

Southern Resident Killer Whale Task Force

Potential actions (DRAFT, 8-13-18)

These potential actions have been updated based on Task Force discussions at the August 7 meeting. Task Force members are providing additional feedback and suggesting wording changes through an online survey. These potential actions will be further discussed at the August 28 Task Force meeting.

CONTAMINANTS

Action #1: Reform Federal Toxic Substances Control Act to prevent new chemical threats.

Reform federal toxics law to take a precautionary approach to chemical regulation. Washington State could work to establish an interstate program with other west-coast states through the Pacific Coast Collaborative or the National Caucus of Environmental Legislators. This would include requiring toxicity data disclosures, require minimum data sets and evaluations including assessments of alternatives, and subsequent enforcement.

Action #2: Ban by-product (“inadvertent”) PCBs in consumer products through existing state policy tools.

This could also include accelerating the implementation of the ban on PCBs in state purchased products. It would initiate a phase out with full implemented targeted for 2025. Ecology would conduct alternatives assessments, product testing and enforcement. The State would need new regulatory authority to set limits and enforce a full ban.

Action #3a: Prioritize chemicals for their likely impact on SRKW. Develop plans to reduce harm. Pursue plan implementation through bans, phase-outs, and restrictions.

This action is to increase the impact of current Chemical Action Plan work conducted by the Department of Ecology. This includes prioritizing Contaminants of Emerging Concern (CECs), and identifying and implementing responses such as alternatives assessments, bans and incentives. The Dept. of Ecology would prioritize contaminants for their likely impact to SRKW. High priority CECs include phthalates, and expanding existing product laws regarding Persistent Bioaccumulative Toxics. The department could further implement existing bans, identify alternatives to new priority toxics, and/or implement phase-outs, restrictions or bans.

Action #3b: Identify priority chemicals. Forward this list to the state legislature for immediate bans. (This is a much simpler-expedited version of action 3A. It would have the same goals, but would skip some of the Chemical Action Plan process relying on the legislature’s authority to enact bans.)

Action #4: Provide incentives for swap-outs to reduce toxic sources.

Use incentives to reduce PAHs, PCBs, PBDEs and PFAS. Priority emphasis should be on reducing toxic impacts to juvenile salmonids, and forage fish.

Phase 1: Develop program and coordinate with ongoing programs. This would include work to specifically target the program, and to the communications outreach, and gather stakeholder input.

Phase 2: Fund and implement targeted incentive program. Target pilings or other treated wood in priority forage fish habitat or juvenile Chinook rearing habitat (PAHs). Target utility corridors for

transformer and capacitor replacement, and developed areas with buildings constructed prior to PCB bans. These should target PCB hotspots if possible (PCBs). Target household and office goods (PBDEs). Target areas where there is firefighting activity, or where military operations use fire-fighting products (PFAS).

Action #5A: Improve effectiveness, implementation, and enforcement of Clean Water Act (NPDES) permits.

The National Pollutant Discharge Elimination System (NPDES) regulates and permits discharges from ‘point sources’ of pollution, these most commonly include municipal stormwater systems, industrial stormwater runoff, and wastewater treatment systems. This actions recommends exploring new standards, increasing implementation and enforcement.

Action #5B: Establish new monitoring requirements at wastewater treatment plants to address Persistent Bioaccumulative Toxics (PBTs), and Contaminants of Emerging Concern (CECs).

This action is a specific subset of Action 5A, but was identified as a ‘stand –alone’ action.

Action #6: Reduce stormwater threats in existing hotspots.

This recommendation begins with prioritizing using monitoring data or identifying high loading areas (for example commercial or industrial areas). Toxic sources could be addressed through clean-up or removing contaminated building materials. Or, it could include stormwater retrofits to provide treatment. Alternatively, there could be areas that may be good candidates for redevelopment—such as underutilized industrial land.

Action #7: Prioritize and accelerate sediment remediation and nearshore restoration based on risk to SRKW.

This is a recommendation to prioritize and accelerate nearshore restoration and cleanup targeting forage fish habitat and juvenile chinook rearing habitat—prioritizing ‘hot-spots’ over ‘sensitive areas’. Know or likely hotspots include: Duwamish estuary/river, Commencement Bay, Anacortes, Portland Harbor, Hanford Reach, Sinclair/Dyes inlet, Lake Union, (Victoria Harbor and the Fraser Delta), and other areas where there is a history of industrial development.

Restoration and remediation actions would likely include dredging, disposal, capping. Current clean-up efforts are ongoing, and should be accelerated.

Action #8: Support monitoring and new science.

Monitoring and new science are important to developing effective management solutions. There are current data gaps that make implementation less sure. Monitoring recommendations include air quality monitoring, monitoring volatilization on the water surface, monitoring freshwater, and wastewater inputs of CECs in Puget Sound, monitor CECs in forage fish and salmonids, and identifying thresholds for CECs that are protective of whales and their prey.

