



DEPARTMENT OF
ECOLOGY
State of Washington

Concise Explanatory Statement
Chapter 173-185 WAC
Oil Movement by Rail and Pipeline
Notification

Summary of rulemaking and response to comments

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Concise Explanatory Statement

Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification

Spill Prevention, Preparedness, and Response Program
Washington State Department of Ecology
Olympia, Washington 98504-7600

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Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: Oil Movement by Rail and Pipeline Notification
WAC Chapter(s): 173-185
Adopted date: August 24, 2016
Effective date: October 1, 2016

To see more information related to this rulemaking or other Ecology rulemakings please visit our web site: <http://www.ecy.wa.gov/laws-rules/index.html>

Reasons for Adopting the Rule

In 2015, the Washington Legislature directed Ecology to develop rules on new reporting requirements for the movement of crude oil by rail and pipeline.

Significant changes in the modes of transportation and properties of crude oil are occurring in Washington State. Washington State has experienced dramatic changes in the amount and types of oil transported by rail and pipeline. There has been an increase in the amount of heavy crude oils, such as diluted bitumen from Canada and light crude oils, such as Bakken from North Dakota, being transported through the state. Diluted bitumen is concerning because under some conditions it may become submerged below the water surface or sink to the bottom when spilled into water. Bakken crude is more volatile and flammable, and likely to seep into the groundwater more quickly than other types of crude oil. Therefore, an accident involving these oil types may create greater environmental, safety, health, and economic impacts than other types of crude oil. Additionally, multiple recent proposals for new oil facilities may impact how oil is transported throughout Washington State.

Timely notice of oil movement information is needed for emergency responders and planners to effectively prepare for and respond to oil spills and other accidents associated with the transport of crude oil by rail and pipeline. Providing adequate information will help to protect the lives of people living and working near railroads and pipelines, the economy, and environmental resources of Washington.

This rule creates reporting standards for facilities that receive crude oil by rail, and pipelines that transport crude oil in or through the state. Additionally, the rule identifies reporting standards for Ecology to share information with emergency responders, local governments, tribes, and the public.

Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(a)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are some differences between the proposed rule filed on April 6, 2016 and the adopted rule filed on August 24, 2016. Ecology made these changes for all or some of the following reasons:

- In response to comments we received.
- To ensure clarity and consistency.
- To meet the intent of the authorizing statute.

The following content describes the changes and Ecology's reasons for making them.

Chapter 173-185 WAC

OIL MOVEMENT BY RAIL AND PIPELINE NOTIFICATION

PART A

GENERAL REQUIREMENTS

NEW SECTION

WAC 173-185-010 Applicability. This chapter applies to owners and operators of:

(1) Facilities that receive crude oil by railroad car in the state; and

(2) Transmission pipelines that transport crude oil through the state.

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NEW SECTION

WAC 173-185-020 Purpose. The purpose of this chapter is to enhance oil transportation safety in Washington and protect public safety and the environment by establishing notification

requirements and procedures that inform emergency response agencies and the public of all crude oil shipments to facilities by rail and crude oil transport by ~~pipeline~~ transmission pipelines in the state. This chapter establishes:

Commented [BJ(1): Clarifying type of pipeline to include only those that move oil in transportation.

(1) Advance notice requirements for facilities that receive crude oil by railroad car.

(2) Biannual notice requirements for transmission pipelines that transport crude oil.

(3) Disclosure procedures for ecology to:

(a) Provide nonaggregated information collected under this chapter to the state emergency management division and any county, city, tribal, port, and local government emergency response agency to help these agencies effectively prepare for and respond to oil spills and other accidents.

(b) Provide aggregated information collected under this chapter to inform the public about the nature of crude oil movement through their communities.

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NEW SECTION

WAC 173-185-030 Compliance schedule. (1) Facilities.

(a) Owners and operators of facilities in operation at the time this chapter is adopted must meet the advance notice requirements in WAC 173-185-070 on the effective date of this chapter.

(b) Owners and operators of new facilities must meet the advance notice requirements in WAC 173-185-070 immediately upon beginning operations in the state.

(2) PipelineTransmission pipelines.

Commented [BJ(2)]: Clarifying type of pipeline to include only those that move oil in transportation.

(a) Owners and operators of pipeline~~transmission pipelines~~ in

Commented [BJ(3)]: Clarifying type of pipeline to include only those that move oil in transportation.

operation at the time this chapter is adopted must meet the biannual notice requirements in WAC 173-185-080 on the effective date of this chapter and submit their first biannual notice by January 31, 2017.

(b) Owners and operators of new pipeline~~transmission pipelines~~ must meet the biannual notice requirements in WAC 173-185-080 immediately upon beginning operations in the state.

Commented [BJ(4)]: Clarifying type of pipeline to include only those that move oil in transportation.

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NEW SECTION

WAC 173-185-040 Enforcement and penalties. Any violation of this chapter may be subject to enforcement and penalties under RCW 90.48.120, 90.48.140, and 90.48.144.

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Commented [BJ(5): This reference to RCW 90.48.120 is included to describe the authority Ecology uses to issue determinations of violation or potential to violate the provisions of this rule.

NEW SECTION

WAC 173-185-050 Definitions. (1) "**Bulk**" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(2) "**Crude oil**" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

(3) "**Ecology**" means the state of Washington department of ecology.

(4) (a) "**Facility**" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or

near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

(ii) Underground storage tank regulated by ecology or a local government under chapter 90.76 RCW;

(iii) Motor vehicle motor fuel outlet;

(iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or

(v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(5) "**Navigable waters of the state**" means those waters of the state, and their adjoining shorelines, that are subject to the ebb

and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(6) "**Oil** or **oils**" means oil of any kind that is liquid at twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302, adopted August 14, 1989, under Section 102(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.

(7) (a) "**Owner** or **operator**" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) **"Operator"** does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(8) **"Person"** means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, ship, or any other entity whatsoever.

(9) **"Ship"** means any boat, ship, vessel, barge, or other floating craft of any kind.

(10) **"Spill"** means an unauthorized discharge of oil which enters waters of the state.

(11) **"State"** means the state of Washington.

(12) **"Transmission pipeline"** means all parts of a pipeline whether interstate or intrastate, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. ~~"Transmission pipeline" means a pipeline whether interstate or intrastate, subject to regulation by the United States Department of Transportation under 49 C.F.R. 195, as amended~~

Commented [BJ(6): In response to public comment, Ecology revisited this definition.

There is no longer a definition in 49 CFR 195 for transmission pipeline. The old definition was important to distinguish between pipelines that move oil to a facility and pipelines owned by a facility that move oil within the facility. Ecology already has regulatory authority for pipelines within a facility.

The new definition language removes the reference to federal code because it is defunct and changes the language to reflect the fact that pipelines that *move oil in transportation* will be regulated by this rule. Pipelines within a facility do not move oil in transportation.

~~through December 5, 1991, through which oil moves in transportation, including line pipes, valves, and other appurtenances connected to line pipe, pumping units, and fabricated assemblies associated with pumping units.~~

(13) **"Waters of the state"** includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and land adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

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NEW SECTION

WAC 173-185-060 Severability. If any provision of this chapter is held invalid, the remainder of the chapter is not affected.

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PART B
FACILITIES

NEW SECTION

WAC 173-185-070 Advance notice—Facility requirements. (1)

Owners and operators of a facility that will receive crude oil from a railroad car must provide ecology with advance notice of all scheduled crude oil deliveries to be received by the facility as provided in this section. Notification may be made by the facility owner or operator's designee.

(2) The advance notice must contain the following information:

(a) Name, address, contact person, and telephone number of the facility;

(b) Region of origin of crude oil as stated, or as expected to be stated, on the bill of lading;

(c) Railroad route taken to the facility within the state, if known;

(d) Scheduled time, which means date, and volume of the scheduled delivery;

(e) Gravity, as measured by the most recently approved standards developed by the American Petroleum Institute or, if

unavailable at the time of reporting, expected gravity of crude oil scheduled to be delivered.

(3) (a) Advance notice must be provided to ecology each week for all arrivals of railroad cars carrying crude oil scheduled for the succeeding seven-day period.

(b) All newly scheduled arrivals of railroad cars carrying crude oil after the advance notice time frame under (a) of this subsection must be reported to ecology as soon as possible and before the shipment enters the state. If the shipment is already in the state, the scheduled arrival must be reported when the information is known to the facility.

(4) Notification must be submitted via internet web site established by ecology.

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PART C

PIPELINES

NEW SECTION

WAC 173-185-080 Biannual notice—Pipeline requirements. (1)

Owners and operators of a transmission pipeline that transports

crude oil in or through the state must provide ecology biannual notice of all crude oil ~~transports~~ transported by the ~~pipeline~~ transmission pipeline in or through the state.

Notification may be made by the transmission pipeline owner or operator's designee.

(2) The notice must contain the following information:

(a) Company name, address, contact person, and telephone number of the pipeline;

(b) Volume of crude oil by each listed state or province of origin of the crude oil.

(3) (a) Notification must be submitted to ecology each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(b) Notification must be submitted by e-mail to ecology.

[]

Commented [BJ7]: Addition of "in or" language to clarify that both crude oil that transits the state by transmission pipelines and crude oil that is delivered within the state by transmission pipeline are included in the biannual notice requirement.

Commented [BJ8]: Clarifying type of pipeline to include only those that move oil in transportation.

Commented [BJ9]: Addition of "in or" language to clarify that both crude oil that transits the state by transmission pipelines and crude oil that is delivered within the state by transmission pipeline are included in the biannual notice requirement.

PART D

DISCLOSURES AND NONDISCLOSURES

NEW SECTION

WAC 173-185-090 Disclosures—Emergency management division and county, city, tribal, port, and local government emergency response agencies. Ecology will share the advance notice information collected from facilities under this chapter with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request. Requests to access this information must be submitted to ecology by e-mail.

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NEW SECTION

WAC 173-185-100 Disclosures—The public. Ecology will disclose information collected under this chapter by publishing it on a quarterly basis on ecology's web site.

(1) Ecology will publish the following crude oil movement information:

(a) Mode of transport (i.e., railroad car or pipeline);

(b) Place of origin by region for facilities and by state or province for **transmission** pipelines;

Commented [BJ(10): Clarifying type of pipeline to include only those that move oil in transportation.

(c) Number and volume of reported spills during transport and delivery;

(d) Estimated number of railroad cars delivering crude oil; and

(e) Reported volume of crude oil received by facilities and crude oil transported by transmission pipelines in or through the state.

Commented [BJ(11): The scope of this rule is limited to transmission pipelines that transport *crude oil*.

Commented [BJ(12): Addition of “or through” language to clarify that both crude oil that transits the state by transmission pipelines and crude oil that is delivered within the state by transmission pipeline are included in the biannual notice requirement.

(2) With respect to information on oil movement to facilities provided by this section, ecology will aggregate information on a statewide basis by:

Commented [BJ(13): This clause is included to distinguish between information acquired through compliance with this rule and information acquired outside of the scope of the rule. If eligible for public disclosure, the information acquired outside of this rule may be reported in another format. For instance, volume and number of oil spills is not part of the notification requirement. Ecology acquires information about spills through other means and makes this information available to the public via story maps and through other media.

(a) Route, if known;

(b) Week; and

(c) Type of crude oil.

Commented [BJ(14): In response to public comments, Ecology revisited this language and decided to remove “if known” for the following reason:
The “if known” clause is not part of the public disclosure procedure described in RCW 90.56.565(3). The statute directs Ecology to report route information received from facilities. Ecology is not able to know route information unless it is reported to the agency by facilities as described in RCW 90.56.565(1)(a). Therefore, any route information reported to Ecology by facilities as “unknown” will be included in quarterly public disclosure reports as received by the agency. Ecology cannot infer route information and must rely on facilities to provide this information for publication as directed in RCW 90.56.565(3).

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NEW SECTION

WAC 173-185-110 Nondisclosure. Pursuant to RCW 42.56.270 (23) and 90.56.565 (5), ecology and any state, local, tribal, or public agency that receives information provided under this chapter may not disclose any such information to the public or to nongovernmental entities that contains proprietary, commercial, or

Commented [BJ(15): RCW 90.56.565(5) directs Ecology and emergency response agencies with access to information received pursuant to this rule to aggregate the information before releasing it to the public. RCW 42.56.270(23) amends the public disclosure act so that *unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565.*

Including references to both statutory requirements alerts the reader that the Public Records Act was amended to exempt specific information about crude oil movement from public disclosure and that statute directing Ecology to rulemake on this subject clearly describes the format Ecology must use when reporting information for public disclosure.

financial information unless that information is aggregated. The requirement for aggregating information does not apply when information is shared by ecology with emergency response agencies as provided in WAC 178-185-090.

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Response to Comments

Description of comments:

Ecology has summarized and edited some of the comments in this section for clarity. You can see the original content of the comments we received in Appendix A of this document.

Commenter identification:

The public comment period for this rule ran from April 6, 2016 to June 10, 2016. This section includes summarized comments received through June 12, 2016, however, to accommodate the increase in comments received by email on June 10, 2016. Ecology's response to each comment is included below each summary. Commenters can find the location of a response to his or her comment in the Commenter Index in the section immediate following this one. (RCW 34.05.325(6)(a)(iii))

1 Letters in support of Washington Environmental Council comments

Summary of Comments: "We urge the Department of Ecology to implement the strongest rules for Chapters 173-185 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

- a) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
- b) Incorporate language in the final rule that makes it clear that the agency will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- c) Centralize information for rail, pipeline, and vessel reporting systems so we can have a one-stop shop for public information. This includes the TYPE of oil as well as how much oil and how the oil is traveling.
- d) Continue to require facilities to report all oil shipments scheduled to arrive at their facility."

Response:

- a) We have incorporated your recommendation into the format for quarterly reports about oil movement. Each report provides accurate information about oil movement by rail and pipeline in a summarized format for each quarter as described in RCW 90.56.565(3). The reports summarize oil volumes for each type of crude by the week of delivery and the route segments used for shipping. This balanced approach provides the public with weekly sums of each type of crude oil for each route segment while also fulfilling the directive from the Legislature to aggregate proprietary, commercial, and financial information in RCW 90.56.565(5).

The quarterly reports will also contain information about:

- Mode of transport (railroad car or pipeline).
 - Place of origin by region for crude-by-rail deliveries to facilities or by state or province for deliveries of crude by pipeline.
 - Number and volume of reported spills during transport and delivery.
- b) Ecology and the facilities required to report oil movement details work closely in the Agency's goal to have zero spills. Many of the facilities subject to the oil movement notification requirements in RCW 90.56.565 have been reporting advance notice of transfer for oil delivered by vessel for several years with great success. The vessel system makes advance notice of transfer reporting as simple and accurate as possible. The system designed for crude-by-rail deliveries integrates with the vessel system and has the same goal. However, facilities only have access to accurate rail route information after delivery of a shipment. The bill of lading for a crude-by-rail shipment, which is available to facilities in advance of delivery, does not describe the rail route used for the shipment.

With inaccurate route information, facilities may be inclined to report a shipping route as "unknown" rather than reporting potentially inaccurate information about the route. RCW 90.56.565(1)(c) makes this option available to facilities. To improve the ability of facilities to make more accurate rail route selections for their crude-by-rail notifications, Ecology is offering assistance for route selection as part of the Advance Notice of Transfer System (ANT). A tool built into the reporting system allows facilities to select the likely route from a list of possible routes through the state using information on the bill of lading. It is important to note that there is currently no way to validate the route selections before delivery. However, Ecology is working closely with other state agencies and facilities to maintain and improve the precision of the route selection assistance tool as the understanding of rail transport of crude improves.

- c) The statutory language regarding quarterly reporting procedures for oil movement by rail and pipeline (RCW 90.56.565(3)) is very specific about how to disseminate information received from facilities and pipelines to the public. Ecology is obligated to follow the direction for quarterly reporting described in statute. Centralized information for all transport modes used for oil is a goal Ecology is working toward, but the differences in how Ecology is directed to disclose information for vessels, rail, and pipeline are not conducive to a completely integrated, centralized system. For the time being, links to each report or procedure will be available through the Department of Ecology Spills Program webpage, which can be found at:
<http://www.ecy.wa.gov/programs/spills/spills.html>.

The type of oil is not required by RCW 90.56.565(1)(a) to be included in the notification of oil movement by facilities or pipelines. Therefore, Ecology will not have access to the name of the type of crude. To this end, it would be irresponsible for Ecology to speculate or infer the name of the type of crude without a method to validate the information. However, API gravity is included in the notification requirement for facilities. API gravity conveys important information about properties of crude oil that in many instances is more useful than the name. Many people will be aware of controversial types of crude like Bakken and be able to draw conclusions about risk just from the name, but

perhaps not other types of crude like Cold Lake Crude, Utah Waxy or North Dakota Sour.

We understand that this method of reporting type of crude deviates from what the public expects – which is that the name of the type of crude will be included in quarterly reports. However, since name of the type of crude is not reported to Ecology as part of the notification requirements and the agency cannot require its inclusion in the notifications submitted by facilities or pipelines, it is not something that we will have access to nor have the ability to accurately or reliably infer.

With the information available to Ecology and with the goal of providing accurate and reliable information to the public and emergency response agencies, Ecology will be using standard API weight classifications (light, medium, heavy, and extra heavy) to communicate the type of crude. For instance, Bakken crude is a light crude fuel type because the API gravity is very high. Therefore, it is sorted into the “light” weight classification. The demarcation for each classification will follow American Petroleum Institute (API) guidelines. For pipelines, there will be no type information available because API gravity is not part of the notification requirements in RCW 90.56.565(2) for crude transported through the state in transmission pipelines.

Using the weight classification system to report type of crude is an accurate, informative, and reliable solution that leverages the information submitted to Ecology as part of the notification requirement to convey as much accurate information to emergency response agencies and the public as possible given the limitations of the notification requirement. A table of the name of crude oil types that fall into each weight class will be included along with the report to supplement the usefulness of the weight class type method.

Members of the public can subscribe to the Department of Ecology Spills Program listserv (<http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>) to receive email notification regarding a variety of spill related information including notification when the aggregated quarterly reports are available on the website.

- d) RCW 90.56.565 limits the scope of this rule to creating reporting requirements for facilities, in the state, that receive crude-by-rail deliveries and pipelines that transport crude oil through transmission pipelines in the state. The Advance Notice of Transfer System (ANT) is designed to make notification of oil transport as convenient as possible for facilities while also obligating them to comply with the notification requirements of RCW 90.56.565(1)(a). Ecology has a well-established relationship with facilities due to the existing Advance Notice of Transfer System (ANT) for vessels delivering oil over water. Ecology will continue to work closely with our industry partners to support the statewide goal of zero spills. This includes supporting facilities in their statutory requirement to notify Ecology with accurate information of every scheduled crude-by-rail delivery so that advance notice information is available to emergency response agencies protecting Washington’s communities and resources.

2 Randy Gray

Summary of Comments: I fail to see what good this reporting requirement will perform.

Response: Thank you for your comment. Until 2012, crude-by-rail was rare in Washington State. Since then, the volume of crude transported across the state by rail has increased to over 8 billion gallons a year. This poses a significant risk to both the environmental resources and people living, working, and recreating near rail corridors. The notification requirements allow the agencies protecting these resources and people to have the information they need evaluate the risks they must prepare for in the event of a spill or other incident associated with crude shipped by rail. With advance notice, communities can for the appropriate staff, protocols, equipment, and other resources necessary to respond to an incident efficiently and effectively so that potential impacts to communities, environmental resources, and the local and regional economies are reduced.

3 Kelli Linville, City of Bellingham

Summary of Comments:

- a) WAC 173-185-070 - The City is in support of the proposed rule and requests that Section (2)(d) include “number railroad cars delivering crude oil” to the list.
- b) WAC 173-185-090 – Please clarify that the email request to access the information need only be submitted once and further that Ecology will manage a clearinghouse and/or database of requestors.

Response: Thank you for your support. Ecology will include the estimated number of railroad cars delivering crude for each week as part of the aggregated quarterly reports. An estimate is necessary due to the limited information available to facilities regarding train shipments of crude for advance notice. To calculate the estimate, Ecology will divide the volume of crude in each shipment by the standard volume capacity of a railcar used to transport crude oil.

Ecology will maintain a database of all emergency response agencies requesting access to advance notice information. The requestors will create a Secure Access Washington (SAW) account that will allow access to advance notice information about crude-by-rail deliveries, as needed. Each response agency will only need to request access to SAW once. They will then be able to use their SAW login to access advance notice information as often as they need and will be able to review individual notice information very quickly after it is submitted by facilities receiving crude-by-rail shipments.

4 David Hunt

Summary of Comments:

- a) Communities of the state need accurate, complete information on the types and volumes of oil consistent with route segments.
- b) Facilities must carry the burden of reporting accurate route information. Don't keep "if known" in the language.
- c) Facilities must provide accurate information on all oil shipments.
- d) Notify the public when updates to the website occur.

Response: Please see Response 1.

5 George Keefe

Summary of Comments:

- a) Communities of the state need accurate, complete information on the types and volumes of oil consistent with route segments.
- b) Facilities must carry the burden of reporting accurate route information.
- c) Facilities must provide accurate information on all oil shipments.

Response: Please see Response 1.

6 James White

Summary of Comments: I believe oil and coal companies should be required to help pay for upgrading all ties, tracks, rails, brakes, wheel carriage, trestle plus all the supports holding up the rails through all towns, gullies, rivers, etc., all along the tracks. Plus either overpasses or underpasses must be built where the train tracks pass over roads.

Response: Infrastructure owned by railroads, and its maintenance, is the responsibility of rail operators. The responsibility of railroad safety regulation lies with the federal government through the Federal Railroad Administration (FRA). The state of Washington has very limited authority to regulate in the area of rail safety. The Utilities and Transportation Commission (UTC) is the state agency charged with working in partnership with the FRA on rail safety issues in Washington.

7 Sabrina Ellis

Summary of Comments: What provisions are being made to move the tracks inland to avoid or lessen these problems?

Response: Infrastructure owned by railroads, and its maintenance, is the responsibility of rail operators. The responsibility of railroad safety regulation lies with the federal government through the Federal Railroad Administration (FRA). The state of Washington has very limited authority to regulate in the area of rail safety. The Utilities and Transportation Commission (UTC) is the state agency charged with working in partnership with the FRA on rail safety issues in Washington State.

8 Anita Thomas

Summary of Comments: Please draft the most thorough and comprehensive rules possible under the new law governing safety and notification requirement.

Further, formulate the rules so that all fire marshals and other emergency first responders and city officials along the entire route of oil train travel through Washington State are given timely notice of oil train schedules.

Response: Chapter 173-185 – Oil Movement by Rail and Pipeline Notification is an important rule for the protection of Washington’s people and environment. Ecology has exercised its regulatory authority to draft a notification rule that provides comprehensive information about oil movement in Washington through aggregated quarterly reports and makes crude-by-rail movement information available to emergency response agencies in advance of shipments entering the state. This is a valuable tool for communities looking for information to help with the assessment of risks that specifically threaten their health, safety, and welfare and the quality of the state’s environmental resources.

RCW 90.56.565(2) directs Ecology to create an advance notice system for use by emergency response agencies associated with tribes and each level of government in Washington State. Access to this system is available through a secure login for employees of government and tribal emergency response agencies. These entities can review advance notice information for the entire state in addition to information specific to the county or regions served by their emergency response agency.

However, this rule is only one piece of a much larger regulatory framework that the Legislature has directed Ecology, in collaboration with other state agencies, to build. In addition to this notification rule, rules for contingency planning requirements for oil spills, pipelines and railroads that transport oil, and oil spill natural resource damage assessments each help to support Ecology’s mission to protect, preserve and enhance Washington’s environment for current and future generations. Ecology is also developing an equipment grant program to assist communities in building response capacity at the local, regional, and state levels. The Utilities and Transportation Commission recently completed rulemaking on aspects of railroad safety, which stemmed from the Oil Transportation Safety Act of 2015, which also directed Ecology to develop this rule for oil movement notification.

9 Trans Mountain Pipeline

Summary of Comments: The Annual Report for Hazardous Liquid Pipeline Systems and the Form 6 Annual Report of Oil Pipeline Companies are made available to the public and include volume information. As such information is available to the public, Puget would appreciate Consideration of being given to accessing such information in lieu of a bi-annual report.

Response: The biannual reporting requirement for pipelines is codified in RCW 90.56.565(1)(b). Ecology is obligated to comply with the directives of the Legislature to implement the law as written. The statute requires pipelines to submit two pieces of information about crude oil movement through transmission pipelines in Washington – 1. the volume and 2. the state or province of origin. Further, it must be done at least twice a year (by January 31 to submit information about oil movement for the last six months of the previous reporting year and by July 31 for the first six months of the current reporting year). Pipelines owners and operators are not barred from submitting information more frequently as long as complete information about oil movement for each six-month period is submitted to Ecology by the biannual reporting dates.

10 American Environmental Services, LLC

Summary of Comments:

- a) 173-185-020(3)(a) Insert one word as shown: “Provide here-to-fore nonaggregated (...).”
- b) 2. 173-185-050(4)(a) Delete the phrase as shown: “(...) other than a vessel, located on or near the navigable water of the state that transfers (...).” “Emergency response agencies will have access to individual notice information submitted to Ecology through the advance notice system by facilities receiving crude-by-rail shipments. The information will only be aggregated into a statewide database for the purpose of quarterly reporting as described in RCW 90.56.565(3).”

Response: Thank you for your comments. Adding the phrase “here-to-fore” is unnecessary. Emergency response agencies have access to individual notice information, which is the unaggregated form. The definition of “Facility” used in this rule is found in RCW 90.56.010(12). Ecology cannot intentionally create inconsistencies between the statute and the rule language that expand the regulatory authority of the agency beyond what the law allows. A change in a definition codified into statute must be done at the legislative level.

11 Surfrider Foundation

Summary of Comments: Requiring any concerned county, city, tribal, port or local government to get this information from the agency upon request creates an unreasonable burden on local government and the potential for a bottleneck in the flow of information.

