



# SALISH SEA SHARED WATERS FORUM

October 3-4, 2018

Bellingham, WA

## Meeting Summary

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### INTRODUCTION

In 2018, the Washington State Legislature passed the Strengthening Oil Spill Transportation Safety Act (E2SSB 6269), requiring the Department of Ecology (Ecology) Spills Program to take a variety of new steps to promote the safety of marine transportation and protect the greater Puget Sound from oil spills. One of the Act's requirements is for Ecology to coordinate with British Columbia and Canada to establish the Salish Sea Shared Waters Forum.

The purpose of the first Forum meeting was to exchange information to enhance oil spill prevention, preparedness, and response measures to minimize the risk and impacts of spills in the Salish Sea. The goal was to advance our collective knowledge about current policies and practices and potential safeguards to protect our shared waters and resources.

Participation in the Forum does not imply endorsement of any recommendations, additional or modified mitigation measures discussed by participating organizations, speakers or attendees. The Forum is a non-voting and non-decision-making entity.

The Forum serves as a platform for open dialogue for all levels of government from both sides of the border, Tribes and First Nations, environmental groups, and industry. It addresses issues such as navigational safety, data sharing, and the impacts of spills on the environment, Tribal and First Nation resources, the economy, and public health. This Forum will provide a platform to discuss and share ideas on these and other issues related to vessel traffic.

The Pacific States/British Columbia Oil Spill Task Force, of which Washington and British Columbia are founding members, worked with [Ecology](#) and the [BC Ministry of Environment and Climate Change](#) to establish and hold the first Forum meeting.

### GOAL AND OBJECTIVES

The goal of this first Forum meeting was to exchange information to enhance oil spill prevention, preparedness and response to minimize impact of oil spills to the Salish Sea (the shared waters of Washington and British Columbia).

#### Objectives

1. Increase knowledge of Tribal, First Nation, BC, Canadian, Washington State, and U.S. jurisdictions and authorities in maritime oil transportation safety
2. Share information on collaborative efforts underway to prevent and respond to spills
3. Provide an overview of marine shipping in Cascadia region, including changes and trends

4. Include Tribal and First Nations perspectives
5. Strengthen relationships and trust

### Overview of Sessions (See [Agenda](#))

The first forum meeting was built around this story line:

*Follow the movement of oil as it travels from inland sources to the Salish Sea coastal and marine waters.*

The forum addressed three aspects of this story:

1. A description of the common operating picture of oil as it moves from inland to marine waters, including authorities and their roles.
2. Shared perspectives on the movement of oil from inland to marine waters from Tribes, First Nations, industry, environmental groups, and public representatives.
3. Collaborative efforts underway to prevent, prepare, and respond to spills as oil transits from inland to the transboundary coastal and marine waters.

In developing the agenda, meeting organizers sought input from representatives of Tribes, First Nations, and stakeholder groups.

### Welcome and Introductions

The following individuals welcomed participants to the Forum meeting:

- Sarah Brace, Executive Coordinator, Pacific States/BC Oil Spill Task Force
- Hilary Wilkinson, Executive Coordinator Support, Pacific States/BC Oil Spill Task Force
- Dale Jensen, Director, Spills Program, WA Department of Ecology
- Mark Zacharias, Deputy Minister, BC Ministry of Environment and Climate Change Strategy

### Tribal Opening – Lummi Nation

Councilman Lawrence Solomon and Lisa Wilson, the Endangered Species Act Manager/Policy Representative from the Lummi Nation, offered a traditional song. Ms. Wilson shared the Tribe's interest in ensuring protection of the shared marine waters, showed a video about the Tribal Canoe Journey, and invited Forum participants to attend in July 2019.

### Session 1: British Columbia and Washington State Perspectives on Preventing, Preparing for, and responding to Oil Spills

Tami Neilson, Legislative/Strategic Policy Analyst, WA Department of Ecology moderated a discussion between:

- Dale Jensen, Director, Spills Program, WA Department of Ecology
- Mark Zacharias, Deputy Minister, BC Ministry of Environment and Climate Change Strategy

#### *Dale Jensen*

Mr. Jensen discussed how oil movement has changed and continues to involve. He noted Washington's legislature has been very active in passing laws to transport oil. Many others, such as industry, Tribes, and environmental organizations have worked with Ecology to enhance safety and contingency planning. There is a common operating picture and an ongoing work with BC and Canada.

