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**Global Container Terminals Deltaport Expansion Berth Four Project**

Dear Review Panel,

Thank you for the opportunity to provide feedback on the draft Joint Assessment Plan and Joint Guidelines for the Global Container Terminals (GCT) Deltaport Expansion Berth Four Project (DP4). The Department of Ecology (Ecology) is Washington's environmental protection agency. Our mission is to protect, preserve, and enhance Washington's land, air, and water for current and future generations. Ecology provided comments on the Initial Project Description (IPD) in November of 2020.

Ecology appreciates the project proponent addressing some of the concerns and recommendations we provided in our original comments in 2020. Below are Ecology's recommendations we continue to urge for consideration in the Impact Assessment.

**Recommendations**

1. Tug escort requirements for large non-tank vessels over 125,000 DWTs

An estimated 25 percent of the vessels calling to port at this terminal will be over 125,000 DWTs by 2035. There are multiple potential safety considerations with vessels of this size that should be considered, including additional fuel capacity, greater draft which can limit under-keel clearance, reduced maneuverability, greater momentum, and a larger "sail area" with implications for a vessel's handling characteristics and potential drift rate.

Ecology recommends requiring tug escorts for all large non-tank vessels over 125,000 DWTs under Section 10.5.5 of the Impact Assessment. Requiring an assigned and dedicated tug escort(s) that remains in close proximity for timely and effective response will ensure reduced risk of an oil spill, protecting Southern Resident Killer Whales (SRKWs), cultural and natural resources, and the economy.

## 2. Additional vessel safety measures

In Washington State, the majority of vessel incidents are caused by human and organizational errors.<sup>1</sup> Some of these factors include inattention, poor equipment design, judgment, poor oversight, and inexperience. The Operations Section of the Impact Assessment should include safety measures for marine navigation activities to and from the port within the geographic scope of the project's marine shipping area.

Further evaluation should be conducted to determine ways to enhance safety and therefore decrease the likelihood of accidents. Consider coordinating with pilotage authorities in Washington and British Columbia to determine whether having two pilots on board throughout a vessels transit in pilotage waters would improve safety.

## 3. Participation in Reciprocal Arrangement Agreements

Vessels moving in and out of shared Washington and Canadian waters can have Reciprocal Arrangement Agreements, which provides vessel coverage for contingency plans to ensure if an oil spill does occur, each vessel is prepared to respond whether it is in the water of its designated port or not. This ensures a rapid response to oil spills for Canadian tanks ships in route through Washington waters and vice versa.

We applaud GCT for already having contracts with Quantum Murray Environmental and Western Canada Marine Response Corporation to ensure a continual 24-hour response to any hazardous spill. GCT should also consider including, in Section 15.2, requirements for all containerships docking at DP4 to participate in the Reciprocal Arrangement Agreements between Western Canada Marine Response Corporation, the Washington State Maritime Cooperative, and the National Response Corporation.<sup>2,3</sup> By only accepting containerships with these agreements, DP4 will be prepared for a rapid response to a spill incident. Additionally, DP4 should strive towards transboundary collaboration to ensure oil spill response plans are following best practices. Working across borders ensures a rapid, aggressive, and well-coordinated response.

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<sup>1</sup> Washington State Department of Ecology. (2021). Why spills happen. [Web page]. Retrieved from the Washington State Department of Ecology website: <https://ecology.wa.gov/Spills-Cleanup/Spills/Oil-spill-prevention/Why-spills-happen>

<sup>2</sup> National Response Corporation. (2021). NRC & WCMRC reciprocal arrangement agreement. [Web page]. Retrieved from the National Response Corporation website: <https://nrcwaplan.usecology.com/Home/ReciprocalCoverage>

<sup>3</sup> Washington State Maritime Cooperative. (2021). Canadian reciprocal arrangement agreement. [Web page]. Retrieved from the Washington State Maritime Cooperative website: <https://wsmcoop.org/canadian-reciprocal-arrangement-agreement>

#### 4. Reduce impacts to Southern Resident Killer Whales (SRKWs)

The vessels that will be transiting to and from the DP4 will pass directly through critical habitat of SRKWs. SRKWs are an apex predator in the Salish Sea. Any spill incident from a potential collision will have an impact on this species. The collapse of this species would result in unprecedented ecosystem consequences that cannot be overlooked.

