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Commander
US Coast Guard Sector Puget Sound
Attn: Waterways Management / USCG-2016-0916
1519 Alaskan Way South
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Submitted via the Federal eRulemaking Portal at <http://www.regulations.gov> and via email: SectorPugetSoundWWM@uscg.mil

RE: Notice of Proposed Rulemaking, “Anchorages; Captain of the Port Puget Sound Zone, WA;” 82 FR 10313; Docket number USCG-2016-0916

To the United States Coast Guard:

Thank you for extending the opportunity to submit comments on this Notice of Proposed Rulemaking, docket number USCG-2016-0916. The undersigned are a coalition of organizations that work on environmental issues including the protection of the marine environment of the Salish Sea (including Puget Sound) watershed, inland waters, lands, wildlife, the climate system, human health, and public safety.

These comments will focus on this rulemaking’s National Environmental Policy Act (NEPA) Record of Environmental Consideration (REC) for Categorical Excluded Actions that was posted to the rulemaking website on May 12, 2017. Attached please find charts of the proposed anchorage areas that also show the essential habitats of wild geoduck, sand lance spawning, smelt spawning, herring spawning, pre-spawning herring, chinook, and eelgrass habitat. Not included on the charts, but also needing to be addressed more thoroughly in this rulemaking process, are predictive rockfish habitats. Potential impacts to these habitats from the use of these proposed anchorage areas are detailed below and in the previous comment letter.

The REC does not comply with NEPA and the Department of Homeland Security Directive 023-01, Revision 01, *Implementation of the National Environmental Policy Act*. The REC does not adequately address the proposed actions’ potential for impacts to the quality of the human environment (defined in 40 C.F.R. §1508.14 as the natural and physical environment and the relationship of people with that environment). The REC does not consider the potential for environmental impacts from the current and/or reasonably foreseeable future uses of the proposed anchorage areas, nor does the REC consider any additional mitigations with associated monitoring for effectiveness.

The REC states (on page 6): “The proposed USCG rule would affect how the anchorage grounds would be used rather than whether they would be used, and would impose restrictions in order to protect public safety, provide for efficient use of a limited resource, and protect the environment.” However, no additional restrictions or mitigation measures that would protect public safety and/or the environment are identified in the proposed rulemaking.

The REC states (on page 6): "... this NEPA analysis addresses only the environmental effects of any changes in use that could result from the proposed rule, rather than the effects of the existing use of the areas." However, this NEPA analysis does not address the changes in the use of these proposed anchorage areas. The reasonably foreseeable future uses of the proposed anchorage areas could have a significant effect on the human environment that exceeds the impacts from current uses of these proposed anchorage areas. Reasonably foreseeable future uses include increases in vessel traffic and associated increased oil spill risk as well as increased vessel size, such as the ultra-large container ships that will be calling with more frequency at area ports. These Extraordinary Circumstances¹ associated with the proposed action may cause significant environmental impacts, requiring further analysis and documentation in an Environmental Impact Statement (EIS) or Programmatic EIS.

The REC states (on page 7): "However the future uses of the newly designated anchorage grounds would differ little in type or intensity from current uses of those areas, and may even decrease over time, as VTS Puget Sound reports that vessel traffic has decreased in the last several years." Data on the proposed anchorage areas provided by the USCG on July 24, 2017 through a Freedom of Information Act request does not substantiate this claim. The overall trend (including all data provided from January 1, 2007 – May 31, 2017) shows an increase in total number of ships anchored and average days at anchor per ship. There was a small decrease in the total number of ship anchored per year from the high of 623 in 2013, to 620 in 2014 and 617 in 2015. There was a more significant decrease in 2016 to 472 ships anchored; however, the data from January 1 – May 31, 2017 indicates that 2017 is on track to have the highest total number of ships at anchor. The average number of days at anchor per ship is increasing from an average of three days at anchor per ship in 2007, 2008, 2010, and 2012; to an average of four days at anchor per ship in 2009, 2011, 2013, 2014, 2015, and 2016. From January – May 2017 the average number of days at anchor per ship increased to five.

The rulemaking as published does not address whether the proposed anchorage areas were established in compliance with NEPA, including protecting, sustaining, or restoring the quality of the human environment prior to the designation and current use of the proposed anchorage areas.

