

Friends of the San Juans

Protect this Place

August 1, 2025

Jaimie C. Bever
Executive Director
Washington State Board of Pilotage Commissioners
2901 Third Avenue, Suite 500
Seattle, WA 98121

Submitted via email: BeverJ@wsdot.wa.gov and the online comment portal:
<https://sppr.ecology.commentinput.com?id=HihgcrTsY>

RE: [Tug Escort Rulemaking](#) Draft Environmental Impact Statement, SEPA #202502240

Dear Jaimie Bever,

Thank you for this opportunity to comment on the [Tug Escort Rulemaking Draft Environmental Impact Statement](#) (DEIS) and the Board of Pilotage Commissioners' proposed rule that would amend [Chapter 363-116 WAC](#), Pilotage Rules, to address critical safety gaps for vessels carrying oil in bulk and to reduce the risk of a catastrophic oil spill.

Friends of the San Juans is a nonprofit organization established in 1979 and based in Friday Harbor, Washington, with the mission to bring people and nature together to protect the San Juan Islands and the Salish Sea through education, science, policy, and law. Friends of the San Juans was a co-petitioner that led to the federal listing of the Southern Resident killer whales as an endangered species under the Endangered Species Act.¹ The protection and recovery of the Southern Residents continues to be one of our top priorities.

Support for expanding tug escort requirements:

Friends of the San Juans supports the Board of Pilotage Commissioners' proposed rule to expand the existing tug escort requirements (Alternative C in the DEIS). Friends of the San Juans advocated for the passage of the 2019 Engrossed Substitute House Bill 1578 *Reducing threats to southern resident killer whales by improving the safety of oil*

¹ National Marine Fisheries Service (NMFS), Listing Endangered and Threatened Species and Designating Critical Habitat: Petition to List Southern Resident Killer Whales, 66 FR 42499.
<https://www.federalregister.gov/documents/2001/08/13/01-20282/listing-endangered-and-threatened-species-and-designating-critical-habitat-petition-to-list-southern>.

transportation.² Based on Governor Inslee's Southern Resident Killer Whale Recovery and Task Force recommendation 24,³ this legislation established initial tug escort requirements in 2020 for small- to medium-sized oil tank vessels in [RCW 88.16.190\(2\)\(a\)\(ii\)](#), and included direction for the evaluation of the rules currently being adopted and potential future rulemakings to update tug escort rules.⁴

Tug Escorts for laden (oil cargo carrying) tank vessels are an important and effective accident and oil spill prevention measure. Oil spill prevention is critical to the protection of the Southern Resident killer whales. An oil spill could severely impact and potentially cause the extinction of the Southern Residents (see also more comments below re. Plants and Animals Discipline Report Section 3.5.1 Impacts from Implementation).⁵

Support for the comments from the Lummi Indian Business Council:

Friends of the San Juans supports the comments submitted by the Lummi Indian Business Council. Friends of the San Juans urges the Board of Pilotage Commissioners to comply with the request for a formal government-to-government consultation with Lummi Nation to develop solutions to the impacts to tribal treaty fishing rights.

Friends of the San Juans urges the Board of Pilotage Commissioners to conduct formal government-to-government consultations with all Tribes that request this.

The increase in Trans Mountain tanker traffic intensifies the need for expanding tug escort requirements:

The changes in tank vessel traffic that have recently occurred because of the completion of the Trans Mountain pipeline expansion project intensifies the need for this proposed expansion of the tug escort requirements for small- to medium-size oil tankers, ATBs (Articulated Tug Barges) and towed barges between 5,000 – 40,000 DWT (dead weight tons). Tank vessels that are exporting Canadian tar sands crude oil are directly entering

² Engrossed Substitute House Bill 1578:

<https://app.leg.wa.gov/billssummary/?BillNumber=1578&Year=2019&Initiative=false>.

³ Southern Resident Killer Whale Task Force website that tracks the implementation of Task Force recommendations: <https://orca.wa.gov/>; Recommendation 24: <https://orca.wa.gov/recommendation/24/>.

⁴ ENGROSSED SUBSTITUTE HOUSE BILL 1578 Session Law. Section 5 (1).

<https://lawfilesexternal.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/1578-S.SL.pdf>.

⁵ NOAA (National Oceanic and Atmospheric Administration) Fisheries webpages:

- <https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/southern-resident-killer-whale-orcinus-orca>
- <https://www.fisheries.noaa.gov/species/killer-whale/spotlight>

Federal Register Vol. 70, No. 222, November 18, 2005, page 69908, <https://www.govinfo.gov/content/pkg/FR-2005-11-18/pdf/05-22859.pdf>.

Washington State, contrary to the vessel traffic route included in the permitted application for Trans Mountain's expansion project. At the May 15, 2025, Board of Pilotage Commissioners meeting, information was provided on tankers transiting between Canada and Washington State from May 11, 2024, to May 14, 2025. There were 21 laden tank vessels between 5,000 and 40,000 DWT.⁶ Some of the Trans Mountain tank vessels transit from British Columbia to Washington State via Georgia Strait and Rosario Strait. The tug escorts requirements are proposed to expand into the U.S. waters of Georgia Strait, in addition to Rosario Strait and connected waterways to the east.