One of the most viable options to avoid impacts to SRKWs during a major oil spill is to monitor for their presence in the larger vicinity of the oil's trajectory, and to be prepared beforehand with trained and equipped vessel operators to deter or herd them from entering oil-contaminated waters. In Washington State, we have developed the Vessels of Opportunity (VOO) Program to ensure we have a robust and organized system of volunteer commercial and recreational vessels to assist if needed.<sup>4</sup> Currently, new marine mammal deterrence standards in Washington State are resulting in identification of VOO to conduct whale deterrence methods. This will allow us to successfully utilize the VOO for whale deterrence during an oil spill incident.<sup>5</sup> Ecology also developed a curriculum for killer whale deterrence program, which includes plans for deterrence methods, tools, vessels, outreach, and assistance to successfully utilize the VOO Program.<sup>6</sup> Ecology recommends including a similar program under Section 9.10.5 of the Impact Assessment.

Additionally, underwater noise pollution will be produced during both construction and operation of the project. The entire area of the project, including marine shipping lanes to Buoy J, represent critical habitat for SRKWs. SRKWs may experience low to moderate severity in behavioral responses from underwater noise and are considered more vulnerable due to their endangered status.

Ecology appreciates GCT including mitigation measures to reduce the impact the project may have on SRKWs in the Impact Assessment. Mitigation measures that should be included in the assessment include participation in the Enhancing Cetacean Habitat and Observation (ECHO) Program, encouraging vessels calling to port to reduce vessel speed in critical SRKW habitat, during sightings of SRKWs, or during seasons when they are present. We also applaud GCT's commitment to continue to be a part of the Green Marine certification program. Participation in this program ensures continual improvement towards a reduced impact on the environment. We encourage GCT to meet the underwater noise requirements in the Green Marine program and ensure vessels calling to port are meeting these requirements as well.

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<sup>4</sup> Oil Spills 101. (2022). Vessel of opportunity program. [Web page]. Retrieved from the Oil Spills 101 website: <https://www.oilspills101.wa.gov/vessel-of-opportunity-program/>

<sup>5</sup> Washington State Department of Ecology. (2022). Protecting whales during oil spills. [Web page]. Retrieved from the Washington State Department of Ecology website: <https://ecology.wa.gov/Spills-Cleanup/Spills/Spill-preparedness-response/Preparing-for-spills/Protecting-whales-during-oil-spills>

<sup>6</sup> Washington State Department of Ecology. (2018). *Curriculum plan for a killer whale deterrence program* (Publication No. 18-08-006). Retrieved from Access Washington website: <https://apps.ecology.wa.gov/publications/summarypages/1808006.html>

The DP4 should also consider alternative measures to ensure a reduction in vessel noise pollution. This may include educational programs for vessel owners transiting to the terminal about process improvements, vessel upgrades, or other emerging technologies that may mitigate vessel noise pollution.

#### 5. Evaluate the effectiveness and funding of an emergency response system

The vessels calling to port at the DP4 will be traveling through commercial shipping routes from the 12 nautical mile limit of Canada's territorial sea through the Strait of Juan de Fuca. Vessels will pass through Haro Strait and Boundary Pass, which are characterized as having narrow geographic features, fast flowing currents, and are complex to navigate.

In 2019, Ecology published the *Report of Vessel Traffic and Vessel Traffic Safety: Strait of Juan de Fuca and Puget Sound Area*, which recommended further evaluation on the effectiveness of an emergency response system.<sup>7</sup> Review of existing studies and analyses suggest stationing an Emergency Response Towing Vessel (ERTV) near Haro Strait and Boundary Pass would reduce the risk of oil spills, yet further evaluation is still needed. However, the majority of inbound and outbound vessel traffic in this area is to and from Canada and would therefore benefit Canadian vessel traffic in times of distress.

Ecology recommends including as a mitigation measure, under Section 15.3, collaboration and engagement in international discussions among federal, state, provincial, First Nations, federally recognized Tribes, and industry leaders in the United States and Canada to evaluate the effectiveness of and agree on an emergency response system. By working together, a solution that works for all of us can be established.

#### 6. Pay-in for the Neah Bay Emergency Response Towing Vessel (ERTV)

The existing ERTV in Neah Bay, operating at the entrance of the Strait of Juan de Fuca, has been in place since 1999. Having this ERTV in place provides a crucial safety net for disabled tank ships and tank barges from vessel emergencies in one of the busiest shipping lanes in the world. Originally, Washington State assumed financial responsibility for the ERTV in 2000. In order to ensure the permanent protection of the Strait of Juan de Fuca and Washington's outer coast, in 2010 the Washington State Legislature required the vessel maritime industry to fund this ERTV. This funding requirement does not include vessels traveling to and from Canadian ports. However, the ERTV allows for assistance of Canadian vessels in distress. Since 1999, this ERTV has assisted 24 vessels traveling to and from Canada, but received no financial assistance to do so. These vessels are not obligated to and do not pay in advance to maintain this safety net.