This rulemaking should require an EIS or Programmatic EIS due to

1. "Change in area, scope, type, and/or tempo of operations that would result in significant environmental effects."² Reasonably foreseeable future uses of the proposed anchorage areas include increases in vessel traffic and associated increased oil spill risk from new projects, and changes in ship size, which are both changes in type and tempo of operations.
 - a. Increases in vessel traffic and associated increased oil spill risk includes, for example, the Tesoro Refinery's additional tanker and ATB vessel traffic for the manufacture and export of xylene, the Vancouver Airport Fuel Facility Consortium's new marine terminal that will increase tank vessel traffic between Washington State refineries and British Columbia, and liquefied petroleum gas (LPG) exports are increasing; "LPG export volumes out of Ferndale have risen

sharply.... In 2013, exports ... averaged only 10 Mb/d, but they increased to 22 Mb/d in 2014, 32 Mb/d in 2015 and 41 Mb/d in 2016.”³

- b. Changes in ship size include the projected increase in ultra-large container ships⁴ which would potentially impact the proposed anchorage areas with regard to increased exhaust emissions; increased vessel noise and associated impacts to, for example, federally listed as endangered Southern Resident Killer Whales (SRKWs); and increased vessel swing radius and associated impacts to the sea floor environment including essential fish habitats (see attached charts). See also more information on noise impacts under 2.b. below.
2. “Activities where the effects on the human environment are likely to be highly controversial in terms of environmental impacts or involve unique or unknown environmental risks.”⁵

- a. Effects on the human environment that involve unique or unknown environmental risks: Air quality impacts:

In addition to the potential air quality impacts from anchored vessels’ exhaust emissions, vessels in the proposed anchorage areas impact air quality when venting. On June 3, 2017, “many callers to 9-1-1 reported an unusual odor”⁶ that was later identified as a venting incident from a tank vessel anchored at the proposed anchorage area at Vendovi Island. The *Bellingham Herald* reported that:

Assistant Chief Bill Hewett of the Bellingham Fire Department said calls to 911 began around 7 p.m. from residents of the Edgemor neighborhood on the southern city limits and progressed north through Fairhaven, South Hill, downtown and the waterfront, and finally toward the unincorporated Marietta area northwest of the city. He didn’t have an exact number of calls, but said dispatchers were becoming overwhelmed.⁷

The Northwest Clean Air Agency (NWCAA) made the following Facebook post on June 6, 2017:

The Northwest Clean Air Agency has asked the U.S. Coast Guard to monitor venting from a crude oil tanker anchored near Vendovi Island. We believe venting of tanks on the tanker Mare Siculum caused strong, sulfur-like odors late Friday afternoon in the Bow-Samish Island area. The tanks were vented to relieve pressure build-up.

Also, NWCAA staff now believe the tanker’s venting on Saturday evening caused a similar strong odor in Bellingham. The tanks were vented about an hour before the first reports of an odor. Winds were blowing from the tanker’s location north to the Bellingham area.

Tankers are considered “mobile sources” of air pollution when they are anchored in open waters or at sea. NWCAA does not have jurisdiction over “mobile sources” such as tankers, motor vehicles, and aircraft.

However, NWCAA has asked the Coast Guard to inspect the tanker’s vapor recovery system. Coast Guard personnel are scheduled to inspect the tanker on Wednesday.

The tanker is waiting to off-load crude oil at the BP refinery at Cherry Point. NWCAA has notified BP and a local representative for the tanker about the odor incidents and asked them to take steps to stop impacts on area residents.

The Mare Siculum is not scheduled to move for a week. If you are impacted by odors, call NWCAA at 360-428-1617 or contact the Coast Guard's National Response Center at 1-800-424-8002.

- b. Effects on the human environment that are likely to be highly controversial in terms of environmental impacts to environmentally sensitive areas: Proposed or designated critical habitat for threatened or endangered species:

The REC states (on page 8):

Noise impacts: Commercial shipping is a major contributor to noise in all the world's oceans, producing noise mostly in low frequencies by propeller cavitation, engine noise, hydraulic flow over the hull, and flexing of the hull. While there are ongoing noise impacts on SRKW from commercial shipping and other vessels transiting through Puget Sound and making use of the anchorages, establishment of the anchorage areas under 33 C.F.R. 109 would result in no increases in the amount and propagation of noise that could affect SRKW.

The rulemaking as published does not address the larger vessels that are projected for this region (see above) and their increased noise impacts to SRKWs. The proposed anchorage areas are located in SRKW Critical Habitat Area 1 – Summer Core Area, Area 2 – Puget Sound, and Area 3 – Strait of Juan de Fuca.⁸

Located in SRKW Critical Habitat Area 1 – Summer Core Area are the proposed Vendovi South General Anchorage, Vendovi East General Anchorage, William Point Articulated Tug and Barge (ATB) Anchorage Area, Jack Island North Tug and Barge Holding Area and the Jack Island South Tug and Barge Holding Area. These tug and barge holding areas provide anchorage for bunker barges.