Concerns about Ecology's risk model:

Any reliance in the DEIS on Ecology's risk model is concerning. Ecology staff have refused to conduct a peer review of the model and the previous report, *[Analysis of an Additional Emergency Response Towing Vessel](#)*, that relied on it. Feedback on discrepancies in that report which indicated the need for revisions has not been acted on. Ecology should be open and transparent with the risk model itself, as is the stated intent for the modules:

As a research team, we're committed to developing a model capable of providing the most informative risk assessments possible, given the data and knowledge that is available, and within the modeling framework that we've selected. We're also committed to developing the modules in an open and transparent way, using sound methodology, and documenting our work.⁷

Additional comments for specific sections of the DEIS are included below. In order to more fully address the intent and requirements in ESHB 1578 and to ensure that the expanded tug escort requirements provide oil spill prevention benefits without unnecessary tug traffic impacts, changes are needed to the proposed voluntary mitigation measures.

Thank you for your attention to these comments.

Sincerely,



Lovel Pratt
Marine Protection and Policy Director

⁶ Washington State Board of Pilotage Commissioners. May 15, 2025, meeting materials. Pages 4-6. <https://nebula.wsimg.com/266aa6cb88cc71a26a32213c789e09c2?AccessKeyId=F86D0A1E7A0091C2061F&disposition=0&alloworigin=1>.

⁷ Ecology web page. ERTV and Tug Escort Analyses: Outreach. <https://ecology.wa.gov/spills-cleanup/spills/oil-spill-prevention/safety-of-oil-transportation-act/risk-modeling/outreach-documentation>.

DEIS Section 2.2.1 RCW Geographic Scope and throughout:

The DEIS' interchangeable use of "Salish Sea" as defined in [Chapter 237-990 WAC](#) and "Puget Sound" as defined in [WAC 220-300-280](#) is confusing. The DEIS should be revised to reference the Washington State waters of the Salish Sea (as detailed in footnote 4, page 6).

DEIS Section 4.5.3.2 Mitigation Measures:

The DEIS relies on tugs' compliance with existing federal and state requirements to mitigate impacts. To help to ensure that the expanded tug escort requirements provide oil spill prevention benefits without unnecessary tug traffic impacts, this recommended mitigation should be revised: "Encouraging or requiring escort tug operators to take trainings to promote wildlife awareness, such as those provided by the Vancouver Fraser Port Authority or Be Whale Wise (Puget Sound Partnership & Governor's Salmon Recovery Office, 2022)."⁸ The entire list of recommended mitigations should be addressed in trainings for new tug operators and on-going annual trainings for all tug operators as a required mitigation. This will provide tug operator awareness of the precautions needed to protect Southern Resident killer whales and other marine wildlife.

Another voluntary mitigation measure that should be mandatory is the use of the Whale Report Alert System.

If the intent of the mitigation to "encourage transition to hybrid electric and fully electric propulsion as technological readiness and cost make them feasible" also intends to address the tugs' emissions that impact air quality and the marine ecosystem, this mitigation should be revised to also include tugs' transition to zero emission fuels, which may prove to be more feasible than electric propulsion.

The mitigation to "encourage participation in voluntary slowdowns, which reduces underwater noise, ship strike risk, and fuel use" should note that currently there are no ECHO (Enhancing Cetacean and Habitat Observation) or Quiet Sound voluntary slowdown areas in the existing or proposed expansion of the tug escort Study Area.

The mitigation that encourages tugs and target vessels to comply with Washington State's distance and speed regulations ([RCW 77.15.740](#)) where safe and feasible to do so, is essential, despite the exemption for tugs and target vessels operating under the VTS (Vessel Traffic Service). To achieve this mitigation, Ecology recommends that the Puget

⁸ Tug Escort Rulemaking Draft EIS. Page 79. [TugEscort-DEIS-Final_June2025.pdf](#).

Sound Harbor Safety Committee consider a Standard of Care for escort tugs to maintain a 1,000-yard distance from Southern Resident killer whales where safe and feasible to do so. This recommendation to the PSHSC should also include vessel speeds.

The state should take responsibility for continuous improvement by identifying funding to support the transition to tugs with quieter engines and propellers, and that use low- or zero-emission fuels, and the certification in programs aiming to protect the environment (e.g., [Green Marine](#)).

DEIS Section 5.1 Past, Present, and Reasonably Foreseeable Future Actions, Trans Mountain Expansion Project – Burnaby, British Columbia:

This section states, “All of these tankers would be greater than 40,000 DWT and don’t affect escort tug traffic associated with this proposed rulemaking.” Comments were submitted on December 20, 2024, stating, “it is imperative that this rulemaking address the changes in tank vessel traffic that have recently occurred as a result of the completion of the Trans Mountain pipeline expansion project.” This section should be revised to address the fact that from May 11, 2024, to May 14, 2025, there were 21 laden tank vessels between 5,000 and 40,000 DWT, including Trans Mountain target vessels. The increased oil spill prevention provided by tug escorts is critical for tank vessels transporting Canadian tar sands diluted bitumen.

