



San Juan County Council

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District 2, Rich Peterson
District 3, Howard Rosenfeld

District 4, Richard Fralick
District 5, Patty Miller
District 6, Jamie Stephens

September 25, 2012

Sonja Larson
Department of Ecology
PO Box 47600
300 Desmond Dr.
Olympia, WA 98504

RE: Comments on proposed amendments to the Oil Spill Contingency Plan Rule (Chapter 173-182 WAC)

Dear Ms. Larson,

We appreciate this opportunity to provide the following comments on proposed changes to the Oil Spill Contingency Plan Rule (Chapter 173-182 WAC).

A major oil spill is a very real threat in San Juan County, which is at the center of shipping traffic in the Salish Sea. San Juan County is surrounded by narrow shipping channels with strong currents and navigational challenges. A major oil spill in the waters surrounding San Juan County would be devastating both environmentally and economically. All forms of San Juan County's unique and diverse marine life would be severely affected. Property values and all tourism related revenues would be severely impacted. A strong and immediate response to a major oil spill with appropriate equipment and personnel is imperative.

Sinking Oils

The proposed changes to the Oil Spill Contingency Plan Rule do not adequately address the spill response capacity needed for spills of oils that can sink. New Section WAC 173-182-324 addresses Group 5 oils specifically but we question whether this new section requires any additional response capacity than that already required by federal law. Best Achievable Technology (BAT) and Best Achievable Protection (BAP) equipment and appropriate personnel must be available to respond to spills of oils that can sink, in addition to group 5 oils. In particular, these include the bunker fuels used for propulsion and diluted bitumen (an Alberta Tar Sands product).

San Juan County faces an increased risk of a major oil spill with the proposed additional shipping traffic for the transport of both coal and diluted bitumen. The proposed Gateway Pacific Terminal Project will include approximately 1000 additional transits of bulk carriers in the waters surrounding San Juan County. In addition to the coal cargo, each bulk carrier will contain up to 4 million gallons of persistent bunker fuel for propulsion. Existing vessel transport of

approximately 2 billion gallons per year of diluted bitumen (from Canada to Tacoma via Rosario Strait and from Canada to California and Asia via Haro Strait) pose an existing risk of a major spill. Kinder Morgan's proposed increased export of diluted bitumen would increase crude oil tanker calls transiting Haro Strait by over 300% by 2016. The Oil Spill Contingency Plan Rule must require that the appropriate BAT and BAP containment and recovery gear and appropriate personnel be response-ready and on-site in a timely manner to respond to spills of oil that can sink. It is imperative that WAC 173-182 specify that Alberta Tar Sands products including diluted bitumen and all forms of synthetic crude are subject to the Oil Spill Contingency Plan Rule.

The only place in any of the Oil Spill Contingency Plan Rule update documents to mention the emerging risk from sinking oils is in section 1.6 in the Preliminary Cost-Benefit and Least Burdensome Alternative Analysis. This section must be retained and expanded. While the cost comparison of the average crude oil spill in the past decade – \$2 thousand per barrel or more – with the 2010 diluted bitumen spill in Michigan – \$29 thousand per barrel – is significant, it is important to note that when this report is finalized, the cost of the diluted bitumen spill should be updated and “costs to date” be added to the text.

San Juan County Identified as a Staging Area

The Oil Spill Contingency Plan Rule must require the appropriate geographic distribution of spill response equipment and personnel. Neither Ecology nor the US Coast Guard has provided San Juan County with assurances that the appropriate spill response equipment and personnel can be on-site in the event of a major spill in Haro Strait in the four and six hour planning standard time-frames. While the new four hour and existing six hour planning standards can be legally met for the San Juan County Planning Standard Area given that equipment and personnel can reach the eastern edge of the San Juan County Planning Standard Area in the required time-frames, a major spill in Haro Strait is not assured the necessary equipment and personnel response times unless the appropriate equipment and personnel are resident. San Juan County resident personnel and equipment must be able to initiate a full response until additional equipment can cascade into the region. WAC 173-182-370 must define San Juan County as a Staging Area and must specify that the two, three, four, and six hour planning standards be resident.

Especially given the increased risk of a major spill from the increased traffic proposed by the Gateway Pacific Terminal and the increased export of diluted bitumen, having San Juan County identified as a Staging Area and having additional spill response equipment and personnel resident in San Juan County to meet the two, three, four, and six hour planning standards will significantly improve the response time and the capacity to contain and clean-up a major spill.

Another justification for San Juan County's designation as a Staging Area and requiring that the two, three, four, and six hour Planning Standards be resident is the avoided losses to endangered species. The southern resident orca whales were listed as endangered in 2005 under the federal Endangered Species Act. Haro Strait contains the orca whales' principal feeding grounds along the west side of San Juan Island. Ensuring that the appropriate BAT and BAP containment and recovery gear and personnel is response-ready and on-site in a timely manner in the event of a major spill in Haro Strait will reduce the impacts and avoid losses to the orca whales and their

entire food chain (including federally listed as endangered Chinook salmon). The value of a southern resident orca whale can be quantified and that cost must be included in the Cost-Benefit and Least Burdensome Alternative Analysis.

