

Southern Resident Killer Whale Task Force Meeting #6: Summary (DRAFT)

November 6, 2018 in Puyallup

Attending:

Task Force members:

Amy Scarton	Washington State Department of Transportation
Amy Windrope	Washington Department of Fish and Wildlife
Andy Hover	County Commissioner, Okanogan County
B.J. Kieffer	Spokane Tribe
Brad Smith	Fish and Wildlife Commission
Brendan Flynn	Commercial Fisherman
Butch Smith	Ilwaco Charters
Chairman Nate Tyler Chad Bowechop	Makah Tribe
Dave Herrera	Skokomish Tribe
Donna Sandstrom	The Whale Trail
Gary Chandler	Association of Washington Business
George Harris	NW Marine Trade Association
Jacques White	Long Live The Kings
Jamie Stephens	County Commissioner, San Juan County
Lisa Wilson for Chairman Jay Julius	Lummi Nation
Jeff Dickison	Squaxin Island Tribe
Brian Goodremont for Jeff Friedman	Pacific Whale Watch Association
Joe Gaydos	The SeaDoc Society
JT Austin	Office of Governor Inslee
Kaleen Cottingham	Washington State Recreation and Conservation Office
Casey Baldwin for Karen Condon	Colville Confederated Tribes
Kathy Pittis	Port of Anacortes
Kelly McLain	Washington State Department of Agriculture
Kristin Swenddal	Washington State Department of Natural Resources
Leonard Forsman	Chairman, Suquamish Tribe
Les Purce	Task Force Co-Chair
Lisa Lantz	Washington State Parks

Lynne Barre	NOAA
Maia Bellon	Washington State Department of Ecology
Mark Doumit	Washington Forest Protection Association
Mindy Roberts	Washington Environmental Council
Paul McCollum	Port Gamble S'Klallam Tribe
Rep. Brian Blake	WA House of Representatives (D)
Ron Garner	Puget Sound Anglers
Ron Shultz	Washington State Conservation Commission
Sen. Kevin Ranker	WA State Senate (D)
Sheida Sahandy	Puget Sound Partnership
Stephanie Solien	Task Force Co-Chair
Terry Williams	Tulalip Tribes
Tom Davis	Washington Farm Bureau
Tom Wooten	Chairman, Samish Indian Nation
Trina Wellman	Northern Economics, Inc.
Will Hall	Mayor, City of Shoreline
Bryce Campbell, observer	Global Affairs Canada

Staff, Steering Committee, presenters, and Cascadia Consulting team:

Cathy Cochrane	Puget Sound Partnership
Derek Day	Washington State Department of Ecology
Heather Bartlett	Washington State Department of Ecology
Jim Cahill	Office of Financial Management
Leslie Connelly	Office of Financial Management
Marc Daudon	The Caspian Group
Nora Nickum	Project Manager, Cascadia Consulting Group
Penny Becker	Washington Department of Fish and Wildlife
Steve Martin	Governor's Salmon Recovery Office
Susan Gulick	Facilitator, Sound Resolutions
Todd Hass	Puget Sound Partnership
Tom Laurie	Washington State Department of Ecology

OPENING, INTRODUCTIONS, AND UPDATES

Following the Tribal welcome and blessing by Puyallup elder and Cultural Director Connie McCloud, the co-chairs gave introductory remarks:

Co-chair Les Purce said that the Task Force has been together for six months on a journey to make decisions that will make a real difference for the orcas. We have had hundreds of

individuals come and make public comment at our meetings. We have had over 18,000 people express their comments and concerns in writing. He said he had been struck by the expressions of support that we have received. People have asked us to go beyond our personal interests to find common ground. They have asked us to understand what is at stake: the Salish Sea, the salmon, the ecosystem that we all have to live in. Today we are here to work out the final pieces of our recommendations for the Governor. Les thanked everyone for being on this journey.

Co-chair Stephanie Solien said she feels deep gratitude for everyone. We have worked very hard on some very difficult issues. We are tasked with a big responsibility. Today we are going to be working on agreeing on a package that we will send to the Governor on November 16. This place that we call home needs our protection – especially as we grow and as the climate changes. The majority of the recommendations that are in the package have strong support from Task Force members and the public. There are six critical issues left and we will have fishbowl discussions to go over those today.

Co-chair Les Purce asked the Task Force to respond to a request from a member of the public to speak separately from the public comment. Several Task Force members spoke up to say that they felt that it was unfair to let one person speak at a separate time from other members of the public.

After Task Force members introduced themselves, the Task Force approved the Oct. 17-18 meeting summary. Susan Gulick, the facilitator, reviewed the agenda, the handout on consensus recommendations, the handout on the decision-making procedure for today's meeting.