Response: Emergency response agencies described in RCW 90.56.565(2) will only need to request access to the Advance Notice System once. This will take the form of requesting a Secure Access Washington (SAW) login, which will allow these agencies to access the information as needed. Ecology designed the Advance Notice System so that emergency response agencies can access individual notice information submitted by facilities receiving crude-by-rail deliveries to Ecology as soon as it is uploaded into the Advance Notice System.

12 Washington State Medical Association

Summary of Comments: We recommend that the rules guiding the transportation of oil through our state should work to prevent or seriously minimize potential deleterious health effects, which have been well documented. These include impacts on water quality, air quality, and public safety in the event of a catastrophe.

Response: Chapter 173-185 – Oil Movement by Rail and Pipeline Notification is an important rule for the protection of Washington’s people and environment. Ecology has exercised its regulatory authority to draft a notification rule that provides comprehensive information about oil movement in Washington as part of aggregated quarterly reporting and makes crude-by-rail movement information available to emergency response agencies in advance of shipments entering the state. This is a valuable tool for communities looking for information to help with the assessment of risks that specifically

threaten their health, safety, and welfare and the quality of the state's environmental resources.

RCW 90.56.565(2) directs Ecology to create an advance notice system for use by emergency response agencies associated with tribes and each level of government in Washington State. Access to this system is available through a secure login for employees of government and tribal emergency response agencies. These entities can review advance notice information for the entire state in addition to information specific to the county or regions served by their emergency response agency.

However, this rule is only one piece of a much larger regulatory framework that the Legislature has directed Ecology, in collaboration with other state agencies, to build. In addition to this notification rule, rules for contingency planning requirements for oil spills, pipelines and railroads that transport oil, and oil spill natural resource damage assessments each help to support Ecology's mission to protect, preserve and enhance Washington's environment for current and future generations. Ecology is also developing an equipment grant program to assist communities in building response capacity at the local, regional, and state levels. The Utilities and Transportation Commission recently completed rulemaking on aspects of railroad safety, which stemmed from the Oil Transportation Safety Act of 2015, which also directed Ecology to develop this rule for oil movement notification.

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- 13** Washington Environmental Council, FRIENDS of the San Juans, Friends of the Earth, Earth Ministry/Washington Interfaith Power & Light, Protect Skagit, The Lands Council, Tahoma Audubon Society, Puget Soundkeeper Alliance, Audubon Washington, RE Sources for Sustainable Communities, Oregon Physicians for Social Responsibility, Grays Harbor Audubon Society, STAND earth, Washington Chapter of Physicians for Social Responsibility, Spokane Riverkeeper, Friends of Grays Harbor, Citizens for a Clean Harbor, 350 Seattle, Sierra Club, Futurewise, Friends of the Columbia Gorge

Summary of Comments:

- a) The aggregated information must strike the right balance by providing sufficient information and protecting proprietary information. Provide a sample of how statewide aggregation will use route segments to communicate detailed information.
- b) Facilities should report accurate route information and provide evidence when they do not know the route. The flexibility allowed with the "if known" language should only be used for very unusual or select circumstances where reporting the route would be unreasonably burdensome.
- c) Facilities should provide notice for all scheduled crude oil deliveries.
- d) Make information about all oil movement in Washington (vessels, rail, and pipeline) easy for the public to find and use. Don't create silos of information that might make the understanding transportation patterns more difficult.
- e) Include type of oil in the public disclosure.
- f) Notify the public when updates to the website are made.

Response:

- a) We have incorporated your recommendation into the format for aggregated quarterly reports. Each report provides accurate information about oil movement by rail and pipeline in a summarized format for each quarter as described in RCW 90.56.565(3). The reports summarize oil volumes for each type of crude by the week of delivery and the route segments used for shipping. This balanced approach provides the public with weekly sums of each type of crude oil for each route segment while also fulfilling the directive from the Legislature to aggregate proprietary, commercial, and financial information in RCW 90.56.565(5).

Ecology will also include others details about each weekly summary:

- Mode of transport (railroad car or pipeline).
- Place of origin by region for crude-by-rail deliveries to facilities or by state or province for deliveries of crude by pipeline.
- Number and volume of reported spills during transport and delivery.

- b) Ecology and the facilities required to report oil movement details work closely in the Agency's goal to have zero spills. Many of the facilities subject to the oil movement notification requirements have been reporting advance notice of transfer for oil delivered by vessel for several years with great success. The vessel system makes advance notice of transfer reporting as simple and accurate as possible. The system designed for crude-by-rail deliveries integrates with the vessel system and has the same goal. However, facilities only have access to accurate rail route information after delivery of a shipment. The bill of lading for a crude-by-rail shipment, which is available to facilities in advance of delivery, does not describe the rail route.

With inaccurate route information, facilities may be inclined to report a shipping route as "unknown" rather than reporting potentially inaccurate information about the route. RCW 90.56.565(1)(c) makes this option available to facilities. To improve the ability of facilities to make more accurate rail route selections for their crude-by-rail notifications, Ecology is offering assistance for route selection as part of the Advance Notice of Transfer System (ANT). A tool built into the reporting system allows facilities to select the likely route from a list of possible routes through the state using information on the bill of lading. It is important to note that there is currently no way to validate the route selections before delivery. However, Ecology is working closely with other state agencies and facilities to maintain and improve the precision of the route selection assistance tool as the understanding of rail transport of crude improves.

- c) RCW 90.56.565 limits the scope of this rule to creating reporting requirements for facilities, in the state, that receive crude-by-rail deliveries and pipelines that transport crude oil through transmission pipelines in the state. The Advance Notice of Transfer System (ANT) is designed to make notification of oil transport as convenient as possible for facilities while also obligating them to comply with the notification requirements of RCW 90.56.565(1)(a). Ecology has a well-established relationship with facilities due to the existing Advance Notice of Transfer System (ANT) for vessels delivering oil over water. Ecology will continue to work closely with our industry partners to support the statewide goal of zero spills. This includes supporting facilities in their statutory

requirement to notify Ecology with accurate information of every scheduled crude-by-rail delivery so that advance notice information is available to emergency response agencies protecting Washington's communities and resources.

- d) The statutory language regarding quarterly reporting procedures for oil movement by rail and pipeline (RCW 90.56.565(3)) is very specific about how to disseminate information received from facilities and pipelines to the public. Ecology is obligated to follow the direction for quarterly reporting described in statute. Centralized information for all transport modes used for oil is a goal Ecology is working toward, but the differences in how Ecology is directed to disclose information for vessels, rail, and pipeline are not conducive to a completely integrated, centralized system. For the time being, links to each aggregated quarterly report or procedure will be available through the Department of Ecology Spills Program webpage, which can be found at: <http://www.ecy.wa.gov/programs/spills/spills.html>.
- e) The type of oil is not required by RCW 90.56.565(1)(a) to be included in the notification of oil movement by facilities or pipelines. Therefore, Ecology will not have access to the name of the type of crude. To this end, it would be irresponsible for Ecology to speculate or infer the name of the type of crude without a method to validate the information. However, API gravity is included in the notification requirement for facilities. API gravity conveys important information about properties of crude oil that in many instances is more useful than the name. Many people will be aware of controversial types of crude like Bakken and be able to draw conclusions about risk just from the name, but perhaps not other types of crude like Cold Lake Crude, Utah Waxy or North Dakota Sour.

We understand that this method of reporting type of crude deviates from what the public expects - which is that the name of the type of crude will be included in aggregated quarterly reports. However, since name of the type of crude is not reported to Ecology as part of the notification requirements and the agency cannot require its inclusion in the notifications submitted by facilities or pipelines, it is not something that we will have access to nor have the ability to accurately or reliably infer.

With the information available to Ecology and with the goal of providing accurate and reliable information to the public and emergency response agencies, Ecology will be using standard API weight classifications (light, medium, heavy, and extra heavy) to communicate the type of crude. This consists of weight classifications for light, medium, heavy, and extra heavy. For instance, Bakken crude is a light crude fuel type because the API gravity is very high. Therefore, it will be sorted into the "light" weight classification. The demarcation for each classification will follow American Petroleum Institute (API) guidelines. For pipelines, there will be no type information available because API gravity is not part of the notification requirements in RCW 90.56.565(2) for crude transported through the state in transmission pipelines.

Using the weight classification system to report type of crude is an accurate, informative, and reliable solution that leverages the information submitted to Ecology as part of the notification requirement to convey as much accurate information to emergency response agencies and the public as possible given the limitations of the notification requirement.

A table of the name of crude oil types that fall into each weight class will be included along with the report to supplement the usefulness of the weight class type method.

- f) Members of the public can subscribe to the Department of Ecology Spills Program listserv (<http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>) to receive email notification regarding a variety of spill related information including notification when the aggregated quarterly reports are available on the website.

14 Candace Mumm

Summary of Comments: I support the two rule changes. I believe they are reasonable to protect communities, like Spokane, that would bear the cost and risk.

Response: Chapter 173-185 – Oil Movement by Rail and Pipeline Notification is an important rule for the protection of Washington’s people and environment. Ecology has exercised its regulatory authority to draft a notification rule that provides comprehensive information about oil movement in Washington as part of aggregated quarterly reporting and makes crude-by-rail movement information available to emergency response agencies in advance of shipments entering the state. This is a valuable tool for communities looking for information to help with the assessment of risks that specifically threaten their health, safety, and welfare and the quality of the state’s environmental resources.

RCW 90.56.565(2) directs Ecology to create an advance notice system for use by emergency response agencies associated with tribes and each level of government in Washington State. Access to this system is available through a secure login for employees of government and tribal emergency response agencies. These entities can review advance notice information for the entire state in addition to information specific to the county or regions served by their emergency response agency.

However, this rule is only one piece of a much larger regulatory framework that the Legislature has directed Ecology, in collaboration with other state agencies, to build. In addition to this notification rule, rules for contingency planning requirements for oil spills, pipelines and railroads that transport oil, and oil spill natural resource damage assessments each help to support Ecology’s mission to protect, preserve and enhance Washington’s environment for current and future generations. Ecology is also developing an equipment grant program to assist communities in building response capacity at the local, regional, and state levels. The Utilities and Transportation Commission recently completed rulemaking on aspects of railroad safety, which stemmed from the Oil Transportation Safety Act of 2015, which also directed Ecology to develop this rule for oil movement notification.

15 Citizens for a Healthy Bay

Summary of Comments:

- a) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.

- b) Incorporate language in the final rule (WAC 173-185-100) that makes it clear that Ecology will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- c) Centralize information for rail, pipeline and vessel reporting systems so we can easily access public information. This includes the type of oil as well as the amount and mode of transportation.
- d) Continue to require facilities to report all oil shipments scheduled to arrive at their facility to improve transparency and clarity.

Response: Thank you for your comments. Please see Response 1.

16 King County Emergency Management

Summary of Comments:

- a) We strongly support the proposed notification provisions. However, the proposed rules don't require disclosure of the actual volumes of oil being transferred – especially for transfer by rail.
- b) Notification protocols should be developed for transport of any quantity of oil.

Response: RCW 90.56.565(1) requires facilities and pipelines to report volumes as part of the notification requirement when crude oil ships in bulk in any amount through the state. Information about individual notice volumes is available to emergency response agencies through their access to the Advance Notice System. Weekly volume totals for each type of crude moving along rail route segments in the state is available to the general public in the aggregated quarterly reports as described in Chapter 173-185-100(1)(e) WAC. Further, Ecology has clarified the requirements for changes in the crude-by-rail delivery schedule to include notification of all scheduled shipments of crude to facilities in Washington before they enter the state or as soon as possible after a facility is notified of the shipment in Chapter 173-185-070(3) WAC. Ecology does not have any authority to regulate for notification requirements for facilities outside of Washington.

17 FRIENDS of the San Juans

Summary of Comments: FRIENDS asks Ecology to ensure that Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification:

- a) Requires accurate reporting to the public on the name and type of crude oil transported, and requires facilities to include this information in their reports to Ecology.
- b) Requires advance notification of all crude oil transported with no minimum volume reporting thresholds.
- c) Requires advance notice of the location of any idled rail cars (rail cars used for storage).

- d) Provides advance notice for stadiums, casinos, and other venues where large crowds gather. Facility managers (who are the first responder for their facilities) need to know when transport will occur or idled rail car storage will take place near their facility so they can be adequately prepared for evacuation and emergency response.
- e) Centralizes information for rail, pipeline, and vessel reporting systems to provide a one-stop-shop for public information. This would include the type and volume of oil as well as how the oil is traveling.
- f) Includes the most current definition of "Transmission pipeline" per the United States Department of Transportation.

Response: Please see Response 13 for information about comments a, b, d, and e.

Facilities do not have access to details about rail routes or what happens to rail cars while they are en route. Even if they did, RCW 90.56.565(1) does not require facilities to notify Ecology about idled rail cars. This information is sometimes available to facilities after delivery by way of a manifest, but manifest documents are not guaranteed and may be considered proprietary and therefore unavailable to Ecology or for public review. For the purpose of advance notice for emergency response agencies, this is not timely or useful for preparedness or response. While en route, crude-by-rail shipments are the responsibility of rail operators and subject to federal, not state, regulation in the areas of both safety and commerce. Ecology has used the authority and the parameters set by the Legislature to implement RCW 90.56.565 to the fullest extent possible.

Ecology updated the definition of "transmission pipeline" in the final language of the rule. Thank you for your comment and suggestion.

18 Alys Kennedy

Summary of Comments: Mitigation is too late. Oil trains should not be allowed in Washington.

Response: Please see Responses 1 and 8 for information about this rule.

A ban on train oil movement in Washington would be a direct way to limit the risk of oil spills in the state, but the authority to regulate what trains carry, the routes they take, and the area of rail safety lies with the federal government. The Federal Railroad Administration, the Department of Homeland Security, and the National Transportation Safety Board each have authority over aspects of rail safety. Washington State has limited authority to regulate in the area of rail safety and no authority to ban rail traffic. The State's limited authority in the area of rail safety is routed through the Utilities and Transportation Commission (UTC). The UTC is involved in the Federal Railroad Administration's State Rail Safety Participation Program in addition to having a rail safety program of its own. For more information about the federal and state regulatory roles over railroads, see pages 84-90 or Appendix A of The Marine and Rail Oil Transportation Study, which can be found at:
<http://www.ecy.wa.gov/programs/spills/oilmovement/2014MRstudy.html>.

19 Kiwibob Glanzman

Summary of Comments: It's time to ban rail transportation of crude oil for public safety. "Regulating" such transportation will always lead to disaster after disaster and "crying over spilled milk" only to have it happen again!

Response: Please see Response 18. Thank you for your comments.

20 Stephen Hellriegel

Summary of Comments: I strongly suggest that legislation be passed which requires safe railbed.

Response: Infrastructure owned by railroads, and its maintenance, is the responsibility of rail operators. The responsibility of railroad safety regulation lies with the federal government through the Federal Railroad Administration (FRA). The state of Washington has very limited authority to regulate in the area of rail safety. The Utilities and Transportation Commission (UTC) is the state agency charged with working in partnership with the FRA on rail safety issues in Washington State.

21	Senator Kevin Ranker	Representative Strom Peterson
	Senator Reuven Carlyle	Representative Christine Kilduff
	Senator Annette Cleveland	Representative Patty Kuderer
	Senator Karen Fraser	Representative Kristine Lytton
	Senator Cyrus Habib	Representative Gerry Pollet
	Senator Pramila Jayapal	Representative Jim Moeller
	Senator Karen Keiser	Representative Gael Tarleton
	Senator Marko Liias	Representative June Robinson
	Senator John McCoy	Representative Cindy Ryu
	Senator Sharon K. Nelson	Representative Tana Senn
	Senator Jamie Pedersen	Representative Derek Stanford
	Representative Sherry Appleton	Representative Brady Walkinshaw
	Representative Joe Fitzgibbon	Senator Jeannie Darneille
	Representative Noel Frame	Senator Bob Hasegawa
	Representative Mia Gregerson	

Summary of Comments:

- a) The draft rule strikes the right balance of ""aggregated"" information that will not disclose proprietary information while at the same time providing an important statewide picture of the frequency, routes, and types of crude oil being shipped by rail.
- b) The final rule should provide that it is assumed that reporting facilities have knowledge of the route of a shipment and any claim to the contrary for a specific shipment must be clearly demonstrated by the reporting facility.
- c) It is very important that the public have reliable information about the type of oil being shipped through their communities.

- d) The final rule should reflect a more concerted effort by the agency to centralize this information for easy access, using the model of its advance notification system used for vessel oil cargo transfers.
- e) The final rule should specify how the public will be notified of website updates and identify significant differences in statewide shipments from prior quarters.

Response:

- a) We have incorporated your recommendation into the format for aggregated quarterly reports. Each report provides accurate information about oil movement by rail and pipeline in a summarized format for each quarter as described in RCW 90.56.565(3). The reports summarize oil volumes for each type of crude by the week of delivery and the route segments used for shipping. This balanced approach provides the public with weekly sums of each type of crude oil for each route segment while also fulfilling the directive from the Legislature to aggregate proprietary, commercial, and financial information in RCW 90.56.565(5).

The aggregated quarterly reports will also contain information about:

- Mode of transport (railroad car or pipeline).
 - Place of origin by region for crude-by-rail deliveries to facilities or by state or province for deliveries of crude by pipeline.
 - Number and volume of reported spills during transport and delivery.
- b) Ecology and the facilities required to report oil movement details work closely in the Agency's goal to have zero spills. Many of the facilities subject to the oil movement notification requirements in RCW 90.56.565 have been reporting advance notice of transfer for oil delivered by vessel for several years with great success. The vessel system makes advance notice of transfer reporting as simple and accurate as possible. The system designed for crude-by-rail deliveries integrates with the vessel system and has the same goal. However, facilities only have access to accurate rail route information after delivery of a shipment. The bill of lading for a crude-by-rail shipment, which is available to facilities in advance of delivery, does not describe the rail route used for the shipment.

With inaccurate route information, facilities may be inclined to report a shipping route as "unknown" rather than reporting potentially inaccurate information about the route. RCW 90.56.565(1)(c) makes this option available to facilities. To improve the ability of facilities to make more accurate rail route selections for their crude-by-rail notifications, Ecology is offering assistance for route selection as part of the Advance Notice of Transfer System (ANT). A tool built into the reporting system allows facilities to select the likely route from a list of possible routes through the state using information on the bill of lading. It is important to note that there is currently no way to validate the route selections before delivery. However, Ecology is working closely with other state agencies and facilities to maintain and improve the precision of the route selection assistance tool as the understanding of rail transport of crude improves.

- c) The type of oil is not required by RCW 90.56.565(1)(a) to be included in the notification of oil movement by facilities or pipelines. Therefore, Ecology will not have access to the name of the type of crude. To this end, it would be irresponsible for Ecology to speculate

or infer the name of the type of crude without a method to validate the information. However, API gravity is included in the notification requirement for facilities. API gravity conveys important information about properties of crude oil that in many instances is more useful than the name. Many people will be aware of controversial types of crude like Bakken and be able to draw conclusions about risk just from the name, but perhaps not other types of crude like Cold Lake Crude, Utah Waxy or North Dakota Sour.

We understand that this method of reporting type of crude deviates from what the public expects – which is that the name of the type of crude will be included in aggregated quarterly reports. However, since name of the type of crude is not reported to Ecology as part of the notification requirements and the agency cannot require its inclusion in the notifications submitted by facilities or pipelines, it is not something that we will have access to nor have the ability to accurately or reliably infer.

With the information available to Ecology and with the goal of providing accurate and reliable information to the public and emergency response agencies, Ecology will be using standard API weight classifications (light, medium, heavy, and extra heavy) to communicate the type of crude. For instance, Bakken crude is a light crude fuel type because the API gravity is very high. Therefore, it is sorted into the “light” weight classification. The demarcation for each classification will follow American Petroleum Institute (API) guidelines. For pipelines, there will be no type information available because API gravity is not part of the notification requirements in RCW 90.56.565(2) for crude transported through the state in transmission pipelines.

Using the weight classification system to report type of crude is an accurate, informative, and reliable solution that leverages the information submitted to Ecology as part of the notification requirement to convey as much accurate information to emergency response agencies and the public as possible given the limitations of the notification requirement. A table of the name of crude oil types that fall into each weight class will be included along with the report to supplement the usefulness of the weight class type method.

- d) The statutory language regarding aggregated quarterly reporting procedures for oil movement by rail and pipeline (RCW 90.56.565(3)) is very specific about how to disseminate information received from facilities and pipelines to the public. Ecology is obligated to follow this direction for quarterly reporting described in statute by the Legislature. Centralized information for all transport modes used for oil is a goal Ecology is working toward, but the differences in how Ecology is directed to disclose information for vessels, rail, and pipeline are not conducive to a completely integrated, centralized system. For the time being, links to each public report or procedure will be available through the Department of Ecology Spills Program webpage, which can be found at: <http://www.ecy.wa.gov/programs/spills/spills.html>.
 - e) Members of the public can subscribe to the Department of Ecology Spills Program listserv (<http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>) to receive email notification regarding a variety of spill related information including notification when the aggregated quarterly reports are available on the website.
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22 Christine Dickinsen

Summary of Comments: We also deserve to know when, how much and where crude oil is being shipped along the rails so our first responders may be prepared. Again, please put people's safety first, not just profit. The derailment on recently inspected tracks of a newly improved oil tankers at Moiser, Oregon should be a HUGE wake up call. We simply are not doing enough.

Response: Please see Responses 1 and 8.

23 Jean Avery

Summary of Comments: Make the rules as stringent as possible - for safety of the public and the environment.

Response: Please see Responses 1 and 8.

24 Rebecca Craven, Pipeline Safety Trust

Summary of Comments:

- a) Please include the name of the blend used for diluted bitumen and details about type of rail car (i.e. legacy DOT 111a).
- b) Regarding aggregation, please include as much detail as possible to assist communities in assessing their risk and how it changes over time.

Response: Please see Responses 1a and 13.

Diluted bitumen is included in the method Ecology will use to determine type for crude-by-rail shipments. Ecology will use the region of origin and API gravity to determine if a shipment is likely to be diluted bitumen. The addition of diluents to bitumen raises the API gravity, but the change does not necessarily correspond to a change in the properties of the crude. Since the name of the type of crude is not included in the statutory requirement for notification in RCW 90.56.565(1), we will not be able to report the name. Please see Response 13 for a description of how Ecology will be reporting crude oil type, including diluted bitumen.

Information about rail cars is not currently part of the regulatory requirements placed on facilities and pipelines with regard to crude oil movement for notification to Ecology.

25 Emily Krieger

Summary of Comments:

- a) Communities of the state need accurate, complete information on the types and volumes of oil consistent with route segments.
- b) Facilities must carry the burden of reporting accurate route information. Don't keep "if known" in the language.

- c) Facilities must provide accurate information on all oil shipments.
- d) Notify the public when updates to the website occur.

Response: Please see Response 1.

26 Laura Skelton, Washington Physicians for Social Responsibility

Summary of Comments:

- a) We strongly support “worst case spill scenario” planning.
- b) The final rule should require appropriate protective equipment, including respirators, for oil spill responders. Protecting those who will be on the front lines of such an emergency should be a top priority.
- c) The final rule should establish stronger penalties for non-compliance with the rule, sufficient to ensure that owners, operators and all parties will be held fully accountable for prevention, and for all consequences of accidents which may occur.
- d) Any time there is a significant change in the plans, the public should be provided sufficient notice and an opportunity to review and comment.

Response: Please see Responses 1 and 8.

Comments a, b, and d are beyond the scope of this rule. Please see the CES document for Chapter 173-186 WAC - Contingency Plan - Railroad.

Penalties for willfully violating any of the provisions of this rule are set by the Legislature and described in RCW 90.48.140 and RCW 90.48.144.

27 James Griener

Summary of Comments: NO OIL TRAINS along the Columbia River. NO OIL TRAINS through Washington State. Stop this insanity! NOW!

Response: Please see Response 18.

28 Ed

Summary of Comments: We should have a moratorium on all rail shipments so that no further disasters will occur. There have been many other oil spills in this country in the last decade or so and in other countries as well, so adding more shipments and a terminal would be unsafe and an unacceptable solution.

Response: Please see Response 18.

29 Kirsten Angell

Summary of Comments: The Notice Requirements for facilities that receive bulk deliveries of crude oil by rail or pipelines that transport crude oil would help affected communities ensure a rapid, coordinated response in the event of an oil spill.

Response: Please see Response 8.

30 Robert Mitchell

Summary of Comments: We suggest NO oil cars, no pipelines, no barges with fossil fuels-coal, oil, gas-nothing be transported on or near the Salish Sea. Emergency spill response plans need to be iron-clad & those who break them made immediately financially accountable. All trains must have GPS transponders reporting their whereabouts every 10 minutes to a fully funded in 2016 state emergency response center where the actual volume of oil is reported daily.

Response: Please see Responses 6, 8, 18, and 36.

31 Anne Coxon

Summary of Comments: We need more information and transparency for oil transport notification.

Response: Please see Responses 1 and 8.

32 Pauline Druffel

Summary of Comments:

- a) Quarterly updates are not frequent enough. Can we get them sooner?
- b) Make the aggregated information easy to use and understand.
- c) Notify the public when updates to the website occur.

Response: Please see Response 1 for more detail about the rule.

- a) Aggregated quarterly reports are the format the Legislature has directed Ecology to use for information related to crude oil movement through Washington by rail and pipeline. Ecology is obligated to fulfill this directive and has no authority to deviate from it.
- b) To implement the quarterly report requirement while meeting the directive from the Legislature to aggregate proprietary, commercial, and financial information provided to Ecology by facilities and pipelines, Ecology will use route segments to communicate with the general public where in Washington crude oil is moving, when, how much, and how frequently. This data must be aggregated on a statewide basis by week of shipment delivery, route through the state, and type of crude, but Ecology is sensitive to the need and expectation for transparency. In that regard, Ecology will include detailed

information about volumes – to the extent allowable by law – in the aggregated quarterly reports.

The volume of each type of crude will be tallied into a weekly sum and reported quarterly for each route segment through the state. This method of reporting details about types and volumes of crude shipments balances the need to provide details about oil movement types and volumes with the Legislature’s directive to protect sensitive information provided to Ecology by facilities and pipelines.