There are a lot of policy discussions around orcas, oils that have the potential to sink or go subsurface, and enhancing spill preparedness, such as implementing tug escorts, voluntary speed limits, collecting more data on oil movement, and a second emergency response towing vessel, possibly in the Boundary Pass and Haro Strait area. Ecology's Draft Report on Vessel Traffic and Vessel Traffic Safety for the Strait of Juan de Fuca and Puget Sound Area that addresses many of these issues will be final in June 2019. *[Since the Forum, the Governor has since changed the due date to January 15, 2019.]*

BC and Washington meet quarterly to discuss oil transportation issues and how to have comparable standards and quick communications if there is a spill.

Spills affect the region in multiple ways; prevention is the first priority. The goal is to respond to a spill as quickly as possible. Partnerships are crucial, and they are strong, due to multiple opportunities to engage, such as in drills.

#### *Mark Zacharias*

Mr. Zacharias discussed the current operating picture in BC and how the Canadian government has been more active in addressing oil transportation issues since the Lac-Mégantic train derailment in 2013. There is improved pipeline management and marine liability and accountability. The federal government's Oceans Protection Plan is providing funding for items such as two emergency towing vessels, rescue tugs, Coast Guard bases and helicopters, orca protection, and radar coverage. New contingency plans and exercises are required for pipelines, railway, and trucking sectors.

Mr. Zacharias expressed concern about articulated tug barge (ATB) traffic and the behavior of heavy fuel oils in the environment, noting First Nation perspectives must be addressed. Adding more groups and perspectives to the oil transportation safety conversation is valuable.

BC and Washington work together in multiple arenas, including orca protection.

There were follow-up questions on the adequacy of response times, limits of liability in Washington and BC, and the implementation of voluntary measures.

## Session 2: Tribal / First Nation Perspectives

The purpose of the panel was to hear about cultural, economic, and environmental resources at risk and updates on recent summits and caucuses from Tribes and First Nations.

Mr. Jensen led a panel of the following individuals:

- John Konovsky, Senior Advisor, Tsleil-Waututh Nation and Indigenous Advisory and Monitoring Committee
- Chad Bowechop, Policy Advisor, Makah Tribe and CANUSPAC Tribal Transboundary Caucus
- Haley Kennard, Environmental Policy Analyst, Makah Tribe Office of Marine Affairs
- Trina Sxwithul'txw, Project Manager, Beecher Bay First Nation
- Kristine Pearson, Referrals Coordinator, Pacheedaht First Nation
- Scott McCreery, Consultant, Makah Tribe

Panelists shared information on their Tribes' and First Nations' values and spiritual beliefs. Tribes and First Nations want to be partners and have strong working relationships with government. The Makah Tribe stated treaty rights are the basis of their work with the federal government, and there is a federal trust responsibility.

Concern about increases in vessel traffic was expressed with projects that have been proposed.

There is current work to develop the CANUSPAC Transboundary Indigenous Caucus (Caucus). A meeting was held immediately prior to this first Forum meeting. Panelists shared the origin of the Caucus and its initial draft mission and immediate and long-term actions.

There were follow-up questions on whether the carrying capacity of the Salish Sea has been reached, which Tribes and First nations are involved in the Caucus, and how to capture spiritual Tribal information during formal consultations on proposed projects that will increase oil movement.

### Section 3: Authorities as Oil Moves Inland to Marine Waters

Ms. Brace led a panel of the following individuals:

- Calvin Terada, Manager, Emergency Response and Planning Program, U.S. EPA Region 10
- Chris Raymond, Liaison Officer for Environmental Emergencies Division, Environment and Climate Change Canada
- Graham Gibson, Emergency Management Specialist, Canada National Energy Board
- Jason Lewis, Senior Policy Advisor, WA Utilities and Transportation Commission
- Jaimie Bever, Executive Director, WA Board of Pilotage Commissioners
- Linda Pilkey-Jarvis, Oil Spill Preparedness Manager, WA Department of Ecology
- Pader Brach, Executive Director, Environmental Emergencies and Land Remediation, BC Ministry of Environment and Climate Change Strategy

The purpose of the panel was to follow a barrel of oil on its movement and discuss regulatory agencies involved in response in three zones: inland waters, shoreline, marine. A description of the zones and authorities was presented in a document titled, "[Oil Spill Prevention, Preparedness, and Response Jurisdictions for Federal, Provincial, and State Authorities](#)." A description of [agency roles](#) was also provided.