Meeting materials are available on the Governor's [website](#).

FISHBOWL DISCUSSION OF UNRESOLVED ISSUES

Recommendation 8 - Spill levels

Concerns expressed included:

- Increased cost of spill could come at a reduction in the amount of money put towards restoration projects.
- Potential impacts on people in southeast Washington.
- What the courts might do to then mandate 125% and leave out the flexibility that the state is asking for; state agencies responded that they would take the position that the flexibility is important for our waters and our fish.

Support expressed included:

- The flexibility provided by the "up to" 125% language.
- The anticipated increase in smolt-to-adult returns.
- The immediacy of the benefits from this action.
- These are the fish that we want to target for the orca.

- Increasing spill to 125% is expected to result in an increase from 156,000 spring Chinook return to Columbia River mouth to up to 646,000 with a median of around 353,000 additional adults returning as result. This is from the spill webinar; slides available on the Governor's [website](#).

Outcome:

- Added a bullet on working with tribes, salmon recovery regions, Ecology and WDFW to minimize revenue losses and impacts to other fish and wildlife program funds.
- The Task Force voted to include Recommendation 8 in the package with the inclusion of this additional bullet. For the record: Gary Chandler, Rep. Brian Blake, Mark Doumit, and Tom Davis voted against including this recommendation in the package.

Recommendation 9 - Lower Snake River dams

Concerns expressed included:

- Making sure wording is clear about looking for benefits to Southern Resident orcas.
- New state process is not needed because of ongoing litigation and it would drain resources.
- Not wanting to predetermine the outcome of the federal process.

Support expressed included:

- A desire to hear from citizens about what their concerns are and their own solutions.
- It is never too early to engage communities.
- The potential for a three-fold increase in spring Chinook coming back with breach plus 125% spill.
- The fact that growing our understanding from the bottom up is consistent with how we do salmon recovery work in this state.

Other comments:

- The results of the process should come back to the Task Force.
- The utility of doing an economic impact analysis.
- Wanting the collaborative process to also address potential economic impacts or benefits to coastal fishing communities (both tribal and non-tribal).

Outcome:

- Added "for the benefit of Southern Resident orcas" to the recommendation headline.
- Other edits included striking "about operations" and including "of the potential breaching or removal" and "economic and social impacts and mitigation of the costs;" also saying "tribal and stakeholder process" because tribes are not stakeholders. Deleted "should be completed by December 2019" and added new text to start of implementation details.
- Added language back in about updating the Governor and Task Force next summer, from last draft.

- Task Force members supported inclusion of this in the package with amendments. For the record: Gary Chandler, Kathy Pittis, and Andy Hover voted against including this recommendation in the package.

Recommendation 18 - Commercial whale-watching permit system

This recommendation had three options (A, B, C) at the time of the fishbowl discussion. Task Force members were initially divided in their support of option A or B.

Discussion:

- Desire for an aggressive timeline that is still possible given legislative timelines and the need for rulemaking.
- Wanting to make it immediate and implementable.

Concerns expressed included:

- Need for more science to determine specifics.
- Using AIS could have unintended consequences, as it will inform others where the whales are.

Outcome:

- Option A was amended to add key elements of Option B.
- Timeline modified to July 2019.
- Task Force members unanimously approved inclusion of Option A in the package, with amendments (including incorporating language from Option B).

Recommendation 28 - No-go zone or go-slow zone

This recommendation had three options (A, B, C) at the time of the fishbowl discussion. Task Force members were initially divided in their support of option A or B; one noted that option C could be included with either one. A Task Force member added an option D.

Concerns expressed included:

- ¼ mile would mean a lot of boats would be concentrated right where the mother and juvenile orcas are often found. Should be changed to ½ mile (general support for that change).
- A no-go zone needs to be equitable – apply to both recreational and commercial.
- Easier for the public to understand a speed limit.
- Hard for public to differentiate between transient and Southern Resident orcas, and between different types of vessels, so likely to get reports of violations even if there aren't actual violations.
- Limited resources for enforcing a no-go zone.
- Applicability of 2003 study on kayakers and Northern Residents.

- Confusion about go-slow zone when we already have a recommendation for a go-slow bubble around the orcas.
- Concerns from Puget Sound Anglers and Purse Seine Association.
- No-go zone doesn't make sense when whales aren't there.
- Kayak safety. Maybe kayaks could be required to stay within 100 yards of shore rather than ½ mile off shore.