- c) Members of the public can subscribe to the Department of Ecology Spills Program listserv (<http://listserv.wa.gov/cgi-bin/wa?A0=SPILLS-PROGRAM>) to receive email notification regarding a variety of spill related information including notification when the aggregated quarterly reports are made available on the website.

33 Bart Haggin

Summary of Comments:

- a) What does Ecology know and what does Ecology have authority to regulate?
- b) Why is oil being shipped West?
- c) What happens to the refined products?
- d) What is Ecology's role in rail safety and what are Ecology's responsibilities?

Response: In the Transportation Safety Act of 2015, the Legislature limited the scope of this rule to creating notification requirements for facilities receiving crude-by-rail and to pipelines transporting crude oil through transmission pipelines in the state (RCW 90.56.565). This law is informed by the Marine and Rail Oil Transportation Study developed by Ecology in collaboration with other state agencies in 2014, which examines, in detail, oil transportation safety in Washington. It can be found at: <http://www.ecy.wa.gov/programs/spills/oilmovement/2014MRstudy.html>.

The study describes the authority of the state to regulate in the areas of rail safety and commerce in addition to describing what we know about the changing picture of oil movement in Washington. As the environmental trustee for the state, Ecology does not have any authority to regulate in the areas of railroad safety or commerce. At the state level, rail safety falls under the jurisdiction of the Utilities and Transportation Commission (UTC). However, regulation for rail safety is ultimately the responsibility of the federal government, which limits the authority of the state to regulate in the area of rail safety.

The UTC is involved in the Federal Railroad Administration’s State Rail Safety Participation Program in addition to having a rail safety program of its own. For more information about the federal and state regulatory roles over railroads, see pages 84-90 or Appendix A of The Marine and Rail Oil Transportation Study.

34 Lovel Pratt

Summary of Comments:

- a) Facilities and pipelines should include the type of crude for inclusion in public disclosure and advance notice by Ecology.
- b) Updates should be made to the notifications submitted by facilities when there are changes to information after the reports are given.
- c) All shipments of crude by rail should be part of notification by facilities.
- d) The aggregated reports need to include detailed information and be in an easy to understand format for use by the public.

Response: Thank you for your comments. Please see Responses 1, 16, and 17.

35 Barnaby Dow, King County Emergency Services

Summary of Comments: Please provide more transparency about the details of crude-by-rail shipments through Washington.

Response: Please see Responses 1 and 16.

36 Dean Smith

Summary of Comments:

- a) There is questionable rail infrastructure safety in the passes. This needs to be investigated.
- b) Put transponders on trains and vessels to report GPS to an emergency notification system.
- c) Slide danger influences passenger schedule, can we do this for crude and coal trains?
- d) Place moratoriums on rail travel/transport after significant rainfall to improve safety.

Response: Please see Responses 1, 6, and 18.

The use of transponders to track train movement falls under the jurisdiction of the federal government. At the state level, RCW 90.56.565 limits the scope of this rule to create notification requirements for facilities that receive crude by rail and pipelines that move crude through transmission pipelines of the state.

37 David Perk

Summary of Comments:

- a) Aggregated information should be easy to use and understand by the public.
- b) The reports should include the number of idled cars.

- c) Venues that host large crowds should have direct access to advance notice information.
- d) Trains should use transponders and that information should be used to update a website periodically for public use.

Response: Please see Responses 1, 13, and 17.

The use of transponders to track train movement falls under the jurisdiction of the federal government. At the state level, RCW 90.56.565 limits the scope of this rule to create notification requirements for facilities that receive crude by rail and pipelines that move crude through transmission pipelines of the state.

38 Rein Atteman

Summary of Comments:

- a) Communities of the state need accurate, complete information on the types and volumes of oil consistent with route segments.
- b) Facilities must carry the burden of reporting accurate route information. Don't keep "if known" in the language.
- c) Facilities must provide accurate information on all oil shipments.
- d) Notify the public when updates to the website occur.

Response: Thank you for your comments. Please see Response 1.

39 Earl White

Summary of Comments:

Will we track crude-by-rail shipments transiting Washington on their way to other states?

Response: The Legislature has directed Ecology to create a system to implement RCW 90.56.565 so that facilities operating in Washington State can fulfill their obligation to report accurate, advance notice information about crude-by-rail shipments moving through Washington. However, Ecology does not have authority to regulate facilities operating outside of the state that receive crude-by-rail shipments that transit Washington en route for delivery. Rail commerce is under the jurisdiction of the federal government.

40 Bob Creamer

Summary of Comments:

- a) Trains should use transponders and that information should be used to update a website periodically for public use.
- b) Trains going through WA that aren't delivering to WA facilities? How to fix this?

Response: Please see Responses 13, 18, 36, and 39.

41 Ralph Wood

Summary of Comments: We need more timely public disclosure so people can check/verify more quickly than quarterly.

Response: Please see Responses 1 and 32.

42 Caleb Braaten

Summary of Comments: Will we track crude-by-rail shipments transiting Washington on their way to other states?

Response: Please see Response 39.

43 Tim Young

Summary of Comments:

- a) Route information should be mandatory.
- b) Report ALL scheduled crude-by-rail deliveries.
- c) All shipments whether delivered in WA or not should be included in the notification system.

Response: Please see Responses 1 and 39. Thank you for your comments.

44 Don Steinke

Summary of Comments:

- a) How will rail handle spills resulting from earthquakes?
- b) Communities of the state need accurate, complete information on the types and volumes of oil consistent with route segments.
- c) Facilities must carry the burden of reporting accurate route information. Don't keep "if known" in the language.
- d) Facilities must provide accurate information on all oil shipments.
- e) Notify the public when updates to the website occur.
- f) Pipeline heading north south? What do we do to reduce risk of a breach during a natural disaster?

Response: Thank you for your comments. Please see Responses 1 and 39.

Ecology is using all of the authority extended to the agency by the Legislature to implement the law to the fullest extent possible given the parameters set in RCW 90.56.565.

Pipeline contingency planning is regulated under a different rule (Chapter 173-182 WAC). However, the Utilities and Transportation Commission is responsible for pipeline safety regulation at the state level and the USDOT Pipeline and Hazardous Materials Safety Administration regulates pipelines at the federal level.

RCW 90.56.565 limits the scope of this rule to creating notification requirements for facilities in Washington that receive crude-by-rail and pipelines that move crude through transmission pipelines of the state.

45 Ken Rone

Summary of Comments:

- a) Who will make sure tracks are clear and safe after an earthquake?
- b) How do we handle backed up rail shipments due to unpassable track segments? Do they just stop?
- c) Aggregated information should be useful to the public.
- d) Emergency response should be aware of the consequences of disseminating proprietary information.
- e) Facilities should report accurate route information and update notifications when shipment information changes.

Response: Please see Response 1.

The Utilities and Transportation Commission is responsible for railroad safety at the state level and the Federal Railroad Administration is responsible at the federal level.

Disclaimers and disclosures are included in the Advance Notice system for emergency response agencies. Since this will be the primary interface of emergency response personnel accessing potentially proprietary information, the disclosures and disclaimers are in place to remind them of their statutory and regulatory obligation to only share information that is in the aggregated form described in RCW 90.56.565(3).

46 Judi Chelotti

Summary of Comments: Please draft the most thorough and comprehensive rules possible under the new law governing safety and notification requirement.

Response: Please see Responses 8 and 18.

47 Steve Finch

Summary of Comments:

- a) In the new proposed regulations for Railroads and Pipeline companies where is the definition of ownership liability?

- b) What does this independent submission required by the State actually accomplish that the Federal Form doesn't?
- c) The public disclosures proposed in WAC 173-185-100 appear to be counterproductive from a security standpoint.

Response: Please see Responses 1 and 9 for a response to comment b.

Liability for crude oil is not within the scope of this rule or discussed in RCW 90.56.565, which directs Ecology to rulemake on oil movement notification for rail and pipeline. Other rules on the topic of oil spills in Washington do discuss financial obligations for responsible parties in the event of an oil spill. Please see Chapters 173-182 WAC and 173-186 WAC.

Ecology was directed by the Legislature to implement the law in a particular fashion. This includes the biannual reporting requirement for pipelines found in RCW 90.56.565(1)(b). Ecology does not have authority to disregard the schedule described in the statute for the biannual reporting requirement for pipelines.

48 Robert Curcio

Summary of Comments: Please draft the most thorough and comprehensive rules possible under the new law governing safety and notification requirement.

Response: Please see Responses 1 and 8.

49 Tana Wood

Summary of Comments: If this is a onetime notification it probably isn't bad, although the communities are already aware of the use of the tracks for oil trains. Those with which I am familiar have plans or are working on consortiums to address potential spills. To require a notification for each delivery is unnecessary and an unsupportive burden on all. It might even be a safety/security risk. Communities need to have response plans in place for any kind of hazard, not a case by case reaction. This looks like additional staff work for Ecology and the railroads and the refineries that is not justified by benefit. Seriously, this is the type of regulatory abuse that causes backlash on all fronts. Not needed, period.

Response: Please see Responses 1 and 8.

The Legislature has directed Ecology to develop rules to implement RCW 90.56.565, which includes advance notification of each new shipment of crude oil being delivered to facilities by rail.

50 Den Mark Wenchar

Summary of Comments: Ecology's rulemaking cannot be too strict.

Response: Please see Response 8.

51 Eleanor Wireman

Summary of Comments: Notice of trains carrying oil should be sent directly to the schools any day a movement is scheduled.

Response: Please see Responses 1, 8, and 17.

Schools work closely with local emergency response agencies to assess risks from various potential threats. If schools do not already work with local emergency response agencies on the topic of risk from oil movement by rail and pipeline, the information collected by this rule will help in the planning process. Schools have access to aggregated quarterly reports, but access to the advance notice system is limited to emergency response agencies by RCW 90.56.565(2).

52 Paula Rotondi

Summary of Comments: The plan should include clearly delineated fiscal responsibility for the costs associated with spills.

Response: Please see Responses 12 and 47.

53 James Jarzabek

Summary of Comments: All oil-by-rail should be prohibited on the Columbia. If it must occur, then government should require a bond of no less than \$1 Billion, to cover worse case damage estimates of \$600M or greater. Local community's citizens should not be liable for recovery.

Response: Please see Responses 12, 18, and 47.

54 Sue Carver

Summary of Comments: To put it bluntly, I am not in favor of oil trains in our state or the Columbia Gorge.

Response: Please see Responses 12 and 18.

55 Bruce Hoeft

Summary of Comments: Advanced detailed notification to the State, and to first responders, should be mandatory. Advanced notification of types and amounts of oil transported, routes and time schedules, and revisions that happen on the fly should be a standard requirement. That information should be centralized and available to affected parties.

Response: Please see Responses 1 and 8.

56 Marilyn Boyd

Summary of Comments:

- a) Change penalty language from "may" to "will".
- b) Ecology should incorporate language in the final rule assuming the route is known and require the facility to provide full documentation if unknown.
- c) The infrastructure supporting the heavy loads of both coal and oil trains needs to be seriously addressed before continuing to allow the transport of these hazardous cargo.
- d) I urge the Department of Ecology to implement the MOST STRINGENT prevention, preparedness and response rules applicable to transporting oil by rail.

Response: Please see Responses 6, 8, 26, and 32. Thank you for your comments.

57 Franz von Hirschmann

Summary of Comments: The U.S. should look closely at the E.U.'s rail safety.

Response: Please see Responses 1 and 6. Thank you for your comments.

58 Gayle Rothrock

Summary of Comments: I urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Landscapes, lives of people and animals, public health and safety facilities, and housing are all affected when a railcar incident happens.

Response: Please see Responses 1 and 8.

59 Gregory Monahan

Summary of Comments:

- a) I urge you to require that railroads provide advance notice to first responders of oil train traffic. Notification shall include type of rail cars planned to be used for shipping crude oil.
- b) I also request that both rail and pipeline companies be required to notify the closest first responders as well as the appropriate state agency immediately of any spills, derailments, or other oil related incidents.
- c) I further request that penalties for non-compliance of any rules be stiff enough to motivate compliance and that penalties be assessed for each violation of the rules.

Response: Please see Responses 1, 17, 24, and 26. Thank you for your comments.

60 Robert Thoms

Summary of Comments: Are you REALLY going to permit oil trains to pass underneath me and my child as they make their way through Seattle's downtown rail tunnel?

Response: Please see Response 18.

Commenter Index

The table below lists the names of organizations or individuals who submitted a comment on the rule proposal and the line number in the response to comments section where Ecology’s response to the comment(s) can be located. Commenter names are alphabetized by first name or organization name. To location a specific response, find the name and response line number. Then locate the line number in the response to comment table in the previous section.

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G D Abbott	Please see Response 1.	Helene Steinhardt	Please see Response 1.
G G	Please see Response 1.		
Gabriele Bartholomew	Please see Response 1.		
Garry Nakayama	Please see Response 1.		

Helga Aldrich	Please see Response 1.	Janet Wynne	Please see Response 1.
Helga Burkhardt	Please see Response 1.	Janice MacArthur	Please see Response 1.
Herb Dye	Please see Response 1.	Janis Fensch	Please see Response 1.
Hilarie Ericson	Please see Response 1.	Janna Rolland	Please see Response 1.
Holly Hallman	Please see Response 1.	Jared Howe	Please see Response 1.
Hope Nastri	Please see Response 1.	Jason Knopp	Please see Response 1.
Indigo Summer	Please see Response 1.	Jay Russo	Please see Response 1.
Irene Willey	Please see Response 1.	Jay Wang	Please see Response 1.
Irina Vodonos	Please see Response 1.	Jean Avery	Please see Response 23.
Irmgard Conley	Please see Response 1.	Jean Mendoza	Please see Response 1.
Isolde Perry	Please see Response 1.	Jean Richardson	Please see Response 1.
J Derosia	Please see Response 1.	Jean Teach	Please see Response 1.
J Kelly	Please see Response 1.	Jean Whitesavage	Please see Response 1.
J. Nichols	Please see Response 1.	Jeanette Redmond	Please see Response 1.
J. Scott MacElveen	Please see Response 1.	Jeanne Kleyn Kleyn	Please see Response 1.
J. Woodworth	Please see Response 1.	Jeanne Martin	Please see Response 1.
Jack Burke	Please see Response 1.	Jeanne Poirier	Please see Response 1.
Jack Mackie	Please see Response 1.	Jeevake Attapattu	Please see Response 1.
Jack Tull	Please see Response 1.	Jeff Freels	Please see Response 1.
Jackie Cole	Please see Response 1.	Jenn O'Neill	Please see Response 1.
Jackie Grove	Please see Response 1.	Jennifer Calvert	Please see Response 1.
Jacob Bale	Please see Response 1.	Jennifer Pittman	Please see Response 1.
Jacqueline Moskowitz	Please see Response 1.	Jennifer Sprague	Please see Response 1.
James Baron	Please see Response 1.	Jennifer Westra	Please see Response 1.
James Cronin	Please see Response 1.	Jennifer Woodbridge	Please see Response 1.
James DeSeranno	Please see Response 1.	Jeri Harris	Please see Response 1.
James Doyle	Please see Response 1.	Jerome Sullivan	Please see Response 1.
James Griener	Please see Response 27.	Jerry Chilson	Please see Response 1.
James Jarzabek	Please see Response 53.	Jerry Kessinger	Please see Response 1.
James Krieger	Please see Response 1.	Jessica Drummond	Please see Response 1.
James M. Tandoo	Please see Response 1.	Jessica Levin	Please see Response 1.
James Mulcare	Please see Response 1.	Jill Feuerhelm	Please see Response 1.
James T. Grant	Please see Response 10.	Jill Gustafson	Please see Response 1.
James Wayrynen	Please see Response 1.	Jill Hamilton	Please see Response 1.
James White	Please see Response 6.	Jill Stryker	Please see Response 1.
Jamie Caya	Please see Response 1.	Jill Timm	Please see Response 1.
Jamie Dampier	Please see Response 1.	Jill Zaklan	Please see Response 1.
Jan Gordon	Please see Response 1.	Jillian Gallery	Please see Response 1.
Jan Hadley	Please see Response 1.	Jim Clymer	Please see Response 1.
Jan Thorne	Please see Response 1.	Jim MacRae	Please see Response 1.
Jan Verrinder	Please see Response 1.	Jim Strichartz	Please see Response 1.
Jane Hadley	Please see Response 1.	Jini Fisher	Please see Response 1.
Jane Jaehning	Please see Response 1.	Jo Harvey	Please see Response 1.
Jane Metcalfe	Please see Response 1.	Joan Cole	Please see Response 1.
Jane Steadman	Please see Response 1.	Joan Turpin	Please see Response 1.
Janelle Witter	Please see Response 1.	JoAnne Cummings	Please see Response 1.
Janet Chalupnik	Please see Response 1.	JoAnne Kelly	Please see Response 1.
Janet Hedgepath	Please see Response 1.	Joanne Wright	Please see Response 1.
Janet L. Ferrari	Please see Response 1.	Joe Chasse	Please see Response 1.
Janet Marx	Please see Response 1.	Joe Thompson	Please see Response 1.
Janet Rexroth	Please see Response 1.	Joe Wiederhold	Please see Response 1.
Janet Riordan	Please see Response 1.	Johanna Molloy	Please see Response 1.
Janet Way	Please see Response 1.		

John & AJ Jittipsopa-Zinner	Please see Response 1.	Karen Richter	Please see Response 1.
John Eschen	Please see Response 1.	Karen Soma	Please see Response 1.
John Fenker	Please see Response 1.	Kate Frangos	Please see Response 1.
John Gordon	Please see Response 1.	Katharine Harkins	Please see Response 1.
John Hardy	Please see Response 1.	Katherin Balles	Please see Response 1.
John Hennessy	Please see Response 1.	Katherine Alice Tylczak	Please see Response 1.
John Lambert	Please see Response 1.	Katherine Nelson	Please see Response 1.
John McGovern	Please see Response 1.	Kathleen Hunt	Please see Response 1.
John Niendorf	Please see Response 1.	Kathleen Lowney	Please see Response 1.
John S	Please see Response 1.	Kathleen Wolfe	Please see Response 1.
John Sherwin	Please see Response 1.	Kathlene Croasdale	Please see Response 1.
John Springer	Please see Response 1.	Kathryn Alexandra	Please see Response 1.
Jolyn Plough	Please see Response 1.	Kathryn Fletcher	Please see Response 1.
Jon Martin McCallum	Please see Response 1.	Kathryn Plitt	Please see Response 1.
Jonathan Walter	Please see Response 1.	Kathryn Schetzer	Please see Response 1.
Jonny Hahn	Please see Response 1.	Kathryn Vinson	Please see Response 1.
Joseph & Diane Williams	Please see Response 1.	Kathy Kestell	Please see Response 1.
Joseph A. Yencich	Please see Response 1.	Kathy Schaeffer	Please see Response 1.
Joseph LaValle	Please see Response 1.	Kathy Smith	Please see Response 1.
Joyce Grajczyk	Please see Response 1.	Kay S.	Please see Response 1.
Joyce Lewis	Please see Response 1.	KC Young	Please see Response 1.
Joyce Weir	Please see Response 1.	Keith Cowan	Please see Response 1.
JR Trimble	Please see Response 1.	Keith E Anklam	Please see Response 1.
Jude Armstrong	Please see Response 1.	Keith Larson	Please see Response 1.
Judi Chelotti	Please see Response 46.	Kelli Linville	Please see Response 3.
Judith Bluhm	Please see Response 1.	Kellie Crawford	Please see Response 1.
Judith Cohen	Please see Response 1.	Ken Minden	Please see Response 1.
Judith Fouts	Please see Response 1.	Ken Rone	Please see Response 45.
Judith Laik	Please see Response 1.	Kevin Darcy	Please see Response 1.
Judith Landy	Please see Response 1.	Kevin Hughes	Please see Response 1.
Judith Langhans	Please see Response 1.	Kevin Orme	Please see Response 1.
Judy & Ed Cole-Martin	Please see Response 1.	Kim Cox	Please see Response 1.
Judy Turksel	Please see Response 1.	Kim Seater	Please see Response 1.
Judyth O. Weaver	Please see Response 1.	Kimberly Leeper	Please see Response 1.
Julia Hurd	Please see Response 1.	Kindy Kemp	Please see Response 1.
Julia R. Glover	Please see Response 1.	King County Emergency Management	Please see Response 16.
June Chau	Please see Response 1.	Kirk Johnson	Please see Response 1.
Justin Morgan	Please see Response 1.	Kirsten Angell	Please see Response 29.
Kamori Cattadoris	Please see Response 1.	Kirsten Krane	Please see Response 29.
Karen Berntsen	Please see Response 1.	Kiwibob Glanzman	Please see Response 19.
Karen Best	Please see Response 1.	Kristen Adamson	Please see Response 1.
Karen Clark	Please see Response 1.	Kristen Wallway	Please see Response 1.
Karen Erlander	Please see Response 1.	Kristi Nakata	Please see Response 1.
Karen Fisher	Please see Response 1.	Kristina Gravette	Please see Response 1.
Karen Hedwig Backman	Please see Response 1.	Kristine Kriner	Please see Response 1.
Karen Howard	Please see Response 1.	Kyle Loring	Please see Response 1.
Karen Kelly	Please see Response 1.	Ladonna Rorabeck	Please see Response 1.
Karen L Byrne	Please see Response 1.	Lakota Crystal	Please see Response 1.
Karen Mitchell	Please see Response 1.	Lara Backman	Please see Response 1.
Karen Pickering	Please see Response 1.	Larry Keister	Please see Response 1.
		Laura Ackerman	Please see Response 1.

Laura Craig	Please see Response 1.	M Dulin	Please see Response 1.
Laura Goldberg	Please see Response 1.	M Howell	Please see Response 1.
Laura Huddlestone	Please see Response 1.	M. Lou Orr	Please see Response 1.
Laura Ramon	Please see Response 1.	Madya Panfilio	Please see Response 1.
Laura Skelton	Please see Response 26.	Mana Iluna	Please see Response 1.
Laurel Hughes	Please see Response 1.	Marcia Brown	Please see Response 1.
Laurette Culbert	Please see Response 1.	Marcia Clarke	Please see Response 1.
Laurice Riekki	Please see Response 1.	Marcia Huey	Please see Response 1.
Leah Froemsdorf	Please see Response 1.	Marco de la Rosa	Please see Response 1.
Lee Musgrave	Please see Response 1.	Margaret Graham	Please see Response 1.
Lee Stafford	Please see Response 1.	Margaret Hashmi	Please see Response 1.
Lee Stone	Please see Response 1.	Margaret Lyons	Please see Response 1.
Lehman Holder	Please see Response 1.	Margery Barlow	Please see Response 1.
Leonard Houghtaling	Please see Response 1.	Margot Voorhies	Please see Response 1.
Leslie Austin Johnson	Please see Response 1.	Marguerite Brown	Please see Response 1.
Leslie McClure	Please see Response 1.	Marguerite Weis	Please see Response 1.
Lester Thompson	Please see Response 1.	Marian Wineman	Please see Response 1.
Lew Sikes	Please see Response 1.	Marianne Edain	Please see Response 1.
Liisa Antilla	Please see Response 1.	Marianne Eddington	Please see Response 1.
Linda Avinger	Please see Response 1.	Marianne Gordon	Please see Response 1.
Linda Bahr	Please see Response 1.	Marilyn Boyd	Please see Response 56.
Linda Curry	Please see Response 1.	Marilyn Flint	Please see Response 1.
Linda Golley	Please see Response 1.	Marilyn Mayers	Please see Response 1.
Linda K Lindquist	Please see Response 1.	Marilyn Overton	Please see Response 1.
Linda Knoll	Please see Response 1.	Marjorie Walker	Please see Response 1.
Linda Kolakosky	Please see Response 1.	Mark Bradley	Please see Response 1.
Linda Massey	Please see Response 1.	Mark C. Whitaker	Please see Response 1.
Linda Reilly	Please see Response 1.	Mark D. Blitzer	Please see Response 1.
Linda Rossi	Please see Response 1.	Mark Hughes	Please see Response 1.
Linda V.	Please see Response 1.	Mark Scott	Please see Response 1.
Linda Woodall	Please see Response 1.	Mark Thomas	Please see Response 1.
Lisa Karas	Please see Response 1.	Mark Weick	Please see Response 1.
Lise Grace	Please see Response 1.	Mark Wirth	Please see Response 1.
Lloyd Hedger	Please see Response 1.	Marsha Adams	Please see Response 1.
Lloyd Johnston	Please see Response 1.	Marsha Kimball	Please see Response 1.
Lois Guthrie	Please see Response 1.	Marsha Shaiman	Please see Response 1.
Lola Schiefelbein	Please see Response 1.	Martha Ann Brooks	Please see Response 1.
Loreta Wood	Please see Response 1.	Martin Englander	Please see Response 1.
Lorraine D. Johnson	Please see Response 1.	Martin Kimeldorf	Please see Response 1.
Lorraine Hartmann	Please see Response 1.	Marty Adams	Please see Response 1.
Lorraine Marie	Please see Response 1.	Mary & Brian Jokela	Please see Response 1.
LouAnn Ballew	Please see Response 1.	Mary Bartholet	Please see Response 1.
Lovel Pratt	Please see Response 34.	Mary Benham	Please see Response 1.
Lucia Mack	Please see Response 1.	Mary Bicknell	Please see Response 1.
Lyle Collins	Please see Response 1.	Mary Gleysteen	Please see Response 1.
Lyman Griswold	Please see Response 1.	Mary Guard	Please see Response 1.
Lynda Cunningham	Please see Response 1.	Mary Harmon	Please see Response 1.
Lynette Weick	Please see Response 1.	Mary Holder	Please see Response 1.
Lynn Brevig	Please see Response 1.	Mary Jane Engh	Please see Response 1.
Lynn Colson	Please see Response 1.	Mary K Johnson	Please see Response 1.
Lynn Offutt	Please see Response 1.	Mary Knoth	Please see Response 1.
Lynn Rabenstein	Please see Response 1.	Mary Masters	Please see Response 1.
Lynn Taylor	Please see Response 1.	Mary Nye	Please see Response 1.