This would include expending existing programs, and identifying new analytical methods.

Additional actions proposed by Task Force members on August 7:

Action #9: Specify that MTCA funds be prioritized towards projects that [address SRKW recovery priorities].

Action #10: Encourage the state Legislature and Governor to support legislation that will ban offshore oil/gas development in all state waters, [and other waters where the state can legally restrict development].

Action #11: Limit, or Eliminate, any process [or practice] that could introduce invasive species or disease, or concentrate contaminants that can impact salmon or the ecosystem—such as finfish aquaculture.

Action #12: Letter to Trump Administration opposing any rollback of state water quality standards.

VESSELS

Action #1: Establish a no-wake zone with a speed limit of 5 knots in all Washington State waters for small vessels (<65ft) and commercial whale watching vessels within sight of orcas (and no less than 400 yards), with discretion to enforcement officers, while dedicating resources and capacity towards associated education and enforcement.

Action #2: Require that small vessel operators eliminate the use of echo sounders and other underwater transducers at the *50-kHz setting* when near SRKWs (or switch to the harmless 200-kHz frequency on many models) except when necessary for safe navigation. Begin with an immediate outreach campaign for voluntary compliance and phase in a mandatory requirement. Support adoption of best practices through education and outreach with boaters, including through ports and marinas, and a formal conversation with echo sounder manufacturers and suppliers.

Action #3: Establish a limited-entry permit system, to be potentially managed by DFW, that dramatically reduces the number of commercial whale watching vessels around the SRKW on a given day and that sets a cap on the number of permits issued in the state with an associated buyback program. Couple this system with requirements, such as the use of Automatic Identification Systems (AIS), to promote effective monitoring and compliance. Consider requiring a few quiet days (e.g., Mondays-Thursdays off limits for commercial whale watching) and limiting group-kayaking. Begin discussions with Canada to encourage a similar system for Canadian commercial whale watching vessels.

Action #4: Review the science to understand the relative effect on the orcas of idling versus shutting off and restarting engines, in order to inform a possible recommendation for commercial whale watching operators in the vicinity of SRKWs.

Action #5: Establish a limited-entry permit program to ration recreational boating community's access to SRKWs, with officer discretion for enforcement.

Action #6: Expand Washington State collaboration in—and support for—ECHO to: (1) promote voluntary participation by outbound ships in the lateral displacement trial in Strait of Juan de Fuca in summer 2018; and (2) advance and expand a Whale Report Alert System for potential use by professional mariners (pilots/ships/private ferries/navies/etc.) for potential lead-time (and real-time) ship course and speed management; and (3) more fully integrate Washington's vision and interests in the group's transboundary efforts following the summer trials described in (1) and (2).

Action #7: Request Governor Inslee and the Legislature take action to address potential vessel traffic impacts (raising risks of oil spills, noise and ship strikes) that may be generated by potential increases in vessel traffic that may result from any possible expansion of the "Puget Sound pipeline" spur from

Canada. Work with state agencies, local governments, and tribes to identify their authorities to issue permits, authorizations, or mitigation measures related to any expansion. Request Governor meet with Canadian officials to address state concerns and recovery goals.

Action #8: Act to ensure that all tanker traffic from the Trans Mountain Pipeline expansion and associated impacts to SRKWs from vessel noise and disturbance and potential risks from oil spills and ship strikes are addressed. Request that the Governor meet with Canadian officials and seek Coast Guard involvement.

Action #9: Establish protection areas (no-go zones) that apply to all vessels, including fishing vessels, in critical areas for whales, including on the west side of the San Juan Islands and in marine areas 4, 5, and 6, (roughly extending from Admiralty Inlet to Neah Bay) based on the best available science showing where the SRKW are feeding.

Action #10: Create a 400-yard moving “bubble” around the orcas with long-term funding for enforcement. *(In other words: Double the 200-yard NOAA approach distance limit; there is already a 400-yard NOAA restriction on parking in the orcas’ path).* Work with Canada, BC, and the federal government to increase the number of vessels required to comply with this bubble.

Action #11: Require all permit applications in Washington State that would increase vessel traffic to specifically address potential impacts to SRKWs. For example:

- Update the State Environmental Protection Act (SEPA) checklist.
- Update the Joint Aquatic Resources Permit Application (JARPA) form.
- Update the Prevention of Significant Deterioration (PSD) Permit to Construct to specifically include potential vessel traffic impacts to SRKWs.
- Update state regulations and Ecology’s Shoreline Master Program (SMP) Handbook to address vessel traffic impacts and require SRKW expertise for all state application submittals.

Action #12: Support and accelerate transition of Washington State Ferries fleet to quieter designs and technologies to achieve data-driven noise reduction goals.