Support expressed included:

- Benefit from not having boats around (beyond the benefit of reduced noise) – even kayaks can affect orca behavior.
- Need a sanctuary where whales get a break.
- Support for go-slow zone – equitable, enforceable, effective.
- Lowering speed is good, keeping boats out of an area is even better.

Other comments:

- Tribes are not part of any no-go zone.

New Option D: Suspend viewing of Southern Resident orcas

- Establish a whale watching regulation that precludes Southern Resident orca viewing by all boats in Puget Sound for the next 3-5 years. The governor should direct WDFW to begin rulemaking to define Washington whale watching in coordination with the commercial whale watching industry, kayak industry, local governments and interested non-governmental organizations.
- Report back to the governor and legislature after 3-5 years on the effectiveness of the suspension.

Concerns expressed about new option D included:

- Questions about consistency with Task Force process.
- Should look at more research or more restrictive viewing, but not *no* viewing. Do a study to determine what acoustic threshold is too high.
- Could represent significant financial loss for the whale-watching industry. Problem with moratorium is that it sends a negative message about the industry which could lead to companies having to shut down.

Support expressed about new option D included:

- Evens the playing field.
- Doesn't impact treaty or fishing rights.
- Always right where the whales are.
- Enforceable.
- Can get people together to define "whale watching" as part of the rulemaking process.
- Support if replaces options A and B (no-go zone and go-slow zone).

Outcome:

- The co-chairs determined that option D was not a new issue because it had been discussed at several earlier meetings. It was presented as an alternative to the deadlock the Task Force faced on the no-go zone proposal.
- Task Force members approved inclusion of new Option D in the package as Recommendation 28. For the record: Ron Shultz and Brian Goodremont voted against including this recommendation in the package.

Recommendation 19 - \$10 certification for recreational boaters

Concerns expressed included:

- \$10 fee is piling on top of a lot of other fees; recreational boaters feel like they are overpaying already.

Support expressed included:

- \$10 is not a large amount.
- When you pay for something you have more skin in the game.
- Compared to other sacrifices people will have to make because of task force recommendations, this seems relatively small.

Other comments:

- Expected revenue from a mandatory marine waters endorsement fee, a statewide opt-in fee, and a statewide opt-out fee.
- The value of having a name for the fee or certification that motivates and inspires people (e.g., Orca Protection).
- Clarification that state does not have jurisdiction over tribes; language already notes that tribes would make their own decision.

Outcome:

- Task Force members unanimously approved inclusion of this recommendation in the package with a change to make the fee statewide and opt-out.

Recommendation 24 - Oil spills

Support expressed included:

- Rescue tug gives us the chance to save ourselves in the event of a spill.
- There should be greater safety measures around this industry.
- Just one spill would be catastrophic.

Other comments:

- Haro Strait is more narrow and navigationally complex compared to the area covered by the Neah Bay tug – reality check.
- Right people need to be at the table.

Outcome:

- Task Force members unanimously approved inclusion of this recommendation in the package with the addition of 24B and not 24A.

Additional changes

The following additional recommendations were discussed in a last fishbowl:

- **Recommendation 1** – Changes approved by the Task Force included adding mention of “Salmon Recovery Funding Board requests” in the first bullet.
- **Recommendation 6** – Changes included mentioning “significantly” increasing hatchery production and “significantly” increasing habitat protection and restoration measures and being more specific about the partners that the Task Force has in mind. The Task Force approved these changes. For the record: Will Hall opposed these changes.
- **Recommendation 3** – Changes approved by the Task Force included removing the word “administrative” in the third paragraph and changing the timeline from October 2019 to July 2019.
- **Recommendation 4** – Changes approved by the Task Force included deleting the word “time” and adding a phrase about under HPA authority.
- **Recommendation 11** – Changes approved by the Task Force included striking the specific hake example.
- **Recommendation 12** – Changes approved by the Task Force included adding a sentence about striving to complete the assessment in a timeframe that would help inform increases in hatchery production and adding clarification language about the independent expert science panel.
- **Recommendation 13** – Changes approved by the Task Force included the addition of WDFW working with Oregon DFW to pilot a project to remove artificial sea lion haul-out sites in the lower Columbia River and study the effectiveness of the action to reduce predation on Chinook.
- **Recommendation 16** – Changes approved by the Task Force included adding specific mention of the Northwest Indian Fisheries Commission, NOAA, US Coast Guard, US Army Corps of Engineers, and the Environmental Protection Agency.
- **Recommendation 27** – Changes approved by the Task Force included deleting the last bullet on types of mitigation so that denying the permit is an option.
- **Recommendation 35** – Changes approved by the Task Force included adding a request that the zooplankton monitoring team engage with the Puget Sound Ecosystem Monitoring program and Ecology to look at impacts associated with nutrient pollution and requesting that the Regional Response Team and Northwest Area Committee assess the connections and impacts of oil spills to plankton. Changes also included adding the need to determine the degree of benefit to Southern Resident orcas that the recommended actions may produce under a reasonable range of future growth and development scenarios.