Mary Paynter	Please see Response 1.	Nancy Gale	Please see Response 1.
Mary Schleicher	Please see Response 1.	Nancy Henderson	Please see Response 1.
Mary Schreifels	Please see Response 1.	Nancy Katz	Please see Response 1.
Mary Sebek	Please see Response 1.	Nancy Kilgore	Please see Response 1.
Mary Solum	Please see Response 1.	Nancy L Krause	Please see Response 1.
Mary Sprute	Please see Response 1.	Nancy Lovejoy	Please see Response 1.
Mary Wickwire	Please see Response 1.	Nancy Pope	Please see Response 1.
Mary-Ann Kirsling	Please see Response 1.	Nancy Shaw	Please see Response 1.
Matthew Anderson	Please see Response 1.	Nancy Shimeall	Please see Response 1.
Matthew Boguske	Please see Response 1.	Nancy Vandenberg	Please see Response 1.
Matthew Evinger	Please see Response 1.	Nancy White	Please see Response 1.
Matthew Logalbo	Please see Response 1.	Navneal Mangat	Please see Response 1.
Matthew Thuney	Please see Response 1.	Neatha Lefevre	Please see Response 1.
Maureen Lang	Please see Response 1.	Nic Curtright	Please see Response 1.
Maureen Rawlings	Please see Response 1.	Nicholas Johnson	Please see Response 1.
Max DeNise	Please see Response 1.	Nicholas Smit	Please see Response 1.
Maxine Clark	Please see Response 1.	Nichole Acheson	Please see Response 1.
Meghan McCutcheon	Please see Response 1.	Nick Barcott	Please see Response 1.
Melanie Kenoyer	Please see Response 1.	Nick Taylor	Please see Response 1.
Melinda Parke	Please see Response 1.	Nigeala Nigrath	Please see Response 1.
Melissa Craig	Please see Response 1.	Nikki Jimenez	Please see Response 1.
Melissa Eriksen	Please see Response 1.	Noel Barnes	Please see Response 1.
Melissa Thirloway	Please see Response 1.	Noel Orr	Please see Response 1.
Melodie Martin	Please see Response 1.	Norma Silliman	Please see Response 1.
Merna Baker Blagg	Please see Response 1.	Nova Berkshires	Please see Response 1.
Merryl Woodard	Please see Response 1.	Oleg Varanitsa	Please see Response 1.
Meryle A. Korn	Please see Response 1.	Olga Gottlieb	Please see Response 1.
Mia Heavyrunner	Please see Response 1.	Oregon Physicians for Social Responsibility	Please see Response 13.
Michael & Barbara Hill	Please see Response 1.	P M	Please see Response 1.
Michael Lyman	Please see Response 1.	P.E. Crawford	Please see Response 1.
Michael Reynolds	Please see Response 1.	Pam Borso	Please see Response 1.
Michael Smith	Please see Response 1.	Pam Ives	Please see Response 1.
Michael Spence	Please see Response 1.	Pamela Bar-El	Please see Response 1.
Michael Symonds	Please see Response 1.	Pamela Clark	Please see Response 1.
Michael Woods	Please see Response 1.	Pamela Engler	Please see Response 1.
Michele Attwood	Please see Response 1.	Pamela Harris	Please see Response 1.
Michelle Jacobsen	Please see Response 1.	Patricia A Lenzen	Please see Response 1.
Michelle Keating	Please see Response 1.	Patricia D. Wilson	Please see Response 1.
Michelle Stepp	Please see Response 1.	Patricia Harper	Please see Response 1.
Mike Bessler	Please see Response 1.	Patricia McGee	Please see Response 1.
Mike Conlan	Please see Response 1.	Patricia Perron	Please see Response 1.
Minda Thorward	Please see Response 1.	Patricia Rathbun	Please see Response 1.
Miranda Leon Jones	Please see Response 1.	Patrick Archer	Please see Response 1.
Mlou Christ	Please see Response 1.	Patrick Mulcahey	Please see Response 1.
Mollie Smith	Please see Response 1.	Paul Lantz	Please see Response 1.
Mona McNeil, PhD	Please see Response 1.	Paul Moyer	Please see Response 1.
Morgan Girling	Please see Response 1.	Paul Potts	Please see Response 1.
N Lebaron	Please see Response 1.	Paul Stoner	Please see Response 1.
Nadine LaVonne	Please see Response 1.	Paul Talbert	Please see Response 1.
Name withheld	Please see Response 1.	Paul Zurfluh	Please see Response 1.
Nancy Cabbage	Please see Response 1.	Paula Rotondi	Please see Response 52.
Nancy Ellingham	Please see Response 1.	Paulina Oberg	Please see Response 1.
Nancy Farrell	Please see Response 1.		

Pauline Druffel	Please see Response 32.	Robinson	
Peggy Page	Please see Response 1.	Representative Kristine Lytton	Please see Response 21.
Peggy Willis	Please see Response 1.	Representative Mia Gregerson	Please see Response 21.
Penny Derleth	Please see Response 1.	Representative Noel Frame	Please see Response 21.
Peter Baird	Please see Response 1.	Representative Patty Kuderer	Please see Response 21.
Peter Holcomb	Please see Response 1.	Representative Sherry Appleton	Please see Response 21.
Peter Marshall	Please see Response 1.	Representative Strom Peterson	Please see Response 21.
Peter Rimbos	Please see Response 1.	Representative Tana Senn	Please see Response 21.
Peter von Christierson	Please see Response 1.	RE Sources for Sustainable Communities	Please see Response 13.
Phil Crawford	Please see Response 1.	Rhoda Walter	Please see Response 1.
Philip Power	Please see Response 1.	Rich Lague	Please see Response 1.
Phillip Bernhardt-House	Please see Response 1.	Richard & Sharon Erspamer	Please see Response 1.
Phyllis Brown	Please see Response 1.	Richard Brems	Please see Response 1.
Phyllis Conley	Please see Response 1.	Richard Craven	Please see Response 1.
Pipeline Safety Trust	Please see Response 24.	Richard D Jones	Please see Response 1.
Polly Tarpley	Please see Response 1.	Richard Ellison	Please see Response 1.
Protect Skagit	Please see Response 13.	Richard Grassl	Please see Response 1.
Puget Soundkeeper Alliance	Please see Response 13.	Richard Johnson	Please see Response 1.
Rachael Black	Please see Response 1.	Richard Krahn	Please see Response 1.
Rafe Dimmitt	Please see Response 1.	Richard Romito	Please see Response 1.
Ralph Wood	Please see Response 41.	Richard Whitney	Please see Response 1.
Ramona Owen	Please see Response 1.	Rick Barrett	Please see Response 1.
Randall Collins	Please see Response 1.	Rick Eichstaedt	Please see Response 1.
Randi Pewzner	Please see Response 1.	Riff Millar	Please see Response 1.
Randy S. Gray	Please see Response 2.	Robby Stern	Please see Response 1.
Ravinder Bajwa	Please see Response 1.	Robert B Kaplan	Please see Response 1.
Ray Lou	Please see Response 1.	Robert Blumenthal	Please see Response 1.
Raymond Ligrano	Please see Response 1.	Robert Brandt	Please see Response 1.
Raymond Williams	Please see Response 1.	Robert Brown	Please see Response 1.
Rebecca & Tom McDonough	Please see Response 1.	Robert Chang	Please see Response 1.
Rebecca Clark	Please see Response 1.	Robert Connor	Please see Response 1.
Rebecca Craven	Please see Response 24.	Robert Curcio	Please see Response 48.
Rebecca Em Campbell	Please see Response 1.	Robert Donohoe	Please see Response 1.
Rebecca Robins	Please see Response 1.	Robert Driessnack	Please see Response 1.
Rebecca Teeters	Please see Response 1.	Robert Fiebing	Please see Response 1.
Rein Atteman	Please see Response 38.	Robert Gabriel	Please see Response 1.
Representative Brady Walkinshaw	Please see Response 21.	Robert Lindberg	Please see Response 1.
Representative Christine Kilduff	Please see Response 21.	Robert Mitchell	Please see Response 30.
Representative Cindy Ryu	Please see Response 21.	Robert Rowe	Please see Response 1.
Representative Derek Stanford	Please see Response 21.	Robert Sanford	Please see Response 1.
Representative Gael Tarleton	Please see Response 21.	Robert Schmidt	Please see Response 1.
Representative Gerry Pollet	Please see Response 21.	Robert Thoms	Please see Response 60.
Representative Jim Moeller	Please see Response 21.	Robert Worley	Please see Response 1.
Representative Joe Fitzgibbon	Please see Response 21.	Robin Boynton	Please see Response 1.
Representative June	Please see Response 21.	Robin Hirsch	Please see Response 1.

Robin Thomas	Please see Response 1.	Senator Kevin Ranker	Please see Response 21.
Robyn Lowe	Please see Response 1.	Senator Marko Liias	Please see Response 21.
Roger Lippman	Please see Response 1.	Senator Pramila Jayapal	Please see Response 21.
Roger Oborn	Please see Response 1.	Senator Reuven Carlyle	Please see Response 21.
Ron & Marci Moore	Please see Response 1.	Senator Sharon Nelson	Please see Response 21.
Ron DiGiacomo	Please see Response 1.	Sharie Todd	Please see Response 1.
Ron Slosky	Please see Response 1.	Sharon Kalen	Please see Response 1.
Ronald Krell	Please see Response 1.	Sharon London	Please see Response 1.
Ronda Good	Please see Response 1.	Sharon Lynch	Please see Response 1.
Ronlyn Schwartz	Please see Response 1.	Sharon Mannix	Please see Response 1.
Rose Lagerberg	Please see Response 1.	Sharon Miller	Please see Response 1.
Roy G Baggerly, PhD	Please see Response 1.	Sharon Parshall	Please see Response 1.
Rozanne Rants	Please see Response 1.	Sharon Vander Pool	Please see Response 1.
Russell Wegner	Please see Response 1.	Shary B	Please see Response 1.
Ruth Darden	Please see Response 1.	Sharyn Pennington	Please see Response 1.
Ruth Neuwald Falcon	Please see Response 1.	Shelley Dahlgren	Please see Response 1.
Ruth Riordan	Please see Response 1.	Shemayim Elohim	Please see Response 1.
S Carpenter	Please see Response 1.	Sherry Bupp	Please see Response 1.
S Shaw	Please see Response 1.	Sherry E	Please see Response 1.
S Slayton	Please see Response 1.	Sherry McCabe	Please see Response 1.
Saab Lofton	Please see Response 1.	Sherry Salomon	Please see Response 1.
Sabrina Ellis	Please see Response 7.	Sherry Spurling	Please see Response 1.
Sallie Shippen	Please see Response 1.	Sherry Williams	Please see Response 1.
Sally Hurst	Please see Response 1.	Shirley Jacobson	Please see Response 1.
Sally Rodgers	Please see Response 1.	Sierra Club	Please see Response 13.
Sandra B-J	Please see Response 1.	Sigrid Asmus	Please see Response 1.
Sandra Davis	Please see Response 1.	Sonja Hinz	Please see Response 1.
Sandra Smith	Please see Response 1.	Spokane Riverkeeper	Please see Response 13.
Sandy Petrarca	Please see Response 1.	STAND earth	Please see Response 13.
Sandy Wood	Please see Response 1.	Stanley Jones-Umberger	Please see Response 1.
Sanja Futterman	Please see Response 1.	Stephen &	Please see Response 1.
Saphire Blue	Please see Response 1.	Kathleen Hulick	Please see Response 1.
Sarah Collmer	Please see Response 1.	Stephen Craig Rolston	Please see Response 1.
Sarah Dallasto	Please see Response 1.	Stephen Curry	Please see Response 1.
Sarah Sloane	Please see Response 1.	Stephen D. Nichols	Please see Response 1.
Scott Brown	Please see Response 1.	Stephen Durbin	Please see Response 1.
Scott Buxton	Please see Response 1.	Stephen Friedrich	Please see Response 1.
Scott Dungan	Please see Response 1.	Stephen Hellriegel	Please see Response 20.
Scott Fortman	Please see Response 1.	Stephen Shubert	Please see Response 1.
Scott Levering	Please see Response 1.	Steve Finch	Please see Response 47.
Scott Sledge	Please see Response 1.	Steve Hersch	Please see Response 1.
Scott Tallman	Please see Response 1.	Steve Thompson	Please see Response 1.
Scott Whittaker	Please see Response 1.	Stewart Lombard	Please see Response 1.
Senator Annette Cleveland	Please see Response 21.	Stuart Mork	Please see Response 1.
Senator Bob Hasegawa	Please see Response 21.	Sue Carver	Please see Response 54.
Senator Cyrus Habib	Please see Response 21.	Sue Gunn	Please see Response 1.
Senator Jamie Pedersen	Please see Response 21.	Sue Wolfe	Please see Response 1.
Senator Jeannie Darneille	Please see Response 21.	Surfrider Foundation	Please see Response 11.
Senator John McCoy	Please see Response 21.	Susan & Robert Marett	Please see Response 1.
Senator Karen Fraser	Please see Response 21.	Susan Bill	Please see Response 1.
Senator Karen Keiser	Please see Response 21.	Susan Blake	Please see Response 1.
		Susan Helf	Please see Response 1.
		Susan Kay	Please see Response 1.

Susan Kilgore	Please see Response 1.	Tom Hopkins	Please see Response 1.
Susan L Kane	Please see Response 1.	Tom Lux	Please see Response 1.
Susan Larson	Please see Response 1.	Tom Oliveri	Please see Response 1.
Susan Ring	Please see Response 1.	Toni Reineke	Please see Response 1.
Susan Wainer	Please see Response 1.	Tony Buch	Please see Response 1.
Susan Wilkie	Please see Response 1.	Tonya Stiffler	Please see Response 1.
Susan Wilson	Please see Response 1.	Tracy Fleming	Please see Response 1.
Susi Hulbert	Please see Response 1.	Tracy Wang	Please see Response 1.
Susie Saalwaechter	Please see Response 1.	Trans Mountain Pipeline	Please see Response 9.
Suzanne Ward	Please see Response 1.	Travis Miller	Please see Response 1.
Svitlana Dyeryabina	Please see Response 1.	Trey	Please see Response 1.
Sybille Vital	Please see Response 1.	Trista Kendall	Please see Response 1.
T J Thompson	Please see Response 1.	Ty Ouellette	Please see Response 1.
T William Booth	Please see Response 1.	Ursula Neal	Please see Response 1.
T. Jeffrey Johnson	Please see Response 10.	Vaclav Tomek	Please see Response 1.
Tahoma Audubon Society	Please see Response 13.	Val Lukens	Please see Response 1.
Tamara A. Turner	Please see Response 1.	Vici Duncan	Please see Response 1.
Tamara Saarinen	Please see Response 1.	Vicky Matsui	Please see Response 1.
Tamela Roberson	Please see Response 1.	Victor Petertil	Please see Response 1.
Tana Wood	Please see Response 49.	Victoria Laughlin	Please see Response 1.
Taryn Joel	Please see Response 1.	Taylor	
Ted Matts	Please see Response 1.	Victoria Urias	Please see Response 1.
Teresa Allen	Please see Response 1.	Victorya Redstarr	Please see Response 1.
Teresa Chegin	Please see Response 1.	Virgene Link	Please see Response 1.
Teresa Dix	Please see Response 1.	Virginia Davis	Please see Response 1.
Teresa Lyman	Please see Response 1.	Washington	Please see Response 13.
The Lands Council	Please see Response 13.	Environmental Council	
Theresa Schwacke	Please see Response 1.	Washington Physicians	Please see Response 26.
Thomas Bougher	Please see Response 1.	for Social Responsibility	
Thomas Cox	Please see Response 1.	Washington State	Please see Response 21.
Thomas E. Davis	Please see Response 1.	Legislature	
Thomas Friedland	Please see Response 1.	Washington State	Please see Response 12
Thomas Gilmore	Please see Response 1.	Medical Association	Please see Response 1.
Thomas G. Johnson	Please see Response 10.	Wendy Atmore	Please see Response 1.
Thomas Libbey	Please see Response 1.	Wendy Taylor	Please see Response 1.
Thomas Swoffer	Please see Response 1.	Wesley Banks	Please see Response 1.
Thomas Winn	Please see Response 1.	Will Golding	Please see Response 1.
Tika Bordelon	Please see Response 1.	William Koopman	Please see Response 1.
Tim Biller	Please see Response 1.	William Looney	Please see Response 1.
Tim Burns	Please see Response 1.	William Mcgunagle	Please see Response 1.
Tim VanderGoore	Please see Response 1.	William P. Ostrander,	Please see Response 1.
Tim Wood	Please see Response 1.	Jr.	
Tim Younger	Please see Response 43.	William Persky	Please see Response 1.
Timothy Keeler	Please see Response 1.	William Phipps	Please see Response 1.
Timothy Sherburne	Please see Response 1.	Willie Edwards	Please see Response 1.
Tina Brown	Please see Response 1.	Willim Keegan	Please see Response 1.
Tom & Kristi Weir	Please see Response 1.	Yonit Yogev	Please see Response 1.
Tom Devine	Please see Response 1.	Yvonne Pawtowski	Please see Response 1.
Tom Dorosz	Please see Response 1.	350 Seattle	Please see Response 13.

Appendix A: Copies of all written comments

Appendix A organizes comments received between April 6, 2016 and June 12, 2016 by how they were submitted. Written comments received by email, mail, or fax are first. Comments entered directly in the web comment system are found at the end of the Appendix. Comments received in person at public hearings can be found in the transcriptions of the individual public hearing in Appendix B.

Ecology received 989 email comments on the proposed rule containing the following text. The only variations between each individual submission were the inclusion of commenter names and addresses in each email or changing “We” to “I” in the first paragraph. Copies of the originals are contained in the rule file and available by request. The names of each person who submitted the content below is included immediately after this page.

“We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
- (2) Incorporate language in the final rule that makes it clear that the agency will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- (3) Centralize information for rail, pipeline, and vessel reporting systems so we can have a one stop shop for public information. This includes the TYPE of oil as well as how much oil and how the oil is traveling.
- (4) Continue to require facilities to report all oil shipments scheduled to arrive at their facility.

For Railroad Contingency Plan rule (Chapter 173-186 WAC):

- (1) Contingency plan requirements for railroads should be comparable with the most rigorous contingency plan requirements for pipelines and vessels. This includes the 1-, 2-, and 4-hour planning standards and aerial surveillance capabilities.
- (2) Require planning standards for diluted bitumen that include the recommendations from the National Academy of Sciences’ Spill of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects and Response.
- (3) Retain the definition of a ‘worse case spill.’
- (4) Ensure safety of first responders through adequate protective gear.
- (5) Update the cost-benefit analysis to include the analysis of insurance expert Robert J. Blackburn, hired by the City of Vancouver, that indicates a worse-case scenario in Vancouver could cost \$6 billion.
- (6) Establish a prioritization process for processing and/or paying damage claims if they exceed the money available for compensation.
- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.”

Abigail Tupper Mitchell	Barbara L Wood	C Canonica	Chuck Hanna-Myrick
Adam Levine	Barbara Phinney	C Creager	Chuck Rohrer
Adam Udovich	Barbara Read	C L Burger	Chuck Sheaffer
Al Alpert	Barbara Rosenkotter	Carissa Daniels	Claire &
Alan Thiese	Barbara Whitt	Carla H	Kilkka Egtvedt
Alex Abbott	Barry Hutchinson	Carlo Voli	Clark Wiegman
Alexandra Biggs	Beatrice Lackaff	Carlton Ward	Codi Hamblin
Alexandra Tufnell	Becky Chappell	Carol Davidek-Waller	Colleen Cunningham
Alfred Colter	Ben Rall	Carol Dickinson	Colleen Curtis
Alfred Ferraris	Benita Moore	Carol Else	Colleen Hinton
Alice D Gray	Bergith Kayyali	Carol Meyer	Colleen Lenihan
Alice Hibberd	Berinda Van Cleave	Carol Stevens	Colleen McDonald
Alice Steijn	Bernard Walter	Carol Sword	Constance Lee
Alice Swan	Beth Brunton	Carol Torchia	Constance Rodman
Alice Tobias	Beth Call	Carol Whitehurst	Corey Elliott
Alice Yang	Beth Jensen	Caroline Armon	Corinne McWilliams
Allan Hendrix	Bette Ann Schwede	Carolyn Fletcher	Cornelia Teed
Alys Kennedy	Bette Jangling	Carolyn Treadway	Craig Britton
Amelia Becke	Betty Karst	Carolyn Wood	Craig Kirby
Amy McKay	Bill Daugaard	Catherine Adams	Curtis Hughes
Amy Mower	Bill Jones	Catherine Ross	Cynthia Noble
Andrea Avni	Bill Nerin	Cathrun Chudy	Cynthia Parker
Andrea Higgins	Binh Nguyen	Cathy & Craig Spalding	D R
Andrea Speed	Blayne Myers	Cathy Spalding	D Robinson
Andreas Enderlein	Bob Zeigler	Celine Bressler	Dale Birdsell
Angela Jacobs	Bobbi Goff	Charlene Larsen	Dan Freeman
Angie Boone	Bobbi Hickox	Charles Colenaty	Dan Kegebein
Anita Jahns	Bonnie & Douglas	Charles Gustafson	Dan Loucks
Ann Giantvalley	Rohrer	Charlie Baker	Dana Beebe
Ann Jones	Bonnie Miller	Cherie Warner	Daniel Albright
Ann Lazaroff	Brad Bardwell	Cheryl C. Mitchell	Daniel Anderson
Ann Van Buskirk	Brandie Deal	Cheryl Loucks	Daniel McMannis
Anne Elkins	Brenda S. Bailey	Cheryl Speer	Danne Neill
Anne Hall	Brenna Taylor	Chey Lynn Thurman	Danny Dwinell
Anne Kroeker	Brett Llewellyn	Chris Covert-Bowlds	Darcia Hurst
Anne Wermus	Brian Baltin	Chris Dynega	Dave Popoff
Annette M Klapstein	Brian Benson	Chris Guillory	Daveeee Schiesls
Anngele Vose	Brian Flaherty	Chris Kanit Cottrell	David & Geri Turnoy
Annie Clay	Brian Huseby	Chris Lykins	David & Julie Peha
Anthony Gervais	Brian Lewis	Chris Stay	David Arntson
Antonia Wood	Brian Reid	Christian & Lea	David Blair
Ardeth L. Weed	Brian Silverstein	Andrade	David Groves
Arlene Roth	Brianna Kohlenberg	Christian Bookter	David Hand
Arnold Martin	Bruce & Mary	Christine Landon	David Hirst
Arnold Strang	Schleicher	Christine Mead	David Linn
Audrey Adams	Bruce Barnum	Christopher J Kralik	David M. Scheer, D.C.
Barbara Bonfield	Bruce Carter	Christopher Key	David Mackey
Barbara Brock	Bruce Clifton	Christopher King	David Perk
Barbara Brueckner	Bruce Dobson	Christopher Pringer	David Schiesl
Barbara Davidson	Bruce Shilling	Christopher Watson	David Stetler
Barbara Gregory	Bryan Branson	Christy Lewis	David Thompson
Barbara Gross	Bryan Gilroy	Christy Papadakis	David Todnem

David Winkel	Dr. Cairo D'Almeida	Gabriele Bartholomew	Hilarie Ericson
Dawn Morgan	Dr. Jeffrey Paul	Garry Nakayama	Holly Hallman
Dawn Spickler	LaGasse	Gary Albright	Hope Nastri
Deb Bear	Dr. Michael Berres	Gary L & Laura K	Indigo Summer
Debbie Bremner	Duane Naught	Rothenberger	Irene Willey
Debbie Burnup	E Ellis	Gary McLaughlin	Irina Vodonos
Debbie Spear	Ed Bennett	Gary R Porter	Irmgard Conley
Debbie Thorn	Ed Laclergue	Gayle Rothrock	Isolde Perry
Debby Forbush	Edie Jorgensen	Gen Obata	J Derosia
Deborah Efron	Edward Colley	Gena DiLabio	J Kelly
Deborah Gandolfo	Edward Mills	Gene Lawson	J. Nichols
Deborah McCoy	Edward Ury	Geoff Briggs	J. Woodworth
Deborah Parker	Eileen LeVan	George & Barbara	J.Scott MacElveen
Debra Vandeggift	Eleanor Dowson	Rofkar	Jack Burke
Demian	Elinor Lake	George Dilg	Jack Mackie
Denis Langhans	Elizabeth Cross	George Summers	Jack Tull
Dennis Raymond	Elizabeth Lengel	Gerald & Jackie	Jackie Cole
Dennis Underwood	Ellen Henderson	Penningroth	Jackie Grove
Desdra Dawning	Ellen McCartan	Gerald Patterson	Jacob Bale
Desireé LacQuaye	Elyce Woycke	Gerald Stansfield	Jacqueline Moskowitz
Desiree Mendes Ph.D.	Elyette Weinstein	Giles Sydnor	James Baron
Desiree Nagyfy	Eric Burr	Gill Fahrenwald	James Cronin
Diana Talbott	Eric Dale	Gina Leone	James DeSeranno
Diane	Eric Fosburgh	Gina Pantier	James Doyle
Diane Kinnally	Eric Kuhner	Glen Anderson	James Krieger
Diane Marks	Ericka Berg	Gloria McClintock	James M. Tandoo
Diane Sullivan	Ericka Sjogren	Greg & Rebecca Durr	James Mulcare
Diane Tait Dong	Erik Ebert	Greg Espe	James Wayrynen
Diane Thompson	Erik LaRue	Greg Goodwin	Jamie Caya
Diane Weyer	Erika Thorsen	Greg Marsh	Jamie Dampier
Dianna MacLeod	Estella Mixson	Greg Mueller	Jan Gordon
Dianna Maish	Eugenia A. Patterson	Gregory Penchoen	Jan Hadley
DiAnne Gabris	Evan Callahan	Gregry Loomis	Jan Thorne
Dolores Wiens	Evelyn Popejoy	Gunnel Clark	Jan Verrinder
Don Ely	Fay Payton	Guy Chan	Jane Hadley
Don Lahti	Faye Bartlett	Gwen Innes	Jane Jaehning
Don LaMoure	Fayette Krause	Gwen Nakano	Jane Metcalfe
Don McMillin	Felicity Devlin	Gwyn Jean	Jane Steadman
Don Thomsen	Fiona Barrett	Hal Glidden	Janelle Witter
Donna Davis	Florence Harty	Harold Lang	Janet Chalupnik
Donna Hamilton	Forrest O'Reilly	Harris Dunkelberger	Janet Hedgepath
Donna Hanson	Forrest Rupley	Heather Buekw	Janet L. Ferrari
Donna Snow	Frances Blair	Heather Hall	Janet Marx
Dore Richman	Frances Lawren	Heather Murawski	Janet Rexroth
Doris Johnson	Francine Burg	Heidi Gann	Janet Riordan
Dorothy Jane Davis	Francis Lenski	Helen Behan	Janet Way
Dorothy Knudson	Frank Johnsen	Helen Bigelow	Janet Wynne
Dorothy Lipsky	Frank Koterba	Helen Curtis	Janice Macarthur
Dorothy Moritz	Franz von Hirschmann	Helen Read	Janis Fensch
Doug Brown	Fred Karlson	Helene Steinhardt	Janna Rolland
Douglas A. Boe	Fritz Chess	Helga Aldrich	Jared Howe
Douglas McLemore	G D Abbott	Helga Burkhardt	Jason Knopp
Douglas Strabel	G G	Herb Dye	Jay Russo