The risk of oil spills (by volume) decreased in an analysis that reduced bunkering operations at Vendovi Island anchorages.⁹ An increase in vessel traffic and/or size of ships could increase demand for bunkering operations, all of which would have a corresponding increase in oil spill risk in these proposed anchorage areas. A recent study finds SRKWs at especially high risk of oil spill impacts.¹⁰ See 2.e. below for more information on oil spill impacts.

- c. Effects on the human environment that are likely to be highly controversial in terms of environmental impacts to environmentally sensitive areas: Areas having special designation as National Wildlife Refuges, National Parks, National Monuments, and essential fish habitat:

The San Juan Islands National Monument, the San Juan Islands National Wildlife Refuge, the Padilla Bay National Estuarine Research Reserve, and essential fish habitat are all located in close proximity to proposed anchorage areas. The

previous comment letter also addressed anchorage area impacts to these environmentally sensitive areas.

The proposed William Point ATB Anchorage Area is located in close proximity to the Padilla Bay National Estuarine Research Reserve. Data provided by the USCG on July 24, 2017 indicates that this proposed ATB anchorage area was established in 2012 (given that there is no anchorage data for 2007 – 2011). The proposed William Point ATB Anchorage Area was established long after 1980, which was when Padilla Bay was selected to be included in the National Estuarine Research Reserve System. The USCG's data on this proposed anchorage area shows a significant increase in the total number of ships anchored; from 18 in 2012 to 100 in 2015. While there was a decrease in the total number of ships anchored in 2016, the average number of days at anchor per ship has increased from an average of three days at anchor per ship in 2012 and 2013, to an average of four days at anchor per ship in 2014, 2015, and 2016. January – May 2017 data show a further increase with an average of six days at anchor per ship.

The projected increase in vessel traffic and vessel size and associated increased demand for bunkering operations would potentially increase oil spill risk, all of which potentially impacting the Padilla Bay National Estuarine Research Reserve, San Juan Islands National Monument, San Juan Islands National Wildlife Refuge, and essential fish habitat. The reasonably foreseeable future uses of proposed anchorage areas could have a significant effect on the human environment specific to all these areas that have special designation.

- d. Effects on the human environment that are likely to be highly controversial in terms of environmental impacts to environmentally sensitive areas: Areas designated by law that merit special protection and stewardship because of their value as a natural and cultural resource:

The Vendovi Island Preserve is one of the wildest private islands in the San Juan archipelago and was a priority for permanent conservation for many years leading up to its protection in perpetuity by the San Juan Preservation Trust in 2010. Public benefits include pristine beaches, healthy wetlands, and diverse plant and animal habitat.¹¹ Anchorage data provided by the USCG on July 24, 2017 indicates that the proposed Vendovi Island South anchorage area, which extends up to the southern shores of Vendovi Island, was not in use from 2007 – 2011. The USCG anchorage data shows anchorage activity at Vendovi Island South beginning in 2012, which was after the Vendovi Island Preserve was established. The San Juan Preservation Trust's Jack Island Preserve was protected in 2007 in partnership with the Nature Conservancy.¹² The Nature Conservancy holds a conservation easement, per Internal Revenue Code 170(h), on the Jack Island Preserve. See above for more information about impacts to the environment at the proposed general anchorage areas at the Vendovi Island Preserve and the proposed barge holding areas at the Jack Island Preserve.

The reasonably foreseeable future uses of these proposed anchorage areas could have a significant effect on the human environment at these preserves, designated by law, that merit special protection and stewardship because of their value as a natural and cultural resource.

- e. Effects on the human environment that are likely to be highly controversial in terms of environmental impacts to environmentally sensitive areas: Water Quality:

The REC states (on page 8):

Water Quality: Commercial shipping vessels can affect water quality in Puget Sound through accidental spills of fuel or other substances, or through disturbance of seafloor sediment by anchoring. While there are ongoing effects on water quality as a result of commercial shipping passing through Puget Sound, establishment of the anchorage areas under 33 CFR 109 would cause no degradation of water quality, and possibly would reduce water quality impacts by more careful regulation of the anchorage areas.

The rulemaking as published does not include any details on how the codification of the proposed anchorage areas would provide “more careful regulation of the anchorage areas” and/or mitigation measures that “would possibly reduce water quality impacts” from either current or reasonably foreseeable future uses. The projected increases in vessel traffic and the size of ships and all of the associated increased impacts from the use of the proposed anchorage areas are not addressed.

