. *See, e.g., United States v. Washington*, 476 F. Supp. 1101, 1104 (W. D. Wash. 1979), *aff'd* 641 F.2d 1369 (9th Cir. 1981); *Samish Indian Nation v. United States*, 58 Fed. Cl. 114, 120 (2003); *United States v. Washington*, 593 F.3d 790, 799-800 (9th Cir.) (*en*

banc). Stated another way, the Samish Indian Nation is not a Treaty Tribe, does not have Treaty rights, and does not own or manage Treaty resources and should not be included in any table or text referencing such rights or resources.

We are pleased to see that protection of the waters, wildlife, and peoples of Washington from catastrophic oil spills is the highest priority for the Board of Pilotage Commissioners. While the adoption of Option C is an important new safeguard, Swinomish believes expanding the tug escort requirement to include Haro Strait, and coordination with Canada on similar rules, is an appropriate future effort. Thank you for this opportunity to comment on the rule making within Swinomish U&A and directly adjacent to the Swinomish Reservation.

Sincerely,

A handwritten signature in blue ink that reads "Steve Edwards". The signature is written in a cursive, flowing style.

Steve Edwards
Chairman