Jay Wang	John Niendorf	Kathryn Alexandra	Linda Avinger
Jean Mendoza	John S	Kathryn Fletcher	Linda Bahr
Jean Richardson	John Sherwin	Kathryn Plitt	Linda Curry
Jean Teach	John Springer	Kathryn Schetzer	Linda Golley
Jean Whitesavage	Jolyn Plough	Kathryn Vinson	Linda K Lindquist
Jeanette Redmond	Jon Martin McCallum	Kathy Kestell	Linda Knoll
Jeanne Kleyn Kleyn	Jonathan Walter	Kathy Schaeffer	Linda Kolakosky
Jeanne Martin	Jonny Hahn	Kathy Smith	Linda Massey
Jeanne Poirier	Joseph & Diane	Kay S.	Linda Reilly
Jeevake Attapattu	Williams	KC Young	Linda Rossi
Jeff Freels	Joseph A. Yencich	Keith Cowan	Linda V.
Jennifer Calvert	Joseph LaValle	Keith E Anklam	Linda Woodall
Jennifer Pittman	Joyce Grajczyk	Keith Larson	Lisa Karas
Jennifer Sprague	Joyce Lewis	Kellie Crawford	Lise Grace
Jennifer Westra	Joyce Weir	Ken Minden	Lloyd Hedger
Jennifer Woodbridge	JR Trimble	Kevin Darcy	Lloyd Johnston
Jenny O'Neill	Jude Armstrong	Kevin Hughes	Lois Guthrie
Jeri Harris	Judith Bluhm	Kevin Orme	Lola Schiefelbein
Jerome Sullivan	Judith Cohen	Kim Cox	Loreta Wood
Jerry Chilson	Judith Fouts	Kim Seater	Lorraine D. Johnson
Jerry Kessinger	Judith Laik	Kimberly Leeper	Lorraine Hartmann
Jessica Drummond	Judith Landy	Kindy Kemp	Lorraine Marie
Jessica Levin	Judith Langhans	Kirk Johnson	LouAnn Ballew
Jill Feuerhelm	Judy & Ed Cole-Martin	Kristen Adamson	Lucia Mack
Jill Gustafson	Judy Turksel	Kristen Wallway	Lyle Collins
Jill Hamilton	Judyth O. Weaver	Kristi Nakata	Lyman Griswold
Jill Stryker	Julia Hurd	Kristina Gravette	Lynda Cunningham
Jill Timm	Julia R. Glover	Kristine Kriner	Lynette Weick
Jill Zaklan	June Chau	Kyle Loring	Lynn Brevig
Jillian Gallery	Justin Morgan	Ladonna Rorabeck	Lynn Colson
Jim Clymer	Kamori Cattadoris	Lakota Crystal	Lynn Offutt
Jim MacRae	Karen Berntsen	Lara Backman	Lynn Rabenstein
Jim Strichartz	Karen Best	Larry Keister	Lynn Taylor
Jini Fisher	Karen Clark	Laura Ackerman	M Dulin
Jo Harvey	Karen Erlander	Laura Craig	M Howell
Joan Cole	Karen Fisher	Laura Goldberg	M. Lou Orr
Joan Turpin	Karen Hedwig Backman	Laura Huddlestone	Madya Panfilio
JoAnne Cummings	Karen Howard	Laura Ramon	Mana Iluna
JoAnne Kelly	Karen Kelly	Laura Skelton	Marcia Brown
Joanne Wright	Karen L Byrne	Laurel Hughes	Marcia Clarke
Joe Chasse	Karen Mitchell	Laurette Culbert	Marcia Huey
Joe Thompson	Karen Pickering	Laurice Riecki	Marco de la Rosa
Joe Wiederhold	Karen Richter	Leah Froemsdorf	Margaret Graham
Johanna Molloy	Karen Soma	Lee Musgrave	Margaret Hashmi
John & AJ Jittipsopa-Zinner	Kate Frangos	Lee Stafford	Margaret Lyons
John Eschen	Katharine Harkins	Lee Stone	Margery Barlow
John Fenker	Katherin Balles	Lehman Holder	Margot Voorhies
John Gordon	Katherine Alice Tylczak	Leonard Houghtaling	Marguerite Brown
John Hardy	Katherine Nelson	Leslie Austin Johnson	Marguerite Weis
John Hennessy	Kathleen Hunt	Leslie McClure	Marian Wineman
John Lambert	Kathleen Lowney	Lester Thompson	Marianne Edain
John McGovern	Kathleen Wolfe	Lew Sikes	Marianne Eddington
	Kathlene Croasdale	Liisa Antilla	Marianne Gordon

Marilyn Flint	Melissa Eriksen	Nikki Jimenez	Raymond Williams
Marilyn Mayers	Melissa Thirloway	Noel Barnes	Rebecca & Tom
Marilyn Overton	Melodie Martin	Noel Orr	McDonough
Marjorie Walker	Merna Baker Blagg	Norma Silliman	Rebecca Clark
Mark Bradley	Merryl Woodard	Nova Berkshires	Rebecca Em Campbell
Mark C. Whitaker	Meryle A. Korn	Oleg Varanitsa	Rebecca Robins
Mark D. Blitzer	Mia Heavyrunner	Olga Gottlieb	Rebecca Teeters
Mark Hughes	Michael & Barbara Hill	P M	Rhoda Walter
Mark Scott	Michael Lyman	P.E. Crawford	Rich Lague
Mark Thomas	Michael Reynolds	Pam Borso	Richard & Sharon
Mark Weick	Michael Smith	Pam Ives	Erspamer
Mark Wirth	Michael Spence	Pamela Bar-El	Richard Brems
Marsha Adams	Michael Symonds	Pamela Clark	Richard Craven
Marsha Kimball	Michael Woods	Pamela Engler	Richard D Jones
Marsha Shaiman	Michele Attwood	Pamela Harris	Richard Ellison
Martha Ann Brooks	Michelle Jacobsen	Patricia A Lenzen	Richard Grassl
Martin Englander	Michelle Keating	Patricia D. Wilson	Richard Johnson
Martin Kimeldorf	Michelle Stepp	Patricia Harper	Richard Krahn
Marty Adams	Mike Bessler	Patricia McGee	Richard Romito
Mary & Brian Jokela	Mike Conlan	Patricia Perron	Richard Whitney
Mary Bartholet	Minda Thorward	Patricia Rathbun	Rick Barrett
Mary Benham	Miranda LeonJones	Patrick Archer	Rick Eichstaedt
Mary Bicknell	Mlou Christ	Patrick Mulcahey	Riff Millar
Mary Gleysteen	Mollie Smith	Paul Lantz	Robby Stern
Mary Guard	Mona McNeil, PhD	Paul Moyer	Robert B Kaplan
Mary Harmon	Morgan Girling	Paul Potts	Robert Blumenthal
Mary Holder	N Lebaron	Paul Stoner	Robert Brandt
Mary Jane Engh	Nadine LaVonne	Paul Talbert	Robert Brown
Mary K Johnson	Name Withheld by	Paul Zurfluh	Robert Chang
Mary Knoth	Request	Paulina Oberg	Robert Connor
Mary Masters	Nancy Cabbage	Pauline Druffel	Robert Donohoe
Mary Nye	Nancy Ellingham	Peggy Page	Robert Driessnack
Mary Paynter	Nancy Farrell	Peggy Willis	Robert Fiebing
Mary Schleicher	Nancy Gale	Penny Derleth	Robert Gabriel
Mary Schreifels	Nancy Henderson	Peter Baird	Robert Lindberg
Mary Sebek	Nancy Katz	Peter Holcomb	Robert Rowe
Mary Solum	Nancy Kilgore	Peter Marshall	Robert Sanford
Mary Sprute	Nancy L Krause	Peter Rimbos	Robert Schmidt
Mary Wickwire	Nancy Lovejoy	Peter von Christierson	Robert Worley
Mary-Ann Kirsling	Nancy Pope	Phil Crawford	Robin Boynton
Matthew Anderson	Nancy Shaw	Philip Power	Robin Hirsch
Matthew Boguske	Nancy Shimeall	Phillip Bernhardt-House	Robin Thomas
Matthew Evinger	Nancy Vandenberg	Phyllis Brown	Robyn Lowe
Matthew Logalbo	Nancy White	Phyllis Conley	Roger Lippman
Matthew Thuney	Navneal Mangat	Polly Tarpley	Roger Oborn
Maureen Lang	Neatha Lefevre	Rachael Black	Ron & Marci Moore
Maureen Rawlings	Nic Curtright	Rafe Dimmitt	Ron DiGiacomo
Max DeNise	Nicholas Johnson	Ramona Owen	Ron Slosky
Maxine Clark	Nicholas Smit	Randall Collins	Ronald Krell
Meghan McCutcheon	Nichole Acheson	Randi Pewzner	Ronda Good
Melanie Kenoyer	Nick Barcott	Ravinder Bajwa	Ronlyn Schwartz
Melinda Parke	Nick Taylor	Ray Lou	Rose Lagerberg
Melissa Craig	Nigeala Nigrath	Raymond Ligrano	Roy G Baggerly, PhD

Rozanne Rants	Shary B	Susan Wilson	Tom Oliveri
Russell Wegner	Sharyn Pennington	Susi Hulbert	Toni Reineke
Ruth Darden	Shelley Dahlgren	Susie Saalwaechter	Tony Buch
Ruth Neuwald Falcon	Shemayim Elohim	Suzanne Ward	Tonya Stiffler
Ruth Riordan	Sherry Bupp	Svitlana Dyeryabina	Tracy Fleming
S Carpenter	Sherry E	Sybille Vital	Tracy Wang
S Shaw	Sherry McCabe	T J Thompson	Travis Miller
S Slayton	Sherry Salomon	T William Booth	Trey
Saab Lofton	Sherry Spurling	Tamara A. Turner	Trista Kendall
Sallie Shippen	Sherry Williams	Tamara Saarinen	Ty Ouellette
Sally Hurst	Shirley Jacobson	Tamela Roberson	Ursula Neal
Sally Rodgers	Sigrid Asmus	Taryn Joel	Vaclav Tomek
Sandra B-J	Sonja Hinz	Ted Matts	Val Lukens
Sandra Davis	Stanley Jones-Umberger	Teresa Allen	Vici Duncan
Sandra Smith	Stephen & Kathleen	Teresa Chegin	Vicky Matsui
Sandy Petrarca	Hulick	Teresa Dix	Victor Petertil
Sandy Wood	Stephen Craig Rolston	Teresa Lyman	Victoria Laughlin
Sanja Futterman	Stephen Curry	Theresa Schwacke	Taylor
Saphire Blue	Stephen D. Nichols	Thomas Bougher	Victoria Urias
Name withheld by request	Stephen Durbin	Thomas Cox	Victorya Redstarr
Sarah Collmer	Stephen Friedrich	Thomas E. Davis	Virgene Link
Sarah Dallosto	Stephen Hellriegel	Thomas Friedland	Virginia Davis
Sarah Sloane	Stephen Shubert	Thomas Gilmore	Wendy Atmore
Scott Brown	Steve Hersch	Thomas Libbey	Wendy Taylor
Scott Buxton	Steve Thompson	Thomas Swoffer	Wesley Banks
Scott Dungan	Stewart Lombard	Thomas Winn	Will Golding
Scott Fortman	Stuart Mork	Tika Bordelon	William Koopman
Scott Levering	Sue Gunn	Tim Biller	William Looney
Scott Sledge	Sue Wolfe	Tim Burns	William Mcgunagle
Scott Tallman	Susan & Robert Marett	Tim VanderGoore	William P. Ostrander, Jr.
Scott Whittaker	Susan Bill	Tim Wood	William Persky
Sharie Todd	Susan Blake	Timothy Keeler	William Phipps
Sharon Kalen	Susan Helf	Timothy Sherburne	Willie Edwards
Sharon London	Susan Kay	Tina Brown	Willim Keegan
Sharon Lynch	Susan Kilgore	Tom & Kristi Weir	Yonit Yogev
Sharon Mannix	Susan L Kane	Tom Devine	Yvonne Pawtowski
Sharon Miller	Susan Larson	Tom Dorosz	
Sharon Parshall	Susan Ring	Tom Hopkins	
Sharon Vander Pool	Susan Wainer	Tom Lux	
	Susan Wilkie		

Brooks, Jase (ECY)

From: Alys Kennedy <akhawke@comcast.net>
Sent: Saturday, June 11, 2016 9:20 AM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
- (2) Incorporate language in the final rule that makes it clear that the agency will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- (3) Centralize information for rail, pipeline, and vessel reporting systems so we can have a one stop shop for public information. This includes the TYPE of oil as well as how much oil and how the oil is traveling.
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- (3) Retain the definition of a 'worse case spill.'
- (4) Ensure safety of first responders through adequate protective gear.
- (5) Update the cost-benefit analysis to include the analysis of insurance expert Robert J. Blackburn, hired by the City of Vancouver, that indicates a worse-case scenario in Vancouver could cost \$6 billion.
- (6) Establish a prioritization process for processing and/or paying damage claims if they exceed the money available for compensation.
- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

And, I must add that the strongest rules of all would be numbers (9) and (10) which are:

(9) You can't mitigate an oil spill effectively, nor can you mitigate a life or lives (of any species) lost. Mitigation is TOO LATE!

(10) No oil trains anywhere in Washington!! Or for that matter, anywhere - KEEP IT ALL IN THE GROUND!!

Alys Kennedy
2823 Birchwood Avenue

Bellingham, WA 98225

Brooks, Jase (ECY)

From: Kiwibob Glanzman <kiwibob@scn.org>
Sent: Thursday, June 09, 2016 8:38 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Kiwibob Glanzman
1220 NE 90th
Seattle, WA 98115

June 9, 2016

Dear Kim Morley,

IT'S TIME TO BAN RAIL TRANSPORTATION OF CRUDE OIL FOR PUBLIC SAFETY. "REGULATING" SUCH TRANSPORTATION WILL ALWAYS LEAD TO DISASTER AFTER DISASTER AND "CRYING OVER SPILLED MILK" ONLY TO HAVE IT HAPPEN AGAIN!!!

Sincerely,
Kiwibob Glanzman

Brooks, Jase (ECY)

From: Franz von Hirschmann, MBA <fghirschman@aol.com>
Sent: Thursday, June 09, 2016 8:00 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

I am a physicist and a railroad buff for over 50 years. The rickety railroad cars transporting oil here in the USA would not be allowed to move sugar beets anywhere in the EU. There has not been a single oil train fire anywhere in the 7 core EU nations in 30 years. Want safe cars? Copy them from Germany, Switzerland, Austria even France and Spain. The U s cars I have studied would not be running anywhere in Europe - or Japan for that matter, they would be scrapped by law.

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

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- (5) Update the cost-benefit analysis to include the analysis of insurance expert Robert J. Blackburn, hired by the City of Vancouver, that indicates a worse-case scenario in Vancouver could cost \$6 billion.
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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Franz von Hirschmann, MBA
14222 110 Ave Ct E
Puyallup, WA 98374

Brooks, Jase (ECY)

From: Glen Anderson <glenanderson@integra.net>
Sent: Thursday, June 09, 2016 7:28 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Glen Anderson
5015 15th Ave SE
Lacey, WA 98503-2723

June 9, 2016

Dear Kim Morley,

OIL TRAINS SERIOUSLY ENDANGER THE STATE OF WASHINGTON!!!

Each part of our federal, state, and local governments must do EVERYTHING possible to protect us from these PROVEN DANGERS!!!

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
- (2) Incorporate language in the final rule that makes it clear that the agency will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- (3) Centralize information for rail, pipeline, and vessel reporting systems so we can have a one stop shop for public information. This includes the TYPE of oil as well as how much oil and how the oil is traveling.
- (4) Continue to require facilities to report all oil shipments scheduled to arrive at their facility.

For Railroad Contingency Plan rule (Chapter 173-186 WAC):

- (1) Contingency plan requirements for railroads should be comparable with the most rigorous contingency plan requirements for pipelines and vessels. This includes the 1-, 2-, and 4-hour planning standards and aerial surveillance capabilities.
- (2) Require planning standards for diluted bitumen that include the recommendations from the National Academy of Sciences' Spill of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects and Response
- (3) Retain the definition of a 'worse case spill.'
- (4) Ensure safety of first responders through adequate protective gear.
- (5) Update the cost-benefit analysis to include the analysis of insurance expert Robert J. Blackburn, hired by the City of Vancouver, that indicates a worse-case scenario in Vancouver could cost \$6 billion.
- (6) Establish a prioritization process for processing and/or paying damage claims if they exceed the money available for compensation.

- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Sincerely,
Glen Anderson

Brooks, Jase (ECY)

From: Janis Fensch <jfensch2013@gmail.com>
Sent: Thursday, June 09, 2016 6:45 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

QUEBEC, NORTH DAKOTA, WEST VIRGINIA, VIRGINIA, ILLINOIS, WASHINGTON STATE (ALONG THE COLUMBIA RIVER) TO NAME A FEW. ACCIDENTS DO HAPPEN AND BIG OIL DOESN'T CARE IF PROFIT IS TO BE MADE. IT IS UP TO YOU TO STAND UP AND PROTECT BOTH WE THE PEOPLE AND THE ENVIRONMENT.

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Janis Fensch
3605 Vining St
Bellingham, WA 98226

Brooks, Jase (ECY)

From: Scott Buxton <manyuniverses@yahoo.com>
Sent: Thursday, June 09, 2016 6:18 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Scott Buxton
2003 West Third Avenue
Spokane, WA 99201

June 9, 2016

Dear Kim Morley,

ended to this saying that

I sleep within a few blocks of the tracks that that train rolled over.

Currently those trains run straight through the DOWNTOWN of one of the three largest cities in Washington. Right by the historic neighborhood where I sleep.

At the least, Washington communities should have access to this information!

We need strong standards and requirements.

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Sincerely,
Scott Buxton

Brooks, Jase (ECY)

From: Irmgard Conley <irmorcas@rockisland.com>
Sent: Thursday, June 09, 2016 5:38 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Irmgard Conley
36 Olga Park Lane
Olga (Orcas Island), WA 98279-0088

June 9, 2016

Dear Kim Morley,

By now we have had enough accidents, to know that REAL CHANGE needs to happen!

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

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- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Sincerely,
Mrs. Irmgard Conley

Brooks, Jase (ECY)

From: Gayle Rothrock <gayle.rothrock@gmail.com>
Sent: Thursday, June 09, 2016 3:50 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

I urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Landscapes, lives of people and animals, public health and safety facilities, and housing are all affected when a railcars incident happens.

Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. I applaud the Department for moving these rules forward!. All three rules are an important first start and I strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
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- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Gayle Rothrock
1255 Officers Row
Vancouver, WA 98661

Brooks, Jase (ECY)

From: [Name and address withheld by request.]
Sent: Thursday, June 09, 2016 3:43 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

[Privacy request: Please do not publish my name and address in any public record.]

Protecting the environment is my top priority. I urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures.

Keep the existing parts of each of the draft rules and add the following:

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Thank you for this opportunity to comment.

Name and address withheld by request.
The original email is archived with the rule file.

Brooks, Jase (ECY)

From: Stephen Hellriegel <shellriegel@gmail.com>
Sent: Thursday, June 09, 2016 3:25 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

In addition to the standard form letter, I strongly suggest that legislation be passed which requires safe railbed.

I would much rather we eliminate the source of the spill before it happens than have strong cleanup requirements after the fact.

Specifically:

Any railbed used for passage by carriage of more than 25 tanker cars must be on concrete based bed ties.

This simple to enforce requirement ensures that the excessive wear due to the vibratory/sloshing side loads that oil cars put on the railbed cannot repeat the accident that just happened in Mosier.

We urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible. Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures. We applaud the Department for moving these rules forward. All three rules are an important first start and we strongly encourage Ecology to keep the existing parts of each of the draft rules and to add the following:

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- (1) Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
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For Railroad Contingency Plan rule (Chapter 173-186 WAC):

- (1) Contingency plan requirements for railroads should be comparable with the most rigorous contingency plan requirements for pipelines and vessels. This includes the 1-, 2-, and 4-hour planning standards and aerial surveillance capabilities.
- (2) Require planning standards for diluted bitumen that include the recommendations from the National Academy of Sciences' *Spill of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects and Response*
- (3) Retain the definition of a 'worse case spill.'
- (4) Ensure safety of first responders through adequate protective gear.
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- (7) Identify adequate planning points for the distribution of oil spill response equipment and trained personnel.
- (8) Require a public notice, review, and commenting opportunity when there is a significant change of the plans in order to approve the plan.

Stephen Hellriegel
10654 NE Byron Drive
Bainbridge Island, WA 98110

Brooks, Jase (ECY)

From: Butorac, Diane (ECY)
Sent: Monday, June 13, 2016 9:34 AM
To: Morley, Kim (ECY)
Subject: FW: Legislature Oil Spill Comments
Attachments: Oil Train Addendum.pdf

Additional signatures

From: Taylor, Andrew [mailto:Andrew.Taylor@leg.wa.gov]
Sent: Monday, June 13, 2016 9:02 AM
To: Butorac, Diane (ECY) <dbut461@ECY.WA.GOV>
Subject: RE: Legislature Oil Spill Comments

Hello Diane,

Please find an the addendum attached with additional member signatures.

Thanks you for your time,

Andrew

From: Taylor, Andrew
Sent: Friday, June 10, 2016 2:34 PM
To: diane.butorac@ecy.wa.gov
Subject: Legislature Oil Spill Comments

Hi Diane,

My name is Andrew and I work for Senator Ranker. Please find attached comments to the oil spill rule making signed by multiple Senators and Representatives from the Legislature.

Thank you for your attention on this matter,

Andrew Taylor
LA to Senator Ranker
360 786 7678

Brooks, Jase (ECY)

From: Butorac, Diane (ECY)
Sent: Monday, June 13, 2016 9:34 AM
To: Morley, Kim (ECY)
Subject: FW: Legislature Oil Spill Comments
Attachments: Legislature Oil Spill Comments.pdf

Kim,
You may have gotten this too; I'm forwarding just in case you didn't.
Diane

-----Original Message-----

From: Taylor, Andrew [mailto:Andrew.Taylor@leg.wa.gov]
Sent: Friday, June 10, 2016 2:34 PM
To: Butorac, Diane (ECY) <dbut461@ECY.WA.GOV>
Subject: Legislature Oil Spill Comments

Hi Diane,

My name is Andrew and I work for Senator Ranker. Please find attached comments to the oil spill rule making signed by multiple Senators and Representatives from the Legislature.

Thank you for your attention on this matter,

Andrew Taylor
LA to Senator Ranker
360 786 7678



Washington State Legislature

Comments for the Rulemaking Record on the Following Rules:

Oil Spill Contingency Plan - Railroad (ch. 173-186 WAC)
Oil Movement by Rail and Pipeline Notification (ch. 173-185 WAC)

General Comments

Until 2012, virtually no crude oil shipments moved across the state by rail. The decline in production from Alaska oil fields is steadily being replaced by rail shipments of Bakken crude oil from the upper Midwest and tar sands crude from Canada. Because the state had no spill planning standards for rail shipments, and the very minimal requirements under federal law applied only to very large capacity rail cars that are not used at all in this state, the 2015 Legislature directed that the Department of Ecology adopt oil spill contingency planning standards for rail shipments of crude oil, similar to the requirements for tank vessel shipments which have been in place since the early 1990s. The Legislature also required advance notification to Ecology of crude oil-by-rail shipments, including the route of the shipment and the origin of the oil (effectively providing information on the type of oil being shipped). This information would then be available to first responder agencies in communities along the route in order to better prepare in the event that a response to a spill became necessary.

These comments are directed to the draft regulations released by the state Ecology Department to implement this legislation. The state legislators submitting these comments do so in the spirit of working to implement the strongest measures of spill preparedness and response for the protection of communities along the shipment routes and to protect the many waterways which these routes cross or run adjacent to. While spill response planning standards are a shared responsibility of federal and state governments under applicable clean water and rail safety laws, it is imperative that our state act now to adopt strong planning standards and not rely solely upon the eventual adoption of federal standards. The very recent derailment and subsequent fire and release from a mile-long crude oil train in the Columbia River gorge illustrates the risks faced by our communities along these shipment routes on a daily basis. The planning and disclosure standards must be as strong as possible, adopted in final form without delay, and swiftly implemented.

The following consolidated comments address both the oil spill contingency plan rules and the oil movement notification rules, for ease of reference. They will be submitted as part of both rulemaking dockets.

Comments on Draft Rules: Oil Spill Contingency Plan - Railroad (ch. 173-186 WAC)

1. "Worst Case Spill" Definition and Planning Standard (WAC 173-186-40; 173-186-310; and 173-186-400). It is vitally important that the final rule reflect the draft rule's requirement that rail contingency plans include equipment and resources necessary to respond to a release of the entire oil cargo, based upon an assumption that each rail car may be carrying its capacity of 714 barrels. The oil trains now transiting the state are typically mile-long trains of nearly 100 tank cars. The train that derailed in the Columbia Gorge (with Tacoma as its destination), consisted of 96 rail cars. Given the volatility of Bakken crude oil and the potential for a release caused by a catastrophic fire, it is entirely appropriate to

require that contingency plans address the resources needed to respond to a "worst case spill" that would involve a release of a train's entire oil cargo. Maintaining this standard in the final rules may prove to be the most important element of these rules.