Oil transfer operations are a major source of pollution. Oil transfer operations include bunkering. The USCG’s Transfer Monitoring Program was designed to ensure compliance with federal pollution prevention regulations. Bunkering operations at the proposed anchorage areas, and their potential impacts to water quality, are not currently being monitored by the USCG. An email from the USCG on July 25, 2017 states, “After reviewing our records regarding transfer monitors for the time period requested [January 2007 – May 2017], we found no records of monitors done at anchorage.”

We support the complete prevention of deep-draft vessels anchoring outside of designated and codified anchorage areas. It is imperative that the USCG follow through with this rulemaking, including a full assessment of all impacts to the quality of the human environment and environmental impacts, to ensure that all the US anchorage areas in use in the Salish Sea (including Puget Sound) are codified and regulated to include all appropriate environmental impact and accident risk and oil spill risk mitigation measures with monitoring for effectiveness.¹³

Finally, we ask that the scope of the EIS be identified with all stakeholders and through government to government tribal consultations.

Sincerely,

¹ Department of Homeland Security DHS Directives System. Directive Number: 023-01, Revision Number 01, Issue Date: 10/31/2014. IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT, Section II https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf Accessed 7-22-2017.

² Department of Homeland Security DHS Directives System. Directive Number: 023-01, Revision Number 01, Issue Date: 10/31/2014. IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT, Section V.D.(3)(d) https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf Accessed 7-22-2017.

³ RBN Energy blog post, “Floating Bridge - West Coast Alternatives For Exporting LPG To Asian Markets,” by Housley Carr, 6-21-2017 <https://rbnenergy.com/floating-bridge-west-coast-alternatives-for-exporting-lpg-to-asian-markets> Accessed 7-3-2017.

⁴ Northwest Seaport Alliance Strategic Business Plan. May 6, 2015: <https://www.nwseaportalliance.com/sites/default/files/update-nwseaportalliancestrategicbusinessplan.pdf> Accessed 7-26-2017.

⁵ Department of Homeland Security DHS Directives System. Directive Number: 023-01, Revision Number 01, Issue Date: 10/31/2014. IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT, Section V.D.(3)(a) https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf Accessed 7-22-2017.

⁶ The Bellingham Herald, “What’s that odd smell in the air Saturday night? You’re not the only ones wondering,” by Robert Mittendorf, June 6, 2017. <http://www.bellinghamherald.com/news/local/article154523694.html> Accessed 7-30-2017.

⁷ Ibid.

⁸ Designated Critical Habitat for Southern Resident Killer Whales. November 2006. NOAA Fisheries, Northwest Region http://www.westcoast.fisheries.noaa.gov/publications/protected_species/marine_mammals/killer_whales/SRKW-CH-Map.jpg Accessed 7-25-2017.

⁹ van Dorp, J. R., J. Merrick. 2014. 2014 VTRA 2010 Final Report: Preventing Oil Spills from Large Ships and Barges in Northern Puget Sound & Strait of Juan de Fuca. Prepared for Washington State Puget Sound Partnership. <http://www2.seas.gwu.edu/~dorpjr/VTRA/PSP/FINAL%20REPORT/PSP%20FINAL%20REPORT%20033114%20-%20WITH%20LABEL%20CORRECTION%20-%20REDUCED.pdf> See page 125 - Accessed 7-26-2017.

¹⁰ Rosenberger, A. L. J., M. MacDuffee, A. G. J. Rosenberger, P. S. Ross. 2017. Oil Spills and Marine Mammals in British Columbia, Canada: Development and Application of a Risk-Based Conceptual Framework. *Archives of Environmental Contamination and Toxicology*. 73:131–153 <https://link.springer.com/content/pdf/10.1007%2Fs00244-017-0408-7.pdf> Accessed 7-26-2017.

¹¹ San Juan Preservation Trust Vendovi Island Preserve website: <http://sjpt.org/places-projects/preserves-easement/sjpt-preserves/vendovi-island-preserve/> Accessed 5-6-2017.

¹² San Juan Preservation Trust Jack Island Preserve website: <http://sjpt.org/places-projects/preserves-easement/sjpt-preserves/jack-island-preserve/> Accessed 5-6-2017.

¹³ Department of Homeland Security DHS Directives System. Directive Number: 023-01, Revision Number 01, Issue Date: 10/31/2014. IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT, Section V.E. https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf Accessed 7-22-2017.