DEIS Section 5.2 Cumulative Impacts:

This section should be updated with more information re: “The spill risk for laden vessels associated with the Trans Mountain Expansion Project is a particular concern because they would be transporting diluted bitumen.” The December 20, 2024, comments also included references to the 2022 National Academies report, [Oil in the Sea IV](#) as well as the USCG’s [Risk Assessment of Transporting Canadian Oil Sands](#), specifically page 18:

From an oil spill response perspective, it is important to have awareness of the environmental fate and behavior of Canadian oil sands products once they are released into the aquatic environment. Currently, there is scientific uncertainty about how Canadian oil sands products would weather and behave in aquatic environments at different ranges of temperatures, salinity, and sedimentation. There is also uncertainty about the extent that the diluent will separate from Canadian oil sands products under different spill conditions. These uncertainties can pose a major challenge to oil spill responders. Typically, oil sands products are classified as Group IV oil for contingency planning, but during a spill may not behave as such. Additionally, the evaporation of volatile components of the diluents in Canadian oil sands products results in potentially toxic and/or flammable VOCs in the

atmosphere above the spill. The initial portion of an oil sand product response would emphasize minimizing public and responder hazards from light VOCs that would volatilize in the first several hours/days of the event.

The cost of diluted bitumen spill response, remediation, and restoration was also addressed:

The response, remediation, and restoration costs for the 2010 pipeline spill of tar sands crude oil into the Kalamazoo River was over \$1,208,000,000 or \$60,153 dollars per barrel (see the [UNITED STATES SECURITIES AND EXCHANGE COMMISSION. FORM 10-Q. September 30, 2014, Quarterly Report](#) (page 19)). This amount far exceeds the average response, remediation, and restoration costs of a conventional crude oil spill.

The DEIS should also be updated to address the higher costs of diluted bitumen spill response, remediation, and restoration.

Appendix F - Plants and Animals Discipline Report Section 3.5.1 Impacts from Implementation:

Appendix F or the DEIS should be revised to specifically address the fact that Southern Resident killer whales were listed under the Endangered Species Act (ESA), in part, because of these “Human-Made Factors Affecting Continued Existence” – the oil spill risk from the refineries and associated oil transportation in the Salish Sea, given the impacts to killer whales from the Exxon Valdez oil spill.⁹ This section addresses the impacts from the Exxon Valdez oil spill to killer whales but does not include how the impacts to these killer whales in Alaska informed the listing of Southern Residents under the ESA.

The National Marine Fisheries Service’s *Recovery Plan for Southern Resident Killer Whales (Orcinus orca)* identifies several direct and indirect impacts of oil spills on killer whales, including:

- “Exposure to petroleum hydrocarbons released into the marine environment via oil spills and other discharge sources represents another potentially serious health threat for killer whales in the northeastern Pacific.”¹⁰
- “Oil spills are also potentially destructive to prey populations and therefore may adversely affect killer whales by reducing food availability.”¹¹

⁹ Federal Register Vol. 70, No. 222, November 18, 2005. Page 69908.

<https://www.govinfo.gov/content/pkg/FR-2005-11-18/pdf/05-22859.pdf>.

¹⁰ National Marine Fisheries Service (2008) *Recovery Plan for Southern Resident Killer Whales (Orcinus orca)*, p.II-116. <https://repository.library.noaa.gov/view/noaa/15975>.

¹¹ *Ibid.*, p.II-116.

- “Major oil spills are potentially catastrophic to killer whales and their environment, as illustrated by the probable impacts on the main resident and transient pods frequenting the area of the massive Exxon Valdez oil spill in Prince William Sound, Alaska, which occurred in 1989. Six of the 36 members of AB pod were missing within one week of the spill after being seen in heavily oiled waters and eight more disappeared within two years (Dahlheim and Matkin 1994, Matkin et al. 1994, 1999a, 2003, Matkin and Saulitis 1997).”¹²

According to NOAA researchers and marine biologists, exposure to oil from the Exxon Valdez oil spill contributed to high killer whale mortality rates, particularly among immature whales and breeding females.¹³ The killer whale pods that were impacted by the Exxon Valdez oil spill have not recovered, and the killer whale pod known as AT-1 group has experienced zero reproduction since the spill.¹⁴

¹² *Ibid.*, p. II-49.

¹³ NOAA (National Oceanic and atmospheric administration) Office of Response and Restoration. More Than Two Decades Later, Have Killer Whales Recovered from the Exxon Valdez Oil Spill? <https://response.restoration.noaa.gov/oil-and-chemical-spills/significant-incidents/exxon-valdez-oil-spill/more-two-decades-later-have-kil>.

¹⁴ Gulf Watch Alaska killer whale monitoring program: <https://gulfwatchalaska.org/monitoring/pelagic-ecosystem/killer-whales/>.