What will most justify San Juan County's designation as a Staging Area and requiring that the two, three, four, and six hour planning standards be resident would be the inclusion in the Cost-Benefit and Least Burdensome Alternative Analysis of the hourly cost savings of reducing spill cleanup costs over the duration of the spill in both Appendix B and the text. Hourly timeframes, not days, are necessary to quantify the importance of spill response times.

Costs Associated With Very Small Spills

The Preliminary Cost-Benefit and Least Burdensome Alternative Analysis needs to address the significant costs that can be associated with very small spills. The *Deep Sea* spill is a case in point. While the millions of dollars associated with the pollution response, vessel salvage, and vessel deconstruction costs would not be applicable in the Oil Spill Contingency Plan Rule, the very small amount of oil spilled caused at least \$1,210,000 in revenue losses to Penn Cove Shellfish (\$55,000 per day x 22 closure days) as well as the quantifiable losses related to the closure of Grasser's Lagoon in Penn Cove which is one of the most popular beaches in Washington State for recreational shellfish harvesting.

Greater Transparency

It is imperative that all contingency plans, technical manuals, and planning standards be publically available on Ecology's website. Further, the Oil Spill Contingency Plan must require that public notification, review, and comment be provided for on all proposed changes to contingency plans, technical manuals, and planning standards.

Summary

The Oil Spill Contingency Plan Rule

1. Must require that the appropriate BAT and BAP containment and recovery gear and personnel be response-ready and on-site in a timely manner to respond to spills of oil that can sink, including diluted bitumen and bunker fuels
2. Must specifically state that Alberta Tar Sands products including diluted bitumen and all forms of synthetic crude are subject to the Oil Spill Contingency Plan Rule
3. Must define San Juan County as a Staging Area and must specify that the two, three, four, and six hour planning standards be resident.
4. Require that all contingency plans, technical manuals, and planning standards be publically available on Ecology's website
5. Require that public notification, review, and comment be provided for on all proposed changes to contingency plans, technical manuals, and planning standards

The Cost-Benefit and Least Burdensome Alternative Analysis

1. Is to be commended for including and must retain and expand Section 1.6 on the emerging risk from sinking oils
2. Must update the costs to date of the 2010 diluted bitumen spill in Michigan
3. Must include the significant costs that can be associated with very small spills

4. Must quantify the value of a southern resident orca whale
5. Must include the hourly cost savings of reducing spill cleanup costs over the duration of the spill in both Appendix B and the text
6. Must quantify the data provided by the San Juan County Economic Development Council and the San Juan Islands Visitors, including the press coverage San Juan County receives

In addition, we support

- The inclusion of more vessels of opportunity (VOO) distributed throughout the region
- Additional requirements in the four hour planning standard that adequately addresses storage issues and ensure continuous response capacity
- The inclusion of the Neah Bay Response Tug in the spill response task force
- The inclusion of a dedicated storage barge, combined with the Neah Bay Response Tug to enable tankers to meet upcoming changes in federal regulations associated with moving the High Volume Port Line from Port Angeles to Cape Flattery

Washington State has an admirable spill prevention and response record that spans our long history of vigilance from the late Senator Magnuson to Senator Cantwell, our Governor and legislature. However, just because we have not had a catastrophic oil spill recently does not mean that we should not be better prepared to respond to one.

Our quality of life depends upon the health of our interconnected economy and environment, both of which would be severely impacted by a major oil spill. The capacity to respond quickly and effectively to a major oil spill will determine the difference between temporary and lasting economic and environmental impacts.

Sincerely,


**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**



Lovel Pratt, Member
District No. 1



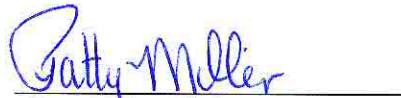
Richard Peterson, Member
District No. 2



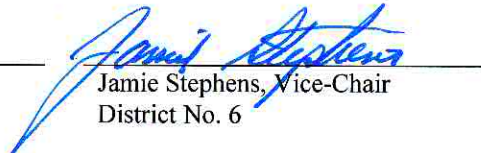
Howard Rosenfeld, Member
District No. 3



Richard Fralick, Member
District No. 4



Patty Miller, Chair
District No. 5



Jamie Stephens, Vice-Chair
District No. 6

- Cc. The Honorable Maria Cantwell, US Senator
The Honorable Patty Murray, US Senator
The Honorable Rick Larsen, US Representative
The Honorable Christine Gregoire, Governor of the State of Washington
The Honorable Kevin Ranker, Washington State Senator

The Honorable Jeff Morris, Washington State Representative
The Honorable Kristine Lytton, Washington State Representative
The Honorable Billy Frank, Chairman, Northwest Indian Fisheries Commission
The Honorable Micah McCarty, Chairman, Makah Tribe
The Honorable Cliff Cultee, Chair, Lummi Nation
The Honorable Melvin R. Sheldon, Jr., Chair, Tulalip Tribes
The Honorable Brian Cladoosby, Chair, Swinomish Indian Tribal Community
The Honorable William "Ron" Allen, Chair, Jamestown S'Klallam Tribe
The Honorable Frances Charles, Chair, Lower Elwha Klallam Tribe
The Honorable Bob Kelly, Chairman, Nooksack Tribe
The Honorable Jeromy Sullivan, Chair, Port Gamble S'Klallam Tribe
The Honorable Leonard Forsman, Chair, Suquamish Tribe