PUBLIC COMMENT

The following is a summary of the issues and suggestions raised during the public comment period. There was time for everyone who signed up for public comment at this meeting to speak.

- C. Jesse Nightwalker, Palouse Tribe, said there is no time for waiting on breaching the dams.
- Elizabeth Dunn said she was here with a number of people who support the breaching of the lower Snake River dams this winter.
- Michelle Seidelman spoke about adding Recommendation 74 requesting that the Governor call the US Army Corps of Engineers and demand that the US Army Corps of Engineers immediately start breaching the lower Snake River dams this winter. She said they would be presenting the recommendation to the Governor on November 16.
- Jonathan Parent, a marine naturalist in the San Juan Islands, expressed his strong opposition to Recommendation option 28D. He said that as a KELP educator he sees a strong culture of respect for the Southern Residents and that the vast majority of the time commercial kayaking groups are closely rafted up in kelp beds.
- Jari Brenner from Orcas Island said that we can each choose the love of power or the power of love, and she asked everyone to choose the power of love.
- Dr. David Bain said he thought the moratorium idea was a mistake. Commercial whale watching vessels can leverage their passengers into habitat restoration efforts. He said that the discussions about the lower Snake River dams and how to replace those services should start right away.
- Warren Piengkham, Kalispel Nation, urged breaching of the lower Snake River dams. He said the dams are affecting his wellbeing as well as salmon and orcas. He said violence had been done to his people.
- Robert Reed, construction industry stakeholder, said there should be a construction industry member and a banking industry representative on the Task Force. He said the whole reason that Puget Sound is being poisoned is because of the way we have built our cities. He said we might have to take every dam out and it will cost a lot of money; the orcas are worth it.
- Miguel Ramirez said our orcas and salmon are in big trouble. He said we have to breach the dams; the Columbia River ecosystem is collapsing and we have to save the orcas.
- Brett Rosson, Highliner Charters and a member of the Pacific Whale Watching Association, said he was impressed by the seriousness with which PWWA members take their business and set an example for the boats that are around. He said he supports the go-slow zone and not the new option D (without more discussion).
- Jennifer Matte, resident of Salish Sea watershed, said that now the Southern Residents are in crisis we need to take emergency measures. She applauds the efforts to educate recreational boaters about the orcas because she has observed a lot of confusion locally among other recreational boaters. Whale-watching boats do attract other boats so it's worth trying out

the new idea. Look at historical abundance of Chinook and bigger rivers when prioritizing restoration efforts.

- Olivia Hart said everything we are doing here should support treaty rights. She said that the orca is the canary in the mine. She said the smartest idea she has heard today is not allowing whale-watching to impact the orca.
- Janet Thomas said it was astonishing to hear “suspend all whale-watching for 3-5 years in Puget Sound” – she said she would call that bold, and a response to emergency. She read from a 10/29/18 letter from Dr. Tim Ragen.
- Robb Krehbiel, Defenders of Wildlife, said orca recovery should not be built on the backs of farmers, which is what Recommendation 9 aims to avoid. He said he was disappointed that a no-net-loss policy and no dam on the Chehalis were not included in Year 1 recommendations. He said this is just the beginning and the work needs to continue.
- Janene Hampton said the whales aren’t going to make it and we need to take action now.
- Pia Van Hanen, from West Seattle, thanked the Task Force for banning whale-watching for the next 3-5 years. She said she watches the whales from land with people who show delight and excitement.
- Bill Arthur, Sierra Club, thanked Task Force members for their hard work. He said he didn’t think the package is bold but it has a lot of merit and it puts us on a path to move forward. He said the spill recommendation will have immediate results.
- Whitney Neugebauer, Whale Scout, has worked to help people watch whales from shore and connect with them. She said watching whales in a limited, respectful way can result in ecosystem restoration. She said the language on the lower Snake River dams is an excellent starting place. She would like to see complete funding for habitat restoration. No-net-loss on the table in Year 2.
- Ana-Maria Brujban said that if the environment is not healthy, the people living in it will not be healthy as well. The pollution in the waters and the increase in vessel traffic are real factors affecting orca survival. The breaching of the four dams on the lower Snake River got widespread public support.
- Steve Braun said he was encouraged by the recommendations here but cautious because of internal conflicts at DFW. Hopes that there is some oversight process because he doesn’t want resources to be squandered.