Panelists described their roles, creating distinctions between provincial, state, and federal roles. Other items of note:

- Since pipeline capacity is full, there has been a substantial increase in oil movement by rail.
- There is dedication to Tribal and First Nation partnerships and a strong commitment for prevention and preparedness in this region.
- The region needs a better understanding of oils that may submerge or sink.
- In Washington, interest was expressed for additional regulations for ATBs, such as pilotage and tug escorts, and AIS technology on barges.

There were follow-up questions on who pays the natural resource damage assessment when a spill in BC impacts Washington (and vice versa), volunteer management, and how public health agencies are incorporated into the Incident Command System.

### Section 4: Shared Perspectives

The purpose of the panel was to hear about cultural, economic, and environmental resources at risk and a brief overview of current requirements from members from the regulated community, local authorities, and non-governmental organizations.

Ms. Wilkinson led the first panel, the regulated community, consisting of the following individuals:

- Charles Constanzo, Vice President, Pacific Region of the American Waterways Operators

- Mike Davies, Vice President of Operations, Trans Mountain Corporation
- Patrick Smyth, Vice President, Canadian Energy Pipeline Association
- Robert Lewis-Manning, President, Chamber of Shipping British Columbia
- Mike Moore, Vice President, Pacific Merchant Shipping Association

Items of note were:

- Regulatory and voluntary measures are needed. Voluntary measures sometimes have better results than regulatory.
- The Washington State marine transportation industry has moved from being reactive to proactive.
- There is a commitment to understand the holistic impact of shipping, and there are technological advances to quiet noise and changes in planning and processes to improve information-sharing across borders.
- Industry is committed to safety and a focus on continuous improvement.

There were follow-up questions on what voluntary measures have been taken, including those that may address human error, and whether voluntary measures planned for the TransMountain pipeline expansion will go into effect if the expansion does not occur.

Ms. Wilkinson led the second panel, local authorities, consisting of the following individuals:

- Peter Luckham, Council Chair, Islands Trust
- Councilman Jamie Stephens, San Juan County Council
- Mayor Kelli Linville, City of Bellingham

Items of note were:

- Local governments should be included in conversations about oil transportation because of serious local impacts during a spill, such as food chain disruption and to impacts to hospital services.
- Bellingham has adopted a zero carbon footprint goal and has created a Climate Action team.
- Bunker fuels are the biggest concern, particularly with the complexities of turn point.
- Tribes and First Nations should be consulted with.
- San Juan County is conducting an economic analysis of the impact of a spill.

There was a follow-up question on how economic and environmental impacts of oil spills are considered in making decisions.

Ms. Wilkinson led the third panel, non-governmental organizations, consisting of the following individuals:

- Stephanie Buffum, Executive Director, Friends of the San Juans
- Peter Ellis, Executive Director, Clear Seas
- Rain Attemann, Puget Sound Advocacy Manager, Washington Environmental Council
- Carl Weimer, Executive Director, Pipeline Safety Trust
- Bruce Wishart, Lobbyist, Puget Soundkeeper

Items of note were:

- Clear Seas is working on a vessel traffic analysis study in the Salish Sea, focused on the Canadian side.
- Prevention is key, and we need to work together to look at the impacts.

- Interest was expressed in an emergency response towing vessel at Haro Strait and in changes from the federal government to make pipelines safer.
- The tug and barge community should be regulated closely, and their voluntary standards of care are appreciated.
- More prevention work is needed.

There were follow-up questions on whether an emergency response towing vessel in Sidney would enhance safety and if there has been a study done on whether the Salish Sea is at its carrying capacity in terms of vessel traffic.