2. Public accessibility to contingency plans (WAC 173-186-100). This section on submitting contingency plans is an appropriate section in which to make it clear that the plans will be publicly accessible through the agency's website from the time they are submitted. The rule should also be clear that if the entity submitting the plan claims that portions of the plan must be kept confidential and not disclosed to the public, the legal basis for the claim of confidentiality must be set forth and that the Ecology director will make a final determination regarding whether the information must be kept from public disclosure.

3. Phase-in dates for this chapter (WAC 173-186-120). The draft rule's requirements that contingency plans be submitted within 90 days of the effective date of the final rules must be maintained in the final rule. It is important that the plans be in place and implemented as soon as possible, and in most cases railroad companies have stated that they already have contingency plans. Making the necessary revisions to meet the state's standards within this time period should not pose a hardship.

4. Spill response equipment transfers (WAC 173-186-140(2)(c)). The draft rules require notification to Ecology of significant changes in plans, including transfers of response equipment for out-of-region spills. This provision should be revised to require notification as well to Ecology of significant transfers of equipment within the region. It is important to coordinate response equipment locations along the main shipment lines among rail operators as well as local, state and tribal first responder agencies. Significant transfers of response equipment within the region by a plan holder or its contractors should be submitted to Ecology as a change to an approved plan.

5. Binding agreement (WAC 173-186-210). The draft rules require a written statement binding the plan holder to its use. The agreement is to be signed by the plan holder as well as the owner or operator of the railroad. It is common for other railroad companies to operate their equipment on lines owned by another company. So the final rule should be made clear that the binding agreement must also be signed by any owner or operator of trains carrying oil as cargo on the line to which the plan applies.

6. Contingency plan content - include locations of oil cargo transfers (WAC 173-186-220(3)(e)). The draft rules require the plan to include a list and map of expected rail routes as well as locations where fueling occurs and inventory of above ground tanks and their storage capacities. The final rule should also require listing of the locations of expected transfers of oil cargo, either loading or offloading of cargo.

7. Contingency plan content - description of sensitive areas (WAC 173-186-220(3)(n)). The draft rules require the plan to include information on a lengthy list of sensitive areas, resources, and facilities. However, it appears to omit several. In addition to drinking water intakes along the shipment routes, important water supply intakes for irrigated agriculture as well as commercial and industrial uses should also be identified. And in addition to "significant economic resources" to be protected in the geographic area covered by the plan, there should be identified those facilities near to the shipment

lines in which there are vulnerable or sensitive populations, such as hospitals, schools, day care centers or senior assisted living facilities.

8. Field document (WAC 173-186-230). The draft rules require a field document listing critical information on the initial emergency phases of a spill and this document be available to personnel who participate in oil handling operations. The final rules should also require making this field document available to all first responder agencies in communities through which the shipment lines run.

9. Group 5 oils (WAC 173-186-330). The draft rules require plan holders to have a contract with spill response contractors with resources and/or capabilities to respond to a spill of Group 5 oils. While this likely refers to persistent oils such as Canadian tar sands that present new challenges when spilled to the marine environment, the term "Group 5 oils" is not defined in the draft rules. The final rules should include a definition of this term.

10. Planning standards for wildlife rescue and rehabilitation (WAC 173-186-370). The draft rules require the plan to identify applicable requirements for wildlife rescue and rehabilitation, and that response resources have the capability to arrive on scene within 24 hours of the spill. The final rules should add that the plan identify how these resources will include or coordinate with appropriate federal, state and tribal wildlife management agencies and authorized wildlife rescue and rehabilitation centers.

11. Enforcement - noncompliance (WAC 173-186-610(4)). The draft rules provide that Ecology may assess a civil penalty of up to \$100,000 for any violation of the rules and that each day of noncompliance be considered a separate violation. The final rules should make clear that this penalty for violation of the planning rules is in addition to and separate from any damages or liability that may incurred for natural resources damages or damages or injury to persons or property, or penalties incurred for violation of any other laws relating to a spill.

Comments on Draft Rules: Oil Movement by Rail and Pipeline Notification (ch. 173-185 WAC)

1. Disclosure - The public (WAC 173-185-100). The 2015 legislation requiring disclosure to the public of "statewide" aggregated quarterly information on crude-by-rail shipments requires information on the routes of the shipments and type of oil shipped. The draft rules reflect an appropriate balance of "aggregated" information that will not disclose proprietary information while at the same time providing an important statewide picture of the frequency, routes and types of crude oil being shipped by rail. The draft rule language should be maintained in the final rules.

2. Disclosure of the shipment route (WAC 173-185-100). The 2015 legislation requires facilities receiving oil to provide Ecology advance notification information on the route taken "if known," and this information is subsequently aggregated on a quarterly basis for public disclosure. It is plain that facilities expecting crude oil deliveries track these shipments closely and are aware of the route of the shipment, as the scheduling of offloading is critical to their operations. The final rules should provide that it is assumed that reporting facilities have knowledge of the route of a shipment and any claim to the contrary for a specific shipment must be clearly demonstrated by the reporting facility.

3. Disclosures -- Type of crude oil shipped (WAC 173-185-100). The final rules should maintain the draft rules requirement that the type of oil received over a quarterly period of oil at a facility be aggregated on a statewide basis. It is very important that the public have reliable information about the type of oil being shipped through their communities.

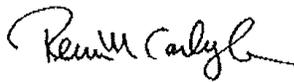
4. Disclosures -- Emergency management division and county, city, tribal, port and local government emergency response agencies (WAC 173-185-090). The draft rules simply provide that first responder agencies may request advance notification information via a request by email. The final rules should reflect a more concerted effort by the agency to centralize this information for easy access, using the model of its advance notification system used for vessel oil cargo transfers. This could be combined with such vessel information into a central website on transportation, with a tab specific for advance notification of rail shipments accessible only by these first response agencies. A separate weblink could be provided at the same website for the quarterly aggregated information available to the general public.

5. Public notification of website update (WAC 173-185-100). The draft rules and 2015 legislation direct Ecology to update the website on a quarterly basis. The final rules should specify how the public will be notified of website updates and identify significant differences in statewide shipments from prior quarters.

Signed,



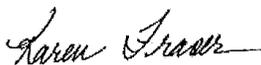
Senator Kevin Ranker 40th District



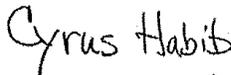
Senator Reuven Carlyle 36th District



Senator Annette Cleveland 49th District



Senator Karen Fraser 22nd District



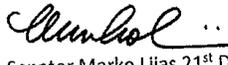
Senator Cyrus Habib 48th District



Senator Pramila Jayapal 37th District



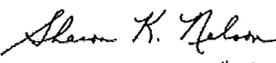
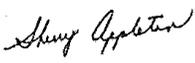
Senator Karen Keiser 33rd District

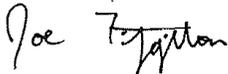


Senator Marko Lias 21st District

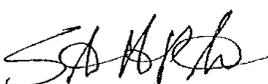


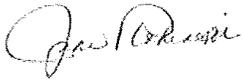
Senator John McCoy 38th District

  
Senator Sharon K. Nelson 34th District Senator Jamie Pedersen 43rd District Representative Sherry Appleton 23rd District

  
Representative Joe Fitzgibbon 34th District Representative Noel Frame 36th District Representative Mia Gregerson 33rd District

  
Representative Christine Kilduff 28th District Representative Patty Kuderer 48th District Representative Kristine Lytton 40th District

  
Representative Jim Moeller 49th District Representative Strom Peterson 21st District Representative Gerry Pollet 46th District

  
Representative June Robinson 38th District Representative Cindy Ryu 32nd District Representative Tana Senn 41st District

 
Representative Derek Stanford 1st District Representative Brady Walkinshaw 43rd District



Senator Jeannie Darnelle 27th District



Senator Bob Hasegawa 11th District



Representative Gael Tarleton 36th District

Brooks, Jase (ECY)

From: Rebecca Ponzio <rebecca@wecprotects.org>
Sent: Friday, June 10, 2016 4:13 PM
To: Pilkey-Jarvis, Linda (ECY); Morley, Kim (ECY)
Subject: Comments on rulemaking for Chapters 173-185 and 173-186
Attachments: HB1449Rulemaking_NotificationAndRailContinPlan_FINAL.pdf

Dear Ms. Morley and Pilkey-Jarvis,

Please see the attached comment letter on the two draft rules for Chapters 173-185 and 173-186.

Regards, Rebecca

Rebecca Ponzio • Oil Campaign Director
206.631.2604 • cell 206.240.0493 • rebecca@wecprotects.org

Washington Environmental Council • wecprotects.org
1402 Third Avenue | Suite 1400 | Seattle, WA 98101

June 10, 2016

Submitted via email: Linda.Pilkey-Jarvis@ecy.wa.gov and Kim.morley@ecy.wa.gov

Kim Morley
WA Department of Ecology, Spills Program
PO Box 47600
Olympia, WA 98504-7600

Linda Pilkey-Jarvis
WA Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600

RE: Comments on Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Dear Ms. Morley and Ms. Pilkey-Jarvis,

Thank you for this opportunity to submit comments on the draft rulemaking language for Chapters 173-185 WAC, Oil Movement by Rail and Pipeline Notification and 173-186 WAC, Oil Spill Contingency Plan – Railroad. These two rules represent important components of the state's overall safety mechanisms to protect communities and waterways from oil spills, derailments, and other such disasters related to oil transportation. We have decided to combine our comments on these two rules because they are different parts of the same overall issue. Overall, we applaud the Department of Ecology's draft rules and we strongly encourage Ecology to keep the existing parts of the rules and add the following:

Chapter 173-185. Oil Movement by Rail and Pipeline Notification

During the 2014 and 2015 legislative sessions, state leaders weighed what actions the state should take in the face new risks posed by oil transportation changes and the regulatory gaps that needed to be addressed to protect the public and the environment. After failing to pass legislation during the 2014 session, the Legislature directed the Department of Ecology (Ecology) and the Utilities and Transportation Commission (UTC) to conduct a thorough assessment of oil transportation safety risks and make recommendations to address these risks. The study included a long list of recommended actions including requiring facilities receiving oil to notify the state and enhancing contingency planning to improve spill response.¹

A consistent issue of focus throughout the study process, legislative debate, public comment periods, and press coverage was the need for enhanced transparency with information reported to Ecology and available to the public on the volume, type, route, mode of transport, oil spills, and other related information on oil moving by rail and pipeline. Supporters of ESHB 1449 regularly pointed in testimony to the need to have all

¹ "Washington State 2014 Marine and Rail Oil Transportation Study", recommendation 10, p. 22, recommendation 30 on p. 126, <https://fortress.wa.gov/ecy/publications/documents/1508010.pdf>

modes of transporting oil treated similarly and the advance notice of transfer reporting system for vessels provided a good model for how to approach information and transparency on the rail and pipeline modes of transport.² Through improved transparency, the state and the public have a better understanding of oil transportation patterns, pinch points in the systems, areas where oil spills tend to occur en route to the facility, and types of oil being transported, which carry unique risks depending on the type of oil (e.g., oil sands v. Bakken).

Given the high public safety risks associated with oil transportation, the advance notice system was also intended to provide information, before oil arrives, to local governments and first responders. Once again, the unique and significant risks posed by the types and quantities of oil transported through our communities and the lack of transparency prior to the passage of ESHB 1449 put firefighters and emergency responders at a greater risk should a derailment, spill, or fire occur.

The substance of the current rulemaking process for rail and pipeline notification is rooted in the existing advance notice of transfer system. In fact, RCW 90.56.560 authorizes Ecology to adopt rules for advance notice of rail transport and ensure consistency with the existing advance notice of transfer over water system in RCW 88.46.165. "(6) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165."³

With this context, the below organizations provides the following comments to be incorporated into the final rule:

1. **Statewide aggregation** – as ESHB 1449 moved through the legislative process, the bill was amended to direct Ecology to aggregate oil transportation data at a statewide level. The final rule regarding notification and the new oil transportation website, often referred to as the "Community Right to Know" provision in the law, must strike the right balance of aggregation at the statewide level and providing sufficient information so that local residents and leaders understand the transportation patterns in their area and the risks presented to public safety and the environment.

To help strike this balance, Ecology provided a sample map of statewide aggregation with route segments identified. The map is helpful for understanding how information may be presented on a website. We strongly support agency's proposal to provide aggregated information at the statewide level and with route segments to show patterns of oil transportation including information on the number of trains, type of oil, oil spills, etc. Aggregating information helps protect proprietary

² See Senate Bill Report, available at <http://lawfilesexternal.leg.wa.gov/biennium/2015-16/Pdf/Bill%20Reports/Senate/1449-S.E%20SBR%20WM%2015.pdf/>; Environmental Community Comments on Oil Transportation Study

³ RCW 90.56.560(6)

information and providing information broken into route segments allows the law to fulfill its purpose – specifically improving transparency and identifying pinch points or areas most at risk of a derailment or spill of dangerous types of oil.

2. **Route “if known”** – The final rule language in WAC 173-185-100 should clarify that it will be assumed that the route is known unless the facility required to report the information shows Ecology that the information is truly not known and require the facility to provide some documentation to verify that the route is in fact unknown. As currently drafted, the rule language is too broad and could be used to cut corners on reporting by facilities receiving oil. We believe that the flexibility allowed on reporting the route should be for very unusual or select circumstances where reporting the route would be unreasonably burdensome.
3. **Notification process** – We strongly support the draft rule’s language that a facility must provide notice for all scheduled crude oil deliveries. The primary purpose of the reporting requirement and website is to provide the public and local communities with reasonable transparency and information on oil moving through the state. In order to accomplish this objective, it is essential for accurate information to be submitted to Ecology. The draft rule provides needed clarity for facilities reporting information to understand what is expected and protects against errors in reporting procedures that would prevent complete information from being disclosed to the state and the public.
4. **Easy access to vessel, rail, and pipeline transportation information** – Communities across the state are concerned about the risks they face including public safety, economic impacts from an oil spill, and/or threats to cultural resources. Given the policy goal of consistency between the new rail and pipeline reporting requirements and the long-standing advance notice of transfer for vessels, we recommend that Ecology incorporate some information from the established advanced notice of transfer and vessel information system to a central website on oil transportation. This could take the form of tabs such as the existing oil transportation website form on Ecology’s website.⁴ The goal for that type of information consolidation is to avoid creating silos between oil vessel information and oil arriving from rail or pipelines and providing the public with the broad information they need to understand transportation patterns and how they change over time. It would also help the public be informed if they weigh in on future oil spill related issues or processes like Vessel Traffic Risk Assessments, contingency planning, etc.
5. **Ensure accessible information on the type of oil arriving at facilities** – We support the draft rule’s inclusion of the type of oil as one of the website reporting

⁴https://fortress.wa.gov/ecy/coastalatlant/storymaps/spills/spills_sm.html?CustomMap=y&BBox=-14083010,5497472,-12792753,6241663&Tab=nt3&Opacity=1&Basemap=esriLightGray&StartDate=7_1_2011&EndDate=3_31_2015

obligations. A foundational goal in ESHB 1449 and the proposed rules is to reveal the types of oil moving through the state. For example, there is inconsistent information on the facilities receiving heavy oil sands crude. The 2014 Marine and Rail study included information that oil sands was being transported by barge to the US Oil refinery in Tacoma, but inquiries to the refinery disputed that assertion.⁵ This lack of transparency and clarity is a key reason why legislation was introduced and eventually passed. The core value of a website and reporting system is to improve transparency and educate the public on the full picture of oil transportation in Washington.

6. **Public notification of website update** – The rule authorizing legislation directs Ecology to update the new website on a quarterly basis. Ecology should notify the public when these updates occur and language on the notification process should be included in the final version of WAC 173-185-100.

Chapter 173-186 WAC. Oil Spill Contingency Plan – Railroad

Oil spills from railroads can cause devastating impacts to the immediate and down-stream environments and species; the region's economy; and the quality of life for residents, visitors, and businesses. It is imperative that this rulemaking address the safety and environmental risks from the transport of crude oil by rail as directed by the Legislature in ESHB 1449:

- "The movement of crude oil through rail corridors and over Washington waters creates safety and environmental risks."
- "The sources and transport of crude oil bring risks to our communities along rail lines."
- "In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter: (i) To maintain the best achievable protection that can be obtained through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable."

The draft rule's contingency plan requirements are less rigorous as compared with contingency plan requirements for pipelines and vessels. It might be reasonable for small rail companies that transport small volumes of refined products for agricultural use to have different contingency plan requirements than those for large rail companies that transport large volumes of crude oil. There are different impacts from different types of oil, when spilled, as a result of the oil's persistence and volatility. Crude oil is more persistent than

⁵ "Washington State 2014 Marine and Rail Oil Transportation Study", p. 277 and Sause Brothers use of articulated tug barges to transport Canadian oil sands to US Oil refinery in Tacoma; US Oil assertion that no tar sands is coming to there Tacoma Refinery at the end of this press article: <http://crosscut.com/2016/01/should-washington-get-tougher-on-oil-shipping/>

refined products, and especially in the case of Bakken crude, more volatile than refined products. Contingency plan requirements that are any less rigorous than those required for pipelines and vessels would be unacceptable given the extreme consequences from rail accidents involving crude oil that communities and natural and economic resources along these rail routes are exposed to.

WAC 173-186-010 Purpose (1)(d) is unequivocal:

Provide for the protection of Washington waters, natural, cultural and significant economic resources by minimizing the impact of oil spills[.]

It is imperative that this rulemaking address the risks from the transport of oil by rail to public safety and our state's environmental, cultural, and economic resources, as directed by the Legislature. With this context, we urge Ecology to update the rule via the following items:

1. Railroads Require Rigorous Regulations to Comply with Legislative Intent

- Require 1-, 2-, and 4-hour planning standards to avert or minimize oil spills into waterways and corresponding environmental and economic damage. Railroad companies, particularly those that transport large volumes of crude oil, should be obligated to respond immediately to spills, as is required in contingency plans for pipelines and vessels.
- Require Group 5 planning standards for all nonfloating oils. This would include Canadian crude oil which is also known as diluted bitumen or dilbit. See the United States Coast Guard's May 29, 2014 report to Congress, *Risk Assessment of Transporting Canadian Oil Sands*, the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response*, and the USCG's update to the Oil Spill Removal Organization (OSRO) Guidelines (March 2016) that created the OSRO classification guidelines for nonfloating oils (https://www.uscg.mil/msib/docs/007_16_4-1-2016.pdf).
- Require planning standards for diluted bitumen that include the recommendations from the National Academy of Sciences' *Spills of Diluted Bitumen from Pipelines: A Comparative Study of Environmental Fate, Effects, and Response*.
- Require planning standards to include aerial surveillance capabilities (as is required in WAC 173-182-321 Covered vessel planning standards for aerial surveillance).

2. Retain Definition of "Worst-Case Spill"

The draft rulemaking's definition of "Worst-Case Spill" is appropriate ("a spill that includes the entire cargo capacity and fuel capacity of the largest number of cargo rail cars carried by the railroad complicated by adverse weather conditions"). This definition is consistent with other worst-case spill definitions in the WAC and complies with the legislative intent in ESHB 1449.

3. Ensure the Safety of First Responders

ESHB 1449 is the Oil Transportation safety bill which emphasizes the safe transport of oil by rail and the safety of our State's first responders. Requiring appropriate protective equipment, including respirators, for first responders and oil spill responders is necessary to ensure spill response safety.

- Amend the definition of "Spill Assessment" as underlined:
"Spill assessment" means determining product type, potential spill volume, environmental conditions including tides, currents, weather, river speed and initial trajectory as well as a safety assessment including air monitoring and identification of appropriate protective equipment, including respirators, for oil spill responders.
- Amend New Section WAC 173-186-430 Planning standards for air monitoring to protect oil spill responders and the public as underlined:
WAC 173-186-430 Planning standards for air monitoring to protect oil spill responders and the public. This may include but is not limited to:
 - (1) A description of how work area air monitoring will occur;
 - (2) A description of how community air monitoring (area wide monitoring) will occur;
 - (3) A description of how site characterization will occur;
 - (4) A description of air monitoring instruments and detection limits that will be used by responders when monitoring for public safety;
 - (5) A description of action levels for various oil constituents of concern based on products handled by the railroad (benzene, H₂S, etc.);
 - (6) A description of data management protocols and reporting timeframes to the unified command;
 - (7) A description of communication methods to at-risk populations;
 - (8) A description of how evacuation zones are established; and
 - (9) A description of how shelter-in-place criteria is established.(10) A description of how oil spill responders will be protected with appropriate equipment (e.g. respirators) while responding to spills with adverse air quality.

4. Revise the Draft Cost-Benefit and Least Burdensome Alternative Analysis

BNSF has submitted *Schedule 2 Additional filing requirements for companies transporting crude oil by rail* to the Energy Facility Site Evaluation Council (EFSEC) which includes a calculation for a reasonable worst case spill cost of \$775,623,195.27. However, insurance expert Robert J. Blackburn, who was hired by the City of Vancouver, WA, has testified before the EFSEC estimating the maximum foreseeable loss due to a single event in Vancouver at \$5 billion to \$6 billion (see The Columbian article, "Worst-case scenario: Vancouver oil disaster could cost \$6 billion: Insurance expert testifies to EFSEC that no policy could cover those costs" by Dameon Pesanti, published on June 5, 2016, 6:05 AM <http://www.columbian.com/news/2016/jun/05/worst-case-scenario-vancouver-oil-disaster-could-cost-6-billion/>).

The Cost-Benefit and Least Burdensome Alternative Analysis describes the likely costs of the proposed rule in far more detail than it describes the costs of spills and other costs associated with the likely benefits of the proposed rule. The language identifying the benefits of this rule needs to be expanded. Table 7 (pages 29-31) includes the populations on or near rail lines that transport oil. Similar tables are needed to document the benefits of this rule's "requirements that support more immediate, appropriate, and comprehensive response to spills from rail" which reduce the impacts related to:

- Health: Describe the costs to the potentially affected populations for the treatment of burns and injuries from fires and/or explosions, adverse air quality and/or toxic chemical exposure, drinking water and food contamination.
- Property damage and contamination (which include fire, explosions, and evacuation related costs): Describe properties and businesses on or near rail lines that transport oil; their values, descriptions of business districts and/or neighborhoods, property taxes, etc.
- Environmental impacts: Include information on the Natural Resource Damage Assessment process as well as valuation data for all environmental resources on or near the rail lines used to transport oil.

Revise Section 1.6 Risk from Class 5 oils with the current cost of the 2010 diluted bitumen spill in the Kalamazoo River, Michigan. Note that diluted bitumen is not a Class 5 oil but can be a nonfloating oil (see above request to require Group 5 planning standards for all nonfloating oils).

In Section 4.2 Costs of Spills, revise Table 6: Example Oil Train Spills and Impacts to include the most current rail derailments/accidents/spills and their costs to date.

- 5. Identify prioritization process for responding to damage claims**
Contingency plans are now required to include procedures for managing claims for damage. If damage claims exceed funds available for compensation, this rule should include a process for prioritizing the processing and/or payment of damage claims.
- 6. Retain preliminary draft rulemaking language regarding "Shorelines of statewide significance" and ensure appropriate placement of Planning Points**
The current draft rulemaking language omits "shorelines of statewide significance" as defined in the Shoreline Management Act RCW 90.58.030, which had been included in the preliminary draft rulemaking language. ESHB 1449 states (Sec. 1 (1)) "the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills."

Shorelines of statewide significance require particular protection and as such should inform the location of Planning Points. To address legislative intent, this rule must identify adequate Planning Points for the distribution of oil spill response equipment and trained personnel in order to ensure a rapid, aggressive, and well-

coordinated response and to "Provide for the protection of Washington waters, natural, cultural and significant economic resources by minimizing the impact of oil spills" (WAC 173-182-010 Purpose. (1)(d))

The number and location of Planning Points must be expanded to protect shorelines of statewide significance.

7. Require appropriate contingency plans for rail cars that are used for storage

The definition of tank car is specific to transportation, not storage:

"Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

Given the definition of "Facility," (see below) idled tank cars that are used as storage need to have an appropriate contingency plan per their use as a storage facility. The exception in (c) (i) specifies "rolling stock while transporting oil..."

"Facility" means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

8. Requirements Re. Significant Changes to Approved Plans

Require a public notice, review and commenting opportunity in WAC 173-186-130 Significant changes to approved plans. Greater transparency is essential for public trust when significant changes are made to contingency plans.

9. Require appropriate contingency plans for rail cars that are used for storage:

The definition of tank car is specific to transportation, not storage:

"Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

Given the definition of "Facility," an argument could be made that tank cars used as storage would need to have their own CP. The exception in (c) (i) specifies "rolling stock while transporting oil..."

"Facility" means:

(a) Any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) Except as provided in (b) of this subsection, a facility does not include any:

(i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;

Thank you for addressing these comments in finalizing Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad. If you have any questions, please contact Rebecca Ponzio at (206) 240-0493 / rebecca@wecprotects.org.

Sincerely,

Washington Environmental Council
1402 Third Avenue # 1400
Seattle, WA 98101

FRIENDS of San Juans
P.O. Box 134
Friday Harbor, WA 98250

Friends of the Earth
7001 Seaview Ave NW
Ste 160-233
Seattle, WA 98117

Earth Ministry/Washington Interfaith Power & Light
6512 23rd Ave NW, Suite 317
Seattle, WA 98117

Protect Skagit,
14451 Ashley Place
Anacortes, WA 98221

The Lands Council
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#222 Spokane 99201

Tahoma Audubon Society
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University Place WA 98466

Puget Soundkeeper Alliance
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Seattle, WA 98109

Audubon Washington
5902 Lake Washington Blvd S
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RE Sources for Sustainable Communities
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Oregon Physicians for Social Responsibility
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Grays Harbor Audubon Society
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STAND earth
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Washington Chapter of Physicians for Social Responsibility
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Spokane Riverkeeper
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Spokane, WA 99201

FOGH (Friends of Grays Harbor)
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Washington 98595-1512

Citizens for a Clean Harbor
PO Box 35
Hoquiam, Washington, 98550

350 Seattle
210 NE 92nd St, #307
Seattle, WA 98115

Sierra Club
180 Nickerson Street # 202
Seattle, WA 98109

Futurewise
816 Second Avenue, Suite 200
Seattle, WA 98104-1530

Friends of the Columbia Gorge
522 SW 5th Avenue, Ste 720
Portland, OR 97204-2100

Brooks, Jase (ECY)

From: Cdickinsen <Cdickinsen@comcast.net>
Sent: Friday, June 10, 2016 4:06 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC rail safety

I am writing as a concerned homeowner in the Carter Park neighborhood of Vancouver, Washington.