Vessels calling on the DP4 will be transiting through the Strait of Juan de Fuca. If a vessel emergency were to arise, the Neah Bay ERTV would be available and ready to assist these vessels. Ecology recommends the Impact Assessment include a requirement for GCT to aid in

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<sup>7</sup> Washington State Department of Ecology. (2019). *Report of vessel traffic and vessel traffic safety: Strait of Juan de Fuca and Puget Sound area* (Publication No. 19-08-002). Retrieved from Access Washington website: <https://apps.ecology.wa.gov/publications/SummaryPages/1908002.html>

funding of this ERTV as a part of the ERTV system of vessels for the outer coast, Strait of Juan de Fuca, and the Salish Sea. This could be done through the vessel vetting process, in which GCT could require any vessels calling to port to provide financial assistance to the Neah Bay ERTV.

7. Ensure U.S. federally recognized Tribe and Canadian Indigenous First Nation rights and resources are a priority

Multiple U.S. federally recognized Tribes and Canadian Indigenous First Nations rely heavily on the resources provided by the Salish Sea. Increasing the number of vessels traveling through the Salish Sea to and from the project may have an impact on cultural and historical resources, and the availability of fishing time and space. Additionally, a potential spill could have a devastating impact to not only these resources, but also to resources along the coastlines.

Ecology appreciates GCT's commitment to engage with Indigenous First Nations in Canada. However, engagement and outreach with federally recognized Tribes in the United States is equally important. We cannot stress enough the importance of engaging and collaborating with Tribes here in Washington State, not just in Canada. The Impact Assessment should include the same assessment of impacts, as described in Section 12 of the draft Joint Guidelines, for Tribes in the United States that may be affected by the project, including how they will be meaningfully engaged throughout this process and what issues and concerns they may have. This includes, but is not limited to, cumulative impacts on tribal interests, cultural resources, fishing availability, and traditional uses and access. The GCT must recognize that the impact of an oil spill knows no boundaries and could have the same impact on federally recognized Tribes here as it could on Indigenous First Nations in Canada.

8. Provide an extensive focus on the cumulative and transboundary impacts of this project

With the approval and review of multiple projects within Canada, it is crucial to consider how current and expected future projects will have a cumulative impact on the Salish Sea. Although this is specified in the draft Joint Guidelines, Ecology reiterates the importance of not only looking at all of these projects, but also ensuring federally recognized Tribes and First Nations are a central component of this review. Both Washington and Canada as well as federally recognized Tribes and First Nations share the risk of a major spill. We need to continue to work together to ensure our prevention, preparedness, and response capabilities are well coordinated, rigorous, and consistent across borders.

Part of this coordination includes requiring notification to the U.S. Coast Guard of an incident in our shared waterways from any vessels transiting to and from the DP4. For an incident occurring directly in Washington waters, immediate notification must be made to the National Response Center and Washington State Emergency Management Division. Ecology recommends this be included in Section 15.3 of the Impact Assessment.

9. Geographic scope of the project's marine shipping area

The geographic scope of the assessment for the DP4's marine shipping area should include the international commercial shipping lanes from the project's location to 12 nautical miles off the

U.S. and Canadian coast. This includes shipping lanes in both Canada and the United States from the project to Buoy J.

The project location should also include U.S. federally recognized Tribal Usual and Accustomed (UAA) fishing areas within shared waterways, and reservation and traditional lands along adjoining coastlines.

#### 10. Community air monitoring

During an incident, airborne contaminants pose a risk to the surrounding communities and those responding to the incident. Identifying the contaminants and knowing the amount of contamination within the response area and community needs to be a priority. Preparing a community air monitoring plan ahead of an incident ensures those at a higher risk are taken into consideration and safeguarded during an incident.

Ecology recommends requiring a community air monitoring plan under the mitigation measures in Section 9.4.5. The Northwest Area Contingency Plan (NWACP) provides helpful tools for emergency responders in conducting community air monitoring that could be utilized as a starting point for incorporating this important aspect of a spill response.<sup>8</sup>

#### **Conclusion**

Thank you for taking the time again to review our concerns and recommendations. Consideration of all of these recommendations will ensure the full scope of concerns from the DP4 are addressed. We appreciate the opportunity to provide additional comments on this project.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carlos R. Clements", with a stylized flourish at the end.

Carlos Clements  
Program Manager  
Spill Prevention, Preparedness, and Response Program  
Washington State Department of Ecology

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<sup>8</sup> Regional Response Team and the Northwest Area Committee. (2020). Northwest area contingency plan. [Web page]. Retrieved from <http://www.rrt10nwac.com/nwacp/>