Action #13: Slow down Washington State Ferries (WSFs) during fall (October-December) in presence of orcas (when conditions are safe and effective to do so).

Action #14: Require slowdown by private ferries (e.g., Victoria Clipper, Black Ball) and local government ferries (e.g., King, Kitsap, and Skagit County ferries) in presence of orcas (when conditions are safe and effective to do so).

Action #15: Support funding of WSF noise analysis pilot project to collect additional new data to fill information gaps and develop baseline noise levels for the entire fleet.

Additional actions proposed by Task Force members on August 7:

Action #16: Place an emergency rescue tug on the west side of San Juan island to support oil spill response.

Action #17: Require that all oil barges have a tug escort in Puget Sound.

Action #18: Request a cover memo to the Strait of Juan de Fuca and Puget Sound Vessel Traffic Safety Report being completed this fall per Senate Bill 6269 that applies an orca lens to the analysis of vessel traffic risk.

Action #19: Prioritize new hybrid ferries for runs where orcas are more frequently present.

Action #20: Consider a moratorium on whale watching for a certain period of time.

Action #21: Ensure that the curriculum, testing, and outreach for the mandatory Boater Education Card includes Be Whale Wise guidelines.

Action #22: Increase funding for educational on-the-water programs like Soundwatch as well as governmental enforcement of private vessels for infractions.

Action #23: Collect information on the noise reduction potential of electric boat motors to determine whether to recommend incentives for the manufacture and purchase of such motors.

Action #24: Establish a collaborative forum that includes acoustics researchers, the State of Washington, NOAA, and the Pacific Whale Watch Association to create vessel and fleet sound profiles to determine acceptable underwater sound baselines (decibels at source/received, etc.) and identify whale watching guidelines for PWWA and private boaters that will better minimize underwater noise levels and the occurrence of acoustic masking and interference with orca communication.

PREY

Hydro

A1. Recommend that Ecology adjust gas caps (match or exceed OR's gas caps) on the Snake and Columbia rivers to allow flexibility to adjust spill regimes, as needed, to benefit Chinook salmon and other salmonids.

A2. Recommend that Ecology adjust gas caps (match or exceed OR's gas caps) on the Snake and Columbia rivers and that spill be increased to benefit Chinook salmon and other salmonids.

C. Increase survival at predation hot spots associated with dams.

E. Prioritize and fund re-establishment of runs into currently blocked areas above dams in those areas that can successfully produce more salmon.

F1. Remove other hydro and non-hydro dams in locations that most benefit Chinook passage.

F2. Remove the four lower Snake River dams to benefit Chinook passage.

G. Expedite NEPA process for Columbia River operations.

Hatchery

A. Increase hatchery production at facilities that most benefit SRKWs, in a manner consistent with wild fish conservation and the ESA.

B. Perform actions in hatcheries to increase productivity, smolt-to-adult survival and/or marine survival of Chinook (including but not limited to reducing predation on hatchery fish), adjust return timing and locations to align with whale needs, increase size and age of return, and reduce potential competition with wild fish.

Harvest

A. Further limit Chinook harvest in areas important to SRKW foraging.

B. Subsidize or compensate fishers to not fish.

C. Reduce bycatch of Chinook in non-targeted fisheries, including limiting gear types that increase mortality and incentivizing innovative gear types that decrease mortality.

D1. Include SRKW considerations in the next Pacific Salmon Treaty negotiations with AK and Canadian fisheries to allow more Chinook to reach WA waters.

D2. Support the implementation and funding of the upcoming/newly negotiated Pacific Salmon Treaty.

F. Implement slot size limits to get larger fish to whales, spawning grounds, and hatcheries (put a maximum size limit on catch).

Habitat

A. Increase the implementation and enforcement of existing local, state, and federal habitat protection regulations.

B. Enhance/change local, state, and federal protection regulations, especially for key Chinook/SRKW habitats or areas.

C. Acquire important Chinook habitat.

D. Accelerate habitat restoration by increasing funding significantly to address current regional priorities, including fish blockages in areas most beneficial to SRKW.

E. Create additional or bolster existing habitat protection and restoration incentives for landowners.

F. Engage BNSF railroad on shoreline management.

Predation

A1. Remove or alter artificial habitats or breeding locations so they are not as attractive to predators (Pinnipeds).

B1. Lethal removal (Pinnipeds) to benefit specific runs and stocks.

B2. Lethal removal (Birds) to benefit specific runs and stocks.

B3. Lethal removal (Fish) to benefit specific runs and stocks.

B4. Continue the development of additional science to better understand pinniped predation in Puget Sound and the Outer Coast so that the Task Force could review new recommendations in Year 2.

Forage Fish

A. Increase Forage Fish populations through:

- Habitat restoration
- Habitat protection

B. Increase Forage Fish populations through:

- Harvest reductions