Even before the tragic derailment in Moiser, Oregon, the safety of our railroads in the Northwest has needed much greater improvement if we intend to continue to ship dangerous crude oil across along the tracks. I urge you to consider the highest possible safety measurements allowed. Please don't skimp on the safety and welfare of Washington state, its scenic beauty and wonderful citizens.

We also deserve to know when, how much and where crude oil is being shipped along the rails so our first responders may be prepared. Again, please put people's safety first, not just profit. The derailment on recently inspected tracks of a newly improved oil tankers at Moiser, Oregon should be a HUGE wake up call. We simply are not doing enough.

Thank you for your consideration

Christine Dickinsen
114 W. 28th Street
Vancouver, Washington 98660
503 704 7143

Sent via the Samsung Galaxy Note5, an AT&T 4G LTE smartphone

Brooks, Jase (ECY)

From: Jean Avery <JeanMAvery@gmail.com>
Sent: Friday, June 10, 2016 3:41 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Jean Avery
13314 SE 19th St.
Vancouver, WA 98683

June 10, 2016

Dear Kim Morley,

I am writing as a resident of Vancouver, Washington, and someone who hikes regularly in the Columbia River Gorge.

As you know, Washington State is seeing more oil trains coming through our cities and our beautiful Gorge -- which is troubling for the environment and frightening for our safety.

Communities across Washington are on the front line, experiencing crude oil trains and are at risk of oil spills due to train derailments and pipeline ruptures.

I urge the Department of Ecology to implement the strongest rules for Chapters 173-185, and 173-186 as possible.

Sincerely,
Jean M. Avery

Brooks, Jase (ECY)

From: Zimmerman, Stephanie <szimmerman@spokanecity.org>
Sent: Friday, June 10, 2016 3:33 PM
To: Morley, Kim (ECY)
Subject: Council Member Mumm Comment
Attachments: Candace Mumm Comment.doc

Hello Kim,

Attached is a comment made by Council Member Candace Mumm regarding the two newly proposed oil transportation rules. Please contact me with any questions.

Thank you,

Stephanie Zimmerman, J.D.
Legislative Assistant to Council Member Candace Mumm
509.625.6718

Brooks, Jase (ECY)

From: Zimmerman, Stephanie <szimmerman@spokanecity.org>
Sent: Friday, June 10, 2016 3:33 PM
To: Morley, Kim (ECY)
Subject: Council Member Mumm Comment
Attachments: Candace Mumm Comment.doc

Hello Kim,

Attached is a comment made by Council Member Candace Mumm regarding the two newly proposed oil transportation rules. Please contact me with any questions.

Thank you,

Stephanie Zimmerman, J.D.
Legislative Assistant to Council Member Candace Mumm
509.625.6718



CITY COUNCIL
808 W. Spokane Falls Blvd.
Spokane, WA 99201-3335
(509) 625-6255

Candace Mumm
Council Member District 3

To whom it may concern,

In my prior career, as a news reporter, I have covered many train crashes. I have witnessed the devastation of these derailments and have seen the detrimental impact, especially to smaller communities that are not prepared to handle that type of emergency. Mosier, Oregon is a perfect example. These situations put pressure on nearby large cities, such as Spokane, to deliver emergency response.

A derailment could also happen in the Spokane area where elevated trains are in the heart of our city, near schools, high rise buildings, and our greatest natural asset, the Spokane River. I support the two rule changes. I believe they are reasonable to protect communities, like Spokane, that would bear the cost and risk.

Thank you for giving me the opportunity to comment.

Sincerely,

Candace Mumm

Brooks, Jase (ECY)

From: Karen Gogins <kgogins@healthybay.org>
Sent: Friday, June 10, 2016 2:29 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC: Oil Movement by Rail and Pipeline Notification Rulemaking
Attachments: WAC 173-185 Oil Movement by Rail and Pipeline Notification comments - Citizens for a Healthy Bay.docx

Hi Kim,

Please see the attached comment letter from Citizens for a Healthy Bay on the proposed rule, Chapter 173-185 WAC: Oil Movement by Rail and Pipeline Notification.

Please confirm with me that you have received our comments.

Thank you,
Karen

--

Karen Gogins
Policy and Technical Project Manager
Citizens for a Healthy Bay

535 Dock Street, Suite 213
Tacoma, WA 98402
T 253-383-2429 | W healthybay.org

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Citizens for a
Healthy
Bay

June 10, 2016

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chb@healthybay.org
www.healthybay.org

Kim Morley
WA Dept. of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600
Kim.Morley@ecy.wa.gov

Re: Chapter 173-185 WAC: Oil Movement by Rail and Pipeline Notification

Executive Director
Melissa Malott

Dear Ms. Morley:

Thank you for providing Citizens for a Healthy Bay the opportunity to review and comment on the proposed new rule, Chapter 173-185 WAC: Oil Movement by Rail and Pipeline Notification (hereinafter sometimes the "notification rule").

Board of Directors
Jeff Barney
Bonnie Becker
Cheryl Greengrove
Kathleen Hasselblad
Bett Lucas

Citizens for a Healthy Bay (CHB) is a 25-year-old environmental organization whose mission is to represent and engage citizens in the cleanup, restoration and protection of Commencement Bay, the surrounding waters and natural habitat. We are a 501(c)3 nonprofit providing practical, solutions-based environmental leadership in the Puget Sound area. We work side-by-side with local citizens, businesses and governments to prevent water pollution and make our community more sustainable.

Melissa Braisted Nordquist
Marco Pinchot
Lee Roussel
Angle Thomson
Sheri Tonn

Staff and expert members of the Policy and Technical Advisory Committee with CHB have attended the WA State Dept. of Ecology (Ecology) public hearing and reviewed the proposed rule and related information. Our comments are outlined below.

Background

The Oil Movement by Rail and Pipeline Notification rule, proposed by Ecology, would apply to owners and operators of facilities that receive crude oil by rail in Washington as well as transmission pipelines that transport crude oil through the state to create reporting standards for facilities and pipelines, and to identify reporting standards for Ecology to share information with emergency responders, local governments, tribes and the public.

A tax-exempt
501(c)(3) Washington
nonprofit corporation

Washington State has experienced dramatic increases in the amounts of crude oil transported by rail and pipeline. Following the 2015 legislative session, Ecology was directed to develop rules on notice and disclosure of information on the movement of crude oil by rail and pipeline.¹ This rule seeks to enhance oil transportation safety and protect public safety and the environment by establishing notification requirements and procedures that inform emergency response agencies and the public of all crude oil shipments to facilities by rail and crude oil transport by pipeline.²

General Comments

CHB strongly supports the right of emergency responders and the public to know when crude oil travels through or near their community and across Washington State. Timely and accurate notice of oil movement information is necessary for emergency response agencies and planners to effectively prepare for and respond to oil spills and other accidents associated with the transport of crude oil. However, we encourage Ecology to adopt several elements that will strengthen the rule for the protection of our communities and natural resources. Our specific concerns are outlined below.

Specific Comments

Providing adequate information to help protect the lives of people living and working near railroads and pipelines, the economy and the environmental resources of Washington. We urge Ecology to incorporate the following elements into the final notification rule:

- Provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist.
- Incorporate language in the final rule (WAC 173-185-100) that makes it clear that Ecology will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation. This will prevent the facilities from cutting corners in reporting requirements.
- Centralize information for rail, pipeline and vessel reporting systems so we can easily access public information. This includes the *type* of oil as well as the amount and mode of transportation.
- Continue to require facilities to report all oil shipments scheduled to arrive at their facility to improve transparency and clarity.

¹ RCW 90.56.565(6).

² WAC 173-185-020.

There are two facilities are receiving or have the capacity to receive crude oil within the Port of Tacoma: U.S. Oil Refinery and Targa Sound Terminal. CHB has a direct interest in ensuring that the transport of oil to these facilities does not result in any environmental damage to local waterways. Due to the predicted increase in the volume of crude oil traffic headed to Tacoma facilities, the recent history of derailments and spills within the U.S. and Canada, and the hazardous nature of crude oils, we strongly encourage Ecology to implement the changes outlined above to establish a stronger rule for rail and pipeline notifications.

Please contact our office if there are questions regarding our comments. Thank you for the opportunity to provide comments on the proposed rule.

Sincerely,

A handwritten signature in black ink that reads "Melissa Malott". The signature is written in a cursive, flowing style.

Melissa Malott
Executive Director, Citizens for a Healthy Bay

Brooks, Jase (ECY)

From: Jennifer Boyden <jennifer@sanjuans.org>
Sent: Friday, June 10, 2016 12:47 PM
To: Morley, Kim (ECY)
Subject: Comment Letter RE: Oil Movement by Rail and Pipeline Notification Rulemaking
Attachments: FRIENDS_Comment_Ltr_Rail_Pipeline_Advance_Notice_Requirements.pdf

Dear Ms. Morley:

Thank you for this opportunity to submit comments on the draft rulemaking language for the Oil Movement by Rail and Pipeline Notification Rulemaking. Please find attached the comment letter.

Sincerely,
Stephanie Buffum

sent by:
Jennifer Boyden
Development and Operations Manager
FRIENDS of the San Juans
P.O. Box 1344 | Friday Harbor, WA 98250
Office: [360.378.2319](tel:360.378.2319) | Fax: [360.378-2324](tel:360.378-2324)

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Protecting and restoring the San Juan Islands and the Salish Sea for people and nature.



June 10, 2016

Comments submitted via email: Kim.Morley@ecy.wa.gov

Kim Morley
WA Department of Ecology Spills Program
PO Box 47600
Olympia, WA 98504-7600

RE: Oil Movement by Rail and Pipeline Notification Rulemaking

Dear Ms. Morley,
Thank you for this opportunity to submit comments on the draft rulemaking language for the Oil Movement by Rail and Pipeline Notification Rulemaking.

FRIENDS of the San Juans ("FRIENDS") is a 501(c)(3) non-profit organization established in 1979 to protect, preserve, and restore the land, water, and sea of the San Juan archipelago which is surrounded by the trans-boundary waters of the Salish Sea. FRIENDS represents approximately 2,000 members and works with diverse stakeholders, including citizens, tribal and governmental agencies, as well as with other non-profit organizations and businesses to achieve the greatest benefit for people and nature. Using science, policy, law, education, and citizen activism, FRIENDS' activities include protection of Southern Resident Killer Whales and other endangered species; marine research and habitat restoration; ecological stewardship and conservation; land use and environmental compliance; community engagement and education. Our members live, work, and recreate in the San Juan Islands and the surrounding waters, where they enjoy observing wildlife and our natural heritage. Maintaining the health, integrity, and natural beauty of the Salish Sea is critical to preserving our local and regional economy.

There is no crude oil transported by rail or pipelines in the San Juan Islands. However, rail or pipeline spills on the mainland could adversely impact the Salish Sea and the environment, economy and quality of life for marine dependent species and San Juan Islands' residents, visitors, and businesses.

FRIENDS asks Ecology to ensure that Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification

- Requires accurate reporting to the public on the name and type of crude oil transported, and requires facilities to include this information in their reports to Ecology.
- Requires advance notification of all crude oil transported, with no minimum volume reporting thresholds.
- Requires advance notice of the location of any idled rail cars (rail cars used for storage).
- Provides advance notice for stadiums, casinos and other venues where large crowds gather. Facility managers (who are the first responders for their facilities) need to know when transport will occur or idled rail car storage will take place near their facility so they can be adequately prepared for evacuation and emergency response.

PO Box 1344, Friday Harbor, WA 98250 Phone: 360-378-2319 Fax: 360-378-2324 www.sanjuans.org

- Centralizes information for rail, pipeline, and vessel reporting systems to provide a one-stop-shop for public information. This would include the type and volume of oil as well as how the oil is traveling.
- Includes the most current definition of "Transmission pipeline" per the United States Department of Transportation.

The Preliminary Cost-Benefit and Least-Burdensome Alternative Analyses includes detailed information on the likely costs of the proposed rule but does not quantify the likely benefits of the proposed rule. The Cost-Benefit and Least-Burdensome Alternative Analyses should include those costs associated with improved response times. At a minimum these analyses should address the status quo "benefit" for economic and biological conditions in the San Juans and Salish Sea.

Most significant is the legislative intent of ESHB 1449: To provide advance notification for the benefit of our state's emergency responders regarding the transport of crude oil by rail and pipeline and to ensure a rapid, aggressive, and well-coordinated spill response with a primary goal being the protection of the waters of the state.

The Tenth Amendment (Amendment X) to the United States Constitution states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Further, see RCW 90.56.030 Powers and duties:

The powers, duties, and functions conferred by this chapter shall be exercised by the department of ecology and shall be deemed an essential government function in the exercise of the police power of the state. Such powers, duties, and functions of the department shall extend to all waters under the jurisdiction of the state.

On Friday June 3rd, 16 rail cars derailed from a 96-car train carrying crude oil from North Dakota to Tacoma, Washington. The derailment, near Mosier, Oregon, resulted in explosions, fire, oil spilled into the Columbia River, evacuations that included a school, the closure of an interstate highway, and yet to be determined damages to area environmental resources, properties and businesses. Had a similar derailment with resulting explosions, fire, and oil spill taken place in Washington State with a train bound for Oregon or California, this current draft of the Oil Movement by Rail and Pipeline Notification rule would not apply.

Ecology has the authority and the mandate to require advance notification for all rail and pipeline transport of crude oil through Washington State, regardless of its destination.

Thank you for this opportunity to submit comments and for addressing the changes needed in the draft rule language for Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification.

Sincerely,



Stephanie Buffum Field
Executive Director
FRIENDS of the San Juans

Brooks, Jase (ECY)

From: Rebecca Craven.<rebecca@pstrust.org>
Sent: Friday, June 10, 2016 12:51 PM
To: Morley, Kim (ECY)
Subject: Comments of Pipeline Safety Trust on WAC 173-185

Please accept this email as the comments of the Pipeline Safety Trust on proposed WAC Chapter 173-185 - Oil Movement by Rail and Pipeline Notification.

We are pleased to have the opportunity to comment on this proposed rule. The proposal fulfills the directive from the state legislature to adopt rules governing notice of transport of crude oil by rail and by pipeline. We support the proposed rules with a few suggestions for changes.

In comportment with the recommendations of the National Academies of Science, we suggest that in addition to a state or province of origin and the API gravity of a shipment, operators be required, if the product is diluted bitumen, to identify the type or blend using industry standard names, e.g. Cold Lake blend.

In addition to information about the contents of oil being transported, we suggest that each notification (both before and after the transport occurs) relating to transportation of crude by rail also include information identifying the safety specifications of the cars transporting the oil, eg, how many are legacy DOT 111A cars, how many have been retrofitted, and how many are new cars meeting current construction requirements for safety.

We also are concerned that the aggregation of information made available to the public will unnecessarily dilute the public's ability to identify risks to their own communities, determine changes in transportation of crude oil over time or, if all facilities or all pipelines are aggregated, to identify relative risks of one place over another. While we recognize that the Department may feel constrained by the language of its authorizing legislation to do more, we encourage you to provide the maximum amount of disaggregated information to the public that you can within those legislative constraints.

Thanks for the opportunity to comment on this proposed rule.

Rebecca

Rebecca Craven
Program Director
Pipeline Safety Trust
300 N. Commercial Street
Bellingham WA 98225
360.543.5686
<http://www.pstrust.org>

Brooks, Jase (ECY)

From: Emily Krieger <krieger.mimi@gmail.com>
Sent: Friday, June 10, 2016 12:12 PM
To: Morley, Kim (ECY)
Subject: Public comments: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad

Thank you for considering these new rules, this addition is truly monumental and necessary in order for our State to move forwards and protect our communities and natural environment.

I urge you to make these rules as strong and comprehensive as possible. The recent derailment in Mosier provided as yet another wake up call to the dangers of oil transportation and I do hope. These derailments, spills, and explosions have real harmful impacts on our communities and we simply cannot continue to let these accidents become standard.

Chapter 173-185 WAC must:

- Provide the public with consistent notification of type of oil transportation and in what quantities, in addition to information regarding the risk and dangers of the transportation specific to the type of oil and area it is being transported through.
- Facilities must take full responsibility for reporting requirements and the burden must fall on them when the route is unknown.
- Advance notice of any oil shipments and what facilities it is shipped from.

Chapter 173-186 must:

- This contingency plan needs to be held to the highest, most rigorous standards on par with that of vessel and pipeline standards.
- Include planning standards for diluted bitumen
- a comprehensive review of all environmental and community resources at risk from oil spills including an analysis of the value of human life and natural resources
- realistic information on the ability of our emergency response team to effectively counter the dangers arising from an oil spill, along with adequate safety gear for these first responders
- Retain the definition of a "worse case spill"
- an agreement to inform the public of any changes to this contingency plan and provision of longest possible comment periods and options for public input.

Thank you for taking the time to read and consider all public comments on this matter. It is so encouraging to see these rules being created and I do hope they are held to the highest possible standard.

Regards,

Emily Krieger

Brooks, Jase (ECY)

From: Dow, Barnaby <Barnaby.Dow@kingcounty.gov>
Sent: Friday, June 10, 2016 10:53 AM
To: Pilkey-Jarvis, Linda (ECY); Morley, Kim (ECY)
Subject: Chap 173-185 and 186 reponse
Attachments: HubbardOilTrainRuleResponse060916.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Linda and Kim:

Our comments attached.

Best,

Banaby B. Dow
External Affairs
King County Emergency Management
3511 NE 2nd Street
Renton WA 98056-4192

Office: 206-205-4070
Mobile: 206-714-9832
www.kingcounty.gov/prepare



King County

Office of Emergency Management

Department of Executive Services
3511 Northeast Second Street
Renton, WA 98056
206-296-3830 TTY Relay: 711
www.kingcounty.gov/prepare

June 9, 2016

Kim Morley
Linda Pilkey-Jarvis
Department of Ecology Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: Proposed rulemaking on transportation of crude oil - Chapter 173-185/186 WAC

Dear Colleagues:

As I write this, the people of Mosier, Oregon are just beginning to recover from the fire and mass evacuation caused by the 16-car train derailment and spill of Bakken crude oil. The accident in Mosier is the latest in a string of incidents involving transportation of this volatile substance that have threatened the life and safety of people living along rail routes, as well as the economic stability and natural environment we all share.

In King County, our region's north-south rail lines carry oil train traffic through the State's most densely populated area and the heart of our commercial and industrial centers. These rail lines flow the Puget Sound shoreline, cross rivers and estuaries, and along heavily used recreation areas and sports facilities.

As Director of King County Emergency Management, protection of the health and safety of the public is my paramount duty. A derailment, fire and explosion could have catastrophic impacts. Even smaller leaks and spills can have lasting and costly damage to health and water quality.

While we have very little control over oil moving through our communities by rail, we face significant burdens in emergency management and preparedness. Leaders of local governments and Tribes, emergency managers, and first responders need to have accurate and timely information about hazardous oil coming through our communities.

I want to thank the Legislature for adopting and funding stronger standards for oil transport safety and disclosure of hazards, and Ecology for developing the proposed rules under review. The action of the Legislature last year was a good first step.

Kim Morley, Department of Ecology Spills Program
June 9, 2016
Page 2

I also want to recognize the state's establishment of four regional Hazardous Materials Planners who are now in place and serving the emergency management community. Their work will help to ensure that local plans meet best practices standards and give our emergency responders better tools to respond to incidents involving crude-oil-by-rail, barge and pipeline.

Chapter 173-185 WAC. Oil Movement by Rail and Pipeline Notification

Transparency about the capacity and makeup of existing and forecasted oil train traffic is essential for developing emergency plans and understanding the full range of impacts of existing and proposed oil export facilities. We strongly support the proposed notification provisions. However, the proposed rules don't require disclosure of the actual volumes of oil being transferred – especially for transfer by rail. This is critical information for emergency planning and for incident response.

Notification protocols should be developed for transport of any quantity of oil and not have a minimal quantity or units. This will enable local, county and regional jurisdictions adequate preparation for potential spills.

Chapter 173-186 WAC. Oil Spill Contingency Plan – Railroad

Local Emergency Planning Committees play a critical role in developing response plans in collaboration with stakeholders and the general public. We ask that the rulemaking consider a higher level of engagement with these Local Emergency Planning Committees and their counterparts among Tribal nations throughout the planning process.

On behalf of King County, I want to thank you for this opportunity to provide comments.

Sincerely,


Walt Hubbard, Director
King County Emergency

Cc: King County Executive Dow Constantine
Caroline Whalen, King County Administrative Officer
Megan Smith, Director of Climate & Energy Initiatives, King County Executive
Michael Charles, External Relations Specialist, King County Executive
Harold Taniguchi, Director King County Department of Transportation
Marty Grisham, Chair, King County Local Emergency Planning Committee

Brooks, Jase (ECY)

From: Trevor Justin <trevor@wsma.org>
Sent: Friday, June 10, 2016 10:29 AM
To: Morley, Kim (ECY)
Cc: Pilkey-Jarvis, Linda (ECY)
Subject: Washington State Medical Association Rule comment on WSR 16-08-117 and 16-08-118
Attachments: Oil rule comment 6-10-16 FINAL DRAFT.pdf

Good morning Ms. Morley,

Please see the attached PDF for our comments on oil rules WSR 16-08-117 and 16-08-118. We decided to incorporate our comments for both rules into one comment.

Please let me know if you have any questions.

Thanks!

Trevor

Trevor Justin
Coordinator of Legislative and Regulatory Affairs
Washington State Medical Association (WSMA)
Email: Trevor@wsma.org
Office Phone: 360-352-4848





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June 10, 2016

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Kim Morley
Department of Ecology
P.O. Box 47600
Olympia, WA 98504

Dear Ms. Morley:

Please see our comments below on the proposed rules addressing oil movement by rail WSR 16-08-117 (oil spill contingency planning for railroads) and WSR 16-08-118 (oil movement by rail and pipeline notification).

The Washington State Medical Association (WSMA) urges you to set rules for oil transportation through our state that recognize the serious public health and safety concerns that exist around this process. We recommend that the rules guiding the transportation of oil through our state should work to prevent or seriously minimize potential deleterious health effects, which have been well documented. These include impacts on water quality, air quality, and public safety in the event of a catastrophe.

We know there are many health and safety risks associated with transporting crude oil by rail, including:

- **Increased air pollution**, specifically diesel related air pollution. Diesel particulate matter increases rates of heart attack and stroke, as well as the risk for asthma. It accounts for air toxic cancer risk in the Puget Sound area.
- **Increased water pollution** from both oil spills and slow leaks, which threatens drinking water supplies and fishing. Crude oil components are known to be associated with cancer, reproductive health problems, and other health problems.
- **Oil fires, spills, explosions and train derailments**, which pose a particularly significant public health risk to Washington residents who live within recommended evacuation zones. Also, rescue and cleanup crews face risks of toxic exposures.

For **WSR 16-08-117**, we support "worst case spill scenario" planning. We recommend that the final rule include appropriate protective equipment for oil spill responders. Protecting those who will be on the front lines of such an emergency should be a top priority. The final rule should also ensure that owners, operators, and all parties will be held accountable for prevention and health-related consequences of accidents which may occur.

For **WSR 16-08-118**, we support rules for advanced notification, including notification to public safety agencies, as well as public access to timing and contents of shipments. As previously mentioned, this final rule should also ensure that owners, operators, and all

parties will be held accountable for prevention and health-related consequences of accidents which may occur.

We urge the Department of Ecology to ensure these new rules governing oil transportation by rail are protective to public health, and take into account the serious concerns of doctors across Washington State and to members of the Washington State Medical Association.

Sincerely,

Kathryn Kolan

Kathryn Kolan, JD
Director of Legislative and Regulatory Affairs

cc: Jennifer Hanscom, Executive Director/CEO
WSMA Executive Committee

Brooks, Jase (ECY)

From: Laura Skelton <laura@wpsr.org>
Sent: Friday, June 10, 2016 9:32 AM
To: Morley, Kim (ECY)
Cc: regna@oregonpsr.org
Subject: Comment on Rulemaking: Chapter 173-185 WAC and Chapter 173-186 WAC

Comment on proposed oil movement by rail rules:

- Chapter 173-185 WAC (oil movement by rail and pipeline notification)
- Chapter 173-186 WAC (oil spill contingency planning for railroads)

Respectfully submitted by Washington and Oregon Physicians for Social Responsibility.

Washington and Oregon Physicians for Social Responsibility represent several thousand health care professionals in our two states. We appreciate the opportunity to provide comments on the proposed rules for improved oil-by-rail safety.

Our physicians, nurses, and other health professionals are deeply troubled by the well documented health and safety impacts and the many health risks posed by oil transportation by rail. We urge the rules making committee to set rules for oil transportation through our state that take into account the serious public health and safety concerns that exist around this process.

We know there are many well-documented health and safety risks associated with transporting crude oil by rail, including:

- **Increased air pollution**, specifically diesel related air pollution. Diesel particulate matter increases rates of heart attack and stroke, as well as the risk for asthma. It accounts for the majority of air toxic cancer risk in the Puget Sound area.
- **Increased water pollution** from oil from both spills and slow leaks, which threatens drinking water supplies and fishing. Crude oil components are known to be associated with cancer, reproductive health problems, and other health problems.
- **Delay of emergency vehicles** in dozens of towns and cities throughout our state, where trains operate over at-grade crossings
- **Oil fires, spills, explosions and train derailments**, which pose a particularly significant public health risk to the three million Washington residents who live within a recommended evacuation zone. Also, rescue and cleanup crews face risks of toxic exposures as well as risk of injury from fires.

The rules guiding the transportation of oil through our state should work to prevent and seriously minimize potential deleterious health effects. It is incumbent upon your Department to provide the most protective rules possible regarding the transportation of these hazardous materials through our communities.

For the Rail and Pipeline Notification rule (Chapter 173-185 WAC):

- We support strict advance notice of planned transport to the necessary parties in all affected communities. Please continue to require facilities to report all oil shipments scheduled to arrive at their facility.
- We support the most comprehensive rules for advanced notification, including notification to public safety agencies, as well as public access to timing and contents of shipments. It is critical that first responders are notified about what types of oil (e.g., tar sands, Bakken crude) are being hauled. Please update the rule to provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc., consistent with the route segments to understand areas where unique risks or problems exist.
- We support centralizing all information for rail, pipeline, and vessel reporting systems in a single location accessible by the public. This information includes the type of oil, as well as the volume of oil being transported and the route it is traveling.
- The final rule should establish stronger penalties for non-compliance with the rule, sufficient to ensure that owners, operators and all parties will be held fully accountable for prevention, and for all consequences of accidents which may occur.

For the Railroad Contingency Plan rule (Chapter 173-186 WAC):

- We strongly support "worst case spill scenario" planning.
- The final rule should require appropriate protective equipment, including respirators, for oil spill responders. Protecting those who will be on the front lines of such an emergency should be a top priority.
- The final rule should establish stronger penalties for non-compliance with the rule, sufficient to ensure that owners, operators and all parties will be held fully accountable for prevention, and for all consequences of accidents which may occur.
- Any time there is a significant change in the plans, the public should be provided sufficient notice and an opportunity to review and comment.

We thank the Department of Ecology for working to improve the safety of oil transported by rail in our region. We urge the Department to ensure these new rules governing oil transportation by rail are as protective of public health as possible, taking into account the serious concerns of health professionals in our region and to members of Physicians for Social Responsibility in Washington and Oregon.

--

Laura Skelton, MS
Executive Director
Washington Physicians for Social Responsibility
206.547.2630

Brooks, Jase (ECY)

From: Gus Gates <ggates@surfrider.org>
Sent: Friday, June 10, 2016 9:25 AM
To: Morley, Kim (ECY)
Subject: Oil Train and Pipeline Notification Requirement Rules
Attachments: Surfrider_OilTrain_NotificationRules_Comments.pdf

Kim-

Please see the attached comments from the Surfrider Foundation for the draft Oil Train and Pipeline Notification Requirement rules.

Thank you

Gus Gates | Washington Policy Manager | [Surfrider Foundation](#)
541.999.0272 | ggates@surfrider.org



June 10th, 2016

Kim Morley
Department of Ecology Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

RE: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification Rulemaking

Dear Kim,

Thank you for the opportunity to provide public comment on the proposed rules to enhance oil transportation safety within the State of Washington by establishing notification requirements. On behalf of the 5 Surfrider Foundation Washington Chapters, made up of over 400 members of aquatic recreational users, we appreciate the work you are doing by taking this important step to better protect our communities and waterways.

Speaking specifically to the rules, these seem like common sense approaches toward better ensuring rapid response when a spill occurs. Knowing what type of material they're dealing with will help emergency personnel on the scene to utilize the most effective response procedures in a timely manner, minimizing potential impacts to our communities and ecosystems. Surfrider's Washington chapters are generally supportive of the rules; we feel, however, that there is one key piece that needs to be reconsidered prior to final adoption.

WAC 173-185-090 Disclosures—Emergency management division and county, city, tribal, port, and local government emergency response agencies. Ecology will share the advance notice information collected from facilities under this chapter with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request. Requests to access this information must be submitted to ecology by e-mail.

Requiring any concerned county, city, tribal, port, or local government to get this important information from the agency upon request creates an unreasonable burden on local government and the potential for a bottleneck in the flow of information. How long would you estimate it might take to process a request for information? What happens when that request comes on a weekend or a holiday? At a time when quick, dependable access to information is critical, we need to understand that the amount of time that agencies can take to process information requests may often be unacceptable. One possible alternative could be that this information be made available to potentially affected communities and emergency responders via a password-protected website.

After last week's crude oil train derailment, spill and fire in the Columbia River Gorge, we need to do a better job to ensure that we have done everything in our power to protect our communities and ecosystems from this catastrophic threat. Moving forward, we need to do a better job of ensuring that the oil spill prevention and response program is adequately funded. While these rules represent a significant step in the right direction, it's important to recognize that no rule, however well written, will actually prevent an oil spill from occurring. The companies moving these toxic and explosive materials through our communities must understand that any costs that they may incur as a result of this mandatory reporting simply reflect the cost of doing business in a state that values a clean environment and aggressively provides for the safety of its citizens.

Respectfully submitted,

Gus Gates
Surfrider Foundation, Washington Policy Manager

Eleanor Hines
Surfrider Foundation Northwest Straits Chapter, Chair

Todd Penke
Surfrider Foundation Seattle Chapter, Chair

Tip Wonhoff
Surfrider Foundation South Sound Chapter, Chair

Kendall Farley
Surfrider Foundation Capital Chapter, Chair

Joe Johnson
Surfrider Foundation Olympic Peninsula Chapter, Chair

Brooks, Jase (ECY)

From: Bruce Hoeft <brucehoeft3@gmail.com>
Sent: Friday, June 10, 2016 9:22 AM
To: Pilkey-Jarvis, Linda (ECY)
Subject: oil-by-rail rules

Linda Pilkey Jarvis

June 10th, 2016

Department of Ecology Spills Program

PO Box 47600

Olympia, WA 98504-7600

concerning Chapter 173-185 and 173-186 WAC: Oil Spill Contingency Plan – Railroad

Dear Ms. Pilkey Jarvis,

I live in Tacoma, a quarter mile from the rail line along Commencement Bay, which carries regular lengthy trains of crude oil. The advent of fracking technology has produced a glut of oil, one that exceeds industry capacity to ship via pipeline. Oil trains have become the default means of delivering the oil to market. The US Congress recently lifted a 40-year ban on the export of crude. The oil-by-rail traffic is only going to increase, especially here in the Pacific Northwest gateway to Asia. Our protections should

Dozens of oil trains have derailed in the past few years, many burning or exploding, in one case largely destroying a town, and killing many of its citizens. The accident in Mosier Oregon, last week, is only the latest example. I live in a town through which crude oil travels. I feel in jeopardy, experiencing a significant risk, for which my neighbors and I derive no benefit.

I thank you for promoting the development of rules on this traffic. We should adopt the most stringent regulations governing this mode of oil transport.

Advanced detailed notification to the State, and to first responders, should be mandatory. Rail industry claims that notification is impossible, and likely to fall in the wrong hands, is spurious, and offensive. Advanced notification of types and amounts of oil transported, routes and time schedules, and revisions that happen on the fly should be a standard requirement. That information should be centralized and available to affected parties.

The proposed rule is less rigorous, and less thorough than current protocols regulating the evaluation and planning for spill responses for vessels on Puget Sound (WAC 173-182- 380), and for delivery by pipeline. Geographic Response Plans should be developed for all transit areas, especially those near population centers, and bodies of water. Accident and spill response equipment and access routes should be adequate for the hazard posed by the oil transport. That hazard is not minor. Rail lines should be required to carry insurance that covers worst-case scenarios. Otherwise the State is left holding the bag when accidents happen. We should require rigorous cost-benefit analysis. I encourage the adoption of rules that are as stringent as the rail transport of crude is dangerous.

I thank you for your consideration.

Bruce Hoeft

508 N 11th St.

Tacoma WA 98403

Brooks, Jase (ECY)

From: Robert Thoms <weatherjet98101@yahoo.com>
Sent: Thursday, June 09, 2016 9:26 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

Are you REALLY going to permit oil trains to pass underneath me and my child as they make their way through Seattle's downtown rail tunnel ?

If so, pray every day nothing bad happens as a result of your judgment because, if it does and I survive, some of you will have to relocate to a different continent to avoid having to deal with me.

Take that as a promise.

Proud Washingtonian,

Robert Thoms

Robert Thoms
Apartment 1009
1420 Western Avenue
Seattle, WA 98101

Brooks, Jase (ECY)

From: James Griener <jamesgriener@comcast.net>
Sent: Thursday, June 09, 2016 5:28 PM
To: Morley, Kim (ECY)
Subject: Chapter 173-185 WAC Oil Movement by Rail and Pipeline Notification and Chapter 173-186 WAC Oil Spill Contingency Plan – Railroad.

James Griener
PO Box 683
Camas, WA 98607

June 9, 2016

Dear Kim Morley,

Even implementing the strongest possible rules for Chapters 173-185, and 173-186 are NOT ENOUGH!!!!

Providing information and having contingency plans is giving into the oil companies and the railroad. They haven't given a damm in the past. They won't now. They are interested in PROFIT only, regardless of the damage to my environment, my river, my schools, my towns! To me: I live in Camas, WA.

NO OIL TRAINS along the Columbia River. NO OIL TRAINS through Washington State. Stop this insanity! NOW!

Damm Mad
James Griener

Brooks, Jase (ECY)

From: saddleupaqh@rcabletv.com
Sent: Thursday, June 09, 2016 2:42 PM
To: Morley, Kim (ECY)
Subject: Re: proposed oil terminal ,Longview, WA

Thanks Kim ,the comment can be applied to both proposed rules, Ed

On Thu, June 9, 2016 1:24 pm, Morley, Kim (ECY) wrote:

> Thanks for your comment Ed. Do you want this comment applied to both
> proposed rules related to oil by rail - the Oil Spill Contingency
> Plan-Railroad rule and the Oil Movement by Rail and Pipeline
> Notification rule? I just want to make sure we apply it correctly.

>
> Thanks,
> Kim
>
>
> Sent from my iPhone

>
>
>> On Jun 9, 2016, at 1:04 PM, "saddleupaqh@rcabletv.com"
>> <saddleupaqh@rcabletv.com> wrote:

>>
>>
>> Hi Kim ,It is more than clear and obvious ,especially after the train
>> derailment on the Columbia River last week , where many cars carrying
>> oil came off the tracks and much oil spilled, causing a fire to burn
>> and the citizens to evacuate, that we do not need more trains
>> moving along the rail transportation corridors, nor do we need a oil
>> terminal to be built near Vancouver. This incident proves just how
>> dangerous hauling oil by rail is, so adding more shipments would
>> potentially increase the dangers, and we definitely do not need a pipeline either.
>> Because this was a major
>> spill, we should have a moratorium on all rail shipments so that no
>> further disasters will occur. There have been many other oil spills
>> in this country in the last decade or so and in other countries as
>> well, so adding more shipments and a terminal would be unsafe and an
>> unacceptable solution.

>>
>> Sincerely, Ed
>>
>>
>

Brooks, Jase (ECY)

From: saddleupaqh@rcabletv.com
Sent: Thursday, June 09, 2016 1:15 PM
To: Kim.Morley@ecy.wa.gov.
Subject: proposed oil terminal ,Longview, WA

Hi Kim ,It is more than clear and obvious ,especially after the train derailment on the Columbia River last week , where many cars carrying oil came off the tracks and much oil spilled, causing a fire to burn and the citizens to evacuate, that the we do not need more trains moving along the rail transportation corridors, nor do we need a oil terminal to be built near Vancouver. This incident proves just how dangerous hauling oil by rail is, so adding more shipments would potentially increase the dangers, and we definitely do not need a pipeline either. Because this was a major spill, we should have a moratorium on all rail shipments so that no further disasters will occur. There have been many other oil spills in this country in the last decade or so and in other countries as well, so adding more shipments and a terminal would be unsafe and an unacceptable solution.

Sincerely, Ed

Brooks, Jase (ECY)

From: saddleupaqh@rcabletv.com
Sent: Thursday, June 09, 2016 1:04 PM
To: Kim.Morley@ecy.wa.gov.
Subject: proposed oil terminal ,Longview, WA

Hi Kim ,It is more than clear and obvious ,especially after the train derailment on the Columbia River last week , where many cars carrying oil came off the tracks and much oil spilled, causing a fire to burn and the citizens to evacuate, that the we do not need more trains moving along the rail transportation corridors, nor do we need a oil terminal to be built near Vancouver. This incident proves just how dangerous hauling oil by rail is, so adding more shipments would potentially increase the dangers, and we definitely do not need a pipeline either. Because this was a major spill, we should have a moratorium on all rail shipments so that no further disasters will occur. There have been many other oil spills in this country in the last decade or so and in other countries as well, so adding more shipments and a terminal would be unsafe and an unacceptable solution.

Sincerely, Ed

Brooks, Jase (ECY)

From: Morley, Kim (ECY)
Sent: Thursday, June 09, 2016 12:13 PM
To: Brooks, Jase (ECY)
Subject: Fwd: Comments on proposed WAC 173-185
Attachments: WAC-173-185 RR Comments 9June16.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Thomas G. Johnson" <tj138@gmail.com>
To: "Morley, Kim (ECY)" <kmor461@ECY.WA.GOV>
Cc: "Jeffrey Johnson" <aesjeffrey@gmail.com>
Subject: Comments on proposed WAC 173-185



Dear Kim Morely,

Attached are the comments from American Environmental Services, LLC on WAC 173-185.

Thank you for your help and for the opportunity to comment on this important subject.

Regards,

T. Jeffrey Johnson, President
Thomas G. Johnson, PE, Vice-President



American Environmental Services
Environmental Consulting and Training
5130 135th Street SE
Everett, Washington 98208
Phone: (206) 852-6820
Email: Jeffrey@AmericanEnvironmental.US

June 9, 2016

Department of Ecology Spills Program
Kim Morley
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on proposed WAC 173-185

Dear Kim Morley

Thank you for the excellent help you and your people have provided to aid our research of the extant WAC and other DOE documents so that our comments on this draft rule can be more helpful.

173-185-020(3)(a) Insert one word as shown: "Provide here-to-fore nonaggregated (...)."

173-185-050(4)(a) Delete the phrase as shown: "(...) other than a vessel, ~~located on or near the navigable waters of the state~~ that transfers (...)."

173-185-100 Delete the word "quarterly" and insert in its place the word "weekly."

NOTE: It makes little sense to inform the public of the weekly reports of expected shipments up to twelve weeks after they have happened. The public expects more transparency and better access to public information.



American Environmental Services
Environmental Consulting and Training
5130 135th Street SE
Everett, Washington 98208
Phone: (206) 852-6820
Email: Jeffrey@AmericanEnvironmental.US

Sincerely,

T. Jeffrey Johnson BS BS&H,
President, Owner Operator

Thomas G. Johnson, PE
Vice-president, Owner Operator

Brooks, Jase (ECY)

From: Morley, Kim (ECY)
Sent: Thursday, June 09, 2016 8:12 AM
To: Brooks, Jase (ECY)
Subject: Fwd: Comment: Oil transportation rules

Sent from my iPhone

Begin forwarded message:

From: Kirsten Krane <kirstkrane@yahoo.com>
Date: June 8, 2016 at 3:12:56 PM PDT
To: "Morley, Kim (ECY)" <kmor461@ECY.WA.GOV>
Subject: Re: Comment: Oil transportation rules
Reply-To: Kirsten Krane <kirstkrane@yahoo.com>

Yes, please. Kirsten

On Wednesday, June 8, 2016 3:11 PM, "Morley, Kim (ECY)" <kmor461@ECY.WA.GOV> wrote:

Hi Kirsten,

Thanks for your comments. Do you want us to apply these comments to both rules that address oil by rail - the Oil Spill Contingency Plan-railroad rule and the Oil Movement by Rail and Pipeline Notification rule? I just want to make sure we apply them correctly. Just let me know and I will add them to our system.

Thanks!
Kim Morley

Sent from my iPhone

On Jun 8, 2016, at 10:28 AM, Kirsten Krane <kirstkrane@yahoo.com> wrote:

Please require railroads transporting crude or refined oil to submit oil spill response plans to the state for approval. Contingency plans show that railroads are prepared to respond to an oil spill immediately and effectively. The Notice Requirements for facilities that receive bulk deliveries of crude oil by rail or pipelines that transport crude oil would help affected communities ensure a rapid, coordinated response in the event of an oil spill.

I live in Spokane and we're very concerned about the likelihood of a derailment in our downtown corridor.

Thank you, Kirsten Angell

Brooks, Jase (ECY)

From: Kirsten Krane <kirstkrane@yahoo.com>
Sent: Wednesday, June 08, 2016 3:13 PM
To: Morley, Kim (ECY)
Subject: Re: Comment: Oil transportation rules

Yes, please. Kirsten

On Wednesday, June 8, 2016 3:11 PM, "Morley, Kim (ECY)" <kmor461@ECY.WA.GOV> wrote:

Hi Kirsten,

Thanks for your comments. Do you want us to apply these comments to both rules that address oil by rail - the Oil Spill Contingency Plan-railroad rule and the Oil Movement by Rail and Pipeline Notification rule? I just want to make sure we apply them correctly. Just let me know and I will add them to our system.

Thanks!
Kim Morley

Sent from my iPhone

On Jun 8, 2016, at 10:28 AM, Kirsten Krane <kirstkrane@yahoo.com> wrote:

Please require railroads transporting crude or refined oil to submit oil spill response plans to the state for approval. Contingency plans show that railroads are prepared to respond to an oil spill immediately and effectively. The Notice Requirements for facilities that receive bulk deliveries of crude oil by rail or pipelines that transport crude oil would help affected communities ensure a rapid, coordinated response in the event of an oil spill.

I live in Spokane and we're very concerned about the likelihood of a derailment in our downtown corridor.

Thank you, Kirsten Angell

Brooks, Jase (ECY)

From: Sartore, Megan <Megan_Sartore@kindermorgan.com>
Sent: Wednesday, June 08, 2016 11:39 AM
To: Morley, Kim (ECY)
Subject: Oil Movement by Rail and Pipeline Notification - Comments of Trans Mountain Puget
Attachments: 2016.06.08_Letter of Comment_Oil Movement by Rail and Pipeline Volume Reporting Copy.pdf

Ms. Morley –
Please find the attached comments of Trans Mountain Pipeline (Puget Sound) LLC with respect to the proposed Chapter 173-185 of the WAC.

Kind regards,

Megan Sartore
Regulatory Compliance Lead
Kinder Morgan Canada Inc.
Phone (403) 514-6614
Fax (403) 514-6622
Megan_Sartore@kindermorgan.com



Kinder Morgan Canada Inc.
Suite 2700, 300 – 5th Avenue SW
Calgary, AB Canada T2P 5J2
Tel: (403) 514-6400
Fax: (403) 514-6622
Toll Free: 1 (800) 535-7219
www.kindermorgan.com

VIA EMAIL & MAIL SUBMISSION

8 June 2016

Department of Ecology
Spills Program
P.O. Box 47600
Olympia, Washington 98504-7600

To: Ms. Kim Morley, Program Performance / Management Analyst

Dear Ms. Morley:

**Re: Rule Proposal Notice: Oil Movement by Rail and Pipeline Notification
Comments of Trans Mountain Pipeline (Puget Sound) LLC**

Trans Mountain Pipeline (Puget Sound) LLC (“Puget”), as operated by Kinder Morgan Canada Inc., is in receipt of the Washington Department of Ecology’s (“Ecology”) Rule Proposal Notice entitled Oil Movement by Rail and Pipeline Notification, proposed Chapter 173-185 of the *Washington Administrative Code*.

Proposed Chapter 173-185 requires bi-annual reporting of crude oil throughput via pipeline and advance notice of crude oil delivery by railroad car. For pipelines, reporting for the January 1 – June 30 period would be due July 31, and reporting for the July 1 – December 31 period would be due January 31 of the following year. Proposed Chapter 173-185 also requires disclosure of nonaggregated volume, or pipeline-specific, information to the state emergency division and any county, city, tribe, port and local government emergency response agency, to assist these agencies to effectively prepare for and respond to oil spills and other accidents. Proposed Chapter 173-185 also requires aggregated volume information collected to be available and to inform the public of the nature of crude oil movement through their communities.

Puget supports the efforts of Ecology to provide throughput information to response agencies for the purpose of response preparation, and to the public for the purpose of awareness, and is providing the following comments for consideration.

Puget owns a pipeline that delivers product from the International Boundary near Sumas, Washington to Washington State refineries in Anacortes, Cherry Point and Ferndale.

The Pipeline Hazardous Material Safety Administration (“PHMSA”) and the Federal Energy Regulatory Commission (“FERC”) require Puget to report throughput in the Annual Report for Hazardous Liquid Pipeline Systems and the Form 6 Annual Report of Oil Pipeline Companies, respectively. The Annual Report for Hazardous Liquid Pipeline Systems requires total annual throughput for a calendar year in

barrel miles, and is due June 15 annually. The Form 6 Annual Report of Oil Pipeline Companies requires total throughput for the calendar year in both barrels and barrel miles, and is due April 18 annually. As such information is available to the public, Puget would appreciate consideration being given to accessing such information in lieu of a bi-annual report.

Puget notes that Ecology proposes that the bi-annual information be provided one (1) month after each reporting period. One month may not provide an adequate amount of time to collect all throughput data and make necessary reconciliations and adjustments as required. For this reason, Puget suggests that the reporting deadline be extended to September 30 for January 1 – June 30, and March 31 for the July 1 – December 31 reporting periods.

Puget thanks Ecology for the opportunity to provide feedback on the proposed legislation.

Yours truly,

Original signed by

Megan Sartore
Regulatory Compliance Lead, Regulatory Affairs
(403) 514-6614 (Direct)
(403) 514-6622 (Fax)
Megan_Sartore@kindermorgan.com

Brooks, Jase (ECY)

From: Kirsten Krane <kirstkrane@yahoo.com>
Sent: Wednesday, June 08, 2016 10:29 AM
To: Morley, Kim (ECY)
Subject: Comment: Oil transportation rules

Please require railroads transporting crude or refined oil to submit oil spill response plans to the state for approval. Contingency plans show that railroads are prepared to respond to an oil spill immediately and effectively. The Notice Requirements for facilities that receive bulk deliveries of crude oil by rail or pipelines that transport crude oil would help affected communities ensure a rapid, coordinated response in the event of an oil spill.

I live in Spokane and we're very concerned about the likelihood of a derailment in our downtown corridor.

Thank you, Kirsten Angell

Brooks, Jase (ECY)

From: robert mitchell <wolfgangsglass.66@gmail.com>
Sent: Tuesday, June 07, 2016 4:48 PM
To: ECY RE Spills Rulemaking
Subject: Pls. Plug Loopholes So That Railroads Don't Continue to Endanger Us.

Dear Ms. Kim Morley + the Spills Rules Making Dept. at the WA state Dept. of Ecology:

If your email is NOT the proper place to lodge a comment on the three (3) Chapter 173's:

- 182 WAC Oil Spill Contingency Plan Rule;
- 185 WAC Oil Movement by Rail and Pipeline Notification; +
- 186 WAC Oil Spill Contingency Plan-Railroad

notify us asap, so we can get our beliefs to the right spot before the Friday, June 10, 2016, cut-off date & time.

As a result, short of NO fossil fuel transports-PLS. only allow the following, IF cars laden w/killer highly volatile Bakken crude have to used: rail cars called DOT-120's.

Though Tesora which operates out of Anacortes announced in 2015 that it had added 210 DOT-120 cars to its tiny fleet, the estimated 400,000 rail cars our nation currently has & uses coupled with the increasing demand to feed refineries and an export market now allowed by a Congress which is in the pockets of corporate lobbyists- makes it obvious that those older cars cannot be replaced FAST enough!

Additionally, WA's Sen. Maria Cantwell in 2015 called for rules that 'would require the volatile gases contained in Bakken crude be removed before being transported by rail' AND Sen. Ron Wyden of Oregon proposed 'charging a fee for the use of the older tank cars providing a tax break for use of the newer cars' so the speed of the cars' replacement would have a two-path incentive. *** Put these incentives into the new laws, please.

We suggest, however, NO oil cars, no pipelines, no barges with fossil fuels-coal, oil, gas-nothing be transported on or near the Salish Sea. Emergency spill response plans need to be iron-clad & those who break them made immediately financially accountable. All trains must have GPS transponders reporting their whereabouts every 10 minutes to a fully funded in 2016 state emergency response center where the actual volume of oil is reported daily.

If our local government agencies must knuckle under to the corporate titans as the ecological clock ticks towards the point-of-no-return for our planet-then the safeguards we've detailed above must be in place immediately. The corporate giants have had enough time to gamble with our planet's health and safety; what a polluted charred mess we are bestowing upon our children and the rest of Earth's inhabitants-like what's left of endangered salmon, et al.

Have the moral courage to do the 'right thing' for the future children / species from whom we borrow our Earth,

Robert & Karen Mitchell
3110 Mission Beach Rd.
Tulalip, WA 98271

#425-238-7754
wolfgangglass.66@gmail.com

Daily Herald's, Opinion page A9, "In Our View", T., 06.07.2016

Brooks, Jase (ECY)

From: Morley, Kim (ECY)
Sent: Monday, June 06, 2016 6:35 PM
To: anne coxon
Subject: RE: Oil By Train Comments

Hi Anne,

We will be sure to add these comments to both rules as well. Thanks for your response!

Kim

From: anne coxon [mailto:annecoxon@hotmail.com]
Sent: Monday, June 06, 2016 1:34 PM
To: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Cc: Pilkey-Jarvis, Linda (ECY) <JPil461@ECY.WA.GOV>; Brooks, Jase (ECY) <jasb461@ECY.WA.GOV>
Subject: Re: Oil By Train Comments

Thanks, all, for asking. I believe my comments cover into both areas of rule making so they should be attached to both.

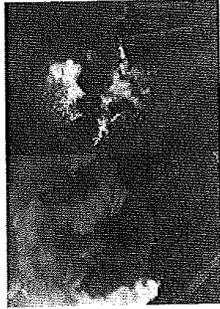
Komo ran the following article yesterday [<http://komonews.com/news/local/oil-train-derailment-fire-damaged-oregon-city-water-system-06-05-2016>]. Interesting that the fire chief for Mosier commented