## Section 5: Collaborations in Process

The purpose of the panel was to hear an overview of existing collaborative oil transportation safety efforts.

Mr. Jensen led the panel, consisting of the following individuals:

- Sarah Brace, Executive Coordinator, Pacific States/BC Oil Spill Task Force
- John Veentjer, Executive Director, Puget Sound Marine Exchange
- Calvin Terada, Manager, Emergency Response and Planning Program, EPA Region 10
- Linda-Pilkey Jarvis, Oil Spill Preparedness Manager, WA Department of Ecology

The panelists referenced [slides](#) showing the geographical areas of each entity.

Items of note were:

- This year, an issue the Pacific States/BC Oil Spill Task Force will address is abandoned vessels.
- There is a need to get stakeholders and Tribes from the grassroots level up on the inland side so people are familiar with each other, similar to groups that assemble to protect coastal waters.
- Voluntary standards can be faster to implement than regulations.
- The maritime community should be involved in natural response disaster planning.

## Section 6: Plenary: Facilitated Discussion

This session focused on brainstorming ideas and key takeaways, as well as suggestions for future Forum meetings.

Many ideas were discussed, including:

- Share prevention and response ideas with the Southern Resident Killer Whale Task Force.
- Require tug escorts for ATBs and traditional barges.
- Add Tribal and First Nation interests to jurisdictional maps.
- Continue to add to the [Oil Spill Prevention, Preparedness, and Response Jurisdictions for Federal, Provincial, and State Authorities](#). Cite the requirements, add voluntary measures, etc.
- Include the Coastal Guardians Watchmen, who have a strong First Nation awareness of what's occurring on and near indigenous lands.
- Work to address cultural values and beliefs in day to day business.
- Recognize the United Nations Declaration on the Rights of Indigenous People. It is a "universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of

the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples.”<sup>1</sup> BC discusses this at all staff meetings.

- Remember there are no borders for the families of the Salish Sea.

Participants broke into four groups for roughly 30 minutes of discussion: 1) Collaboration; 2) Engagement; 3) Voluntary measures; and 4) Public Health.

Results from Breakout Sessions:

- 1) Collaboration: This group created a list of collaborations to show stakeholder and Tribal interests. CANUSPAC involves Tribes and touches science, marine, physical, social, and spiritual environments. There is a need for academic modeling and indigenous collaboration. Issues such as vessel traffic interference with fishing rights fall under the umbrella of vessel safety. There are silos and different forums, so identifying where they cross in order to make cohesive conversations is crucial.
- 2) Engagement: There is a disconnect at the local, state, and federal levels in terms of engaging with First Nations. More collaboration among all parties is needed to have engagement.
- 3) Voluntary Measures: There are a number of vessels at anchor that don't comply with noise and light measures. It would be helpful if the Vessel Traffic Service put the message out via radio and the National Oceanic and Atmospheric Administration or the Canadian Coast Guard released other measures.
- 4) Public Health: This group addressed topics such as air quality at harvest time, food safety, and fish closures. Tribal consumption patterns need to be tied to sampling plans and parameters. Risk assessments then need to be done. There should be a method of collecting samples before and after a spill. Volunteers will feel compelled to help at a spill; however, they may not have appropriate training. Notifications for a spill should be broad. There is a need to get safety information out to rural areas.

## Forum Summary and Next Steps, Wrap Up

Mr. Jensen, Mr. Brach, and Ms. Brace thanked all who helped put the Forum meeting together, noting the intent was for participants to disseminate what they've learned and share with their organizations. Thanks were extended to the Makah Tribe and BC Ministry of Environment and Climate Change Strategy for food.

Mr. Bovechop closed the Forum meeting with a traditional family song.

## Survey Results

Shortly after the Forum meeting, participants were asked a number of survey questions. There were 42 respondents, who provided feedback on topics such as the meeting facility, administration, whether objectives were met, and possible future meeting topics. An average of 66 percent of respondents said objectives were met; 24 percent said they were somewhat met. Twenty-six respondents provided ideas for future meetings.

Thank you for responding to the survey. It will help guide future meetings, and we will work to obtain additional input as the next meeting is planned.



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<sup>1</sup> United Nations webpage, <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>