The public is also encouraged to submit comments in writing at www.surveymonkey.com/r/srkwtfpubliccomment.

CONSENSUS VOTE ON FINAL PACKAGE OF RECOMMENDATIONS

- Kristin Swenddal: Consent.
- Ron Shultz: Consent.
 - For the record, noted that he does support the WDFW proposal for rule-making on 28D, he only voted against it because of process.

- Casey Baldwin: Consent.
- Dave Herrera: Abstain.
 - Tribes have a government-to-government meeting coming up with the Governor next week.
- Lisa Lantz: Consent.
- Lynne Barre: Consent.
- Mindy Roberts: Consent.
- Terry Williams: Consent.
 - Will be joining tribes in the government-to-government meeting with the Governor next week.
- Brendan Flynn: Consent.
- Jeff Dickison: Abstain.
 - Tribes have a government-to-government meeting coming up with the Governor next week.
- Amy Scarton: Consent.
- Brad Smith: Consent.
- Ron Garner: Consent.
- Sheida Sahandy: Consent.
- Paul McCollum: Consent.
 - Will be joining tribes in the government-to-government meeting with the Governor next week.
- Mark Doumit: Abstain.
 - Hasn't had a chance to run final recommendations by others.
- Jacques White: Consent.
- Kathy Pittis: Consent.
 - Will send minority report.
- Amy Windrope: Consent.
- George Harris: Consent.
- Joe Gaydos: Consent.
- Sen. Kevin Ranker: Consent.
- Butch Smith: Consent.
- Commissioner Jamie Stephens: Consent.
 - For the record, noted that his Council has been flexible to allow him to participate and he really appreciates that.
- Lisa Wilson: Abstain.
 - Tribes have a government-to-government meeting coming up with the Governor next week.
- B.J. Kieffer: Consent.
 - Wants to make sure all the agreed-upon changes are made to the document before inclusion in the final report.

- Brian Goodremont: Does not consent.
 - PWWA does not believe that change to recommendation 28 was pursued in good faith. The other recommendations would have mitigated the concerns.
- Commissioner Andy Hover: Consent.
 - Still leery of some items but not going to block the package.
- Donna Sandstrom: Consent.
- Trina Wellman: Consent.
- Gary Chandler: Abstain.
 - There are pieces in here that members are concerned about. Concerned about verbiage around contaminants; we always want to do more but sometimes the technology isn't available yet. Wants to stay at the table.
- Mayor Will Hall: Consent.
- Kaleen Cottingham: Consent.
- Tom Davis: Abstain.
 - Supports package as a whole. Still has some concerns about recommendations 3, 8, and 9. Committed to continuing to be part of this process.
- Maia Bellon: Consent.
- Chad Bowe chop: Consent.
- Rep. Brian Blake: Consent.
 - There is stuff in here that I agree with and stuff in here that I don't agree with. Overall it is good work.
- JT Austin: Consent.
 - Made closing remarks.
- Les Purce: Consent.
- Stephanie Solien: Consent.

Final count: 33 consent, 1 do not consent, and 6 abstentions.

Additional comments from Task Force members that relate to the presentation of these recommendations as well as Year 2 discussions include:

- It'll be important that we make it clear that we want these items funded in ways that are not detrimental to other ecosystem work that is happening and that is also critical.
- Desire to have data on non-use values [the value that people assign to economic goods even if they never have and never will use it or directly benefit from it] associated with these orcas to help substantiate our decisions. Maybe we can have that in Year 2.

WRAP-UP AND NEXT STEPS

The co-chairs gave closing remarks as part of their consenting votes.

Next steps

The staff and Steering Committee will be finalizing the Task Force report to the Governor for release on Nov. 16. Task Force members who wish to write minority reports must send them to Nora Nickum no later than noon on Tuesday, Nov. 13 to be included in the final report.

The Task Force will continue its work until October 1, 2019. This work will include:

- Tracking progress on implementation of the recommendations approved today and getting updates from those responsible for implementation.
- Discussing remaining potential actions and others that may be brought forward as any gaps or additional needs are identified, with support from Working Groups to analyze the new ideas.
- Additional opportunities for public input.
- Producing a second report to the Governor outlining the progress made, lessons learned, and outstanding needs by October 1, 2019.

The Steering Committee will be meeting at the end of this month to map out a proposed work flow for 2019. We expect that there will be about 4 task force meetings next year. The co-chairs would like to solicit Task Force members' input on topics/issues for 2019, beyond those already flagged through this year's discussions, and a request will be sent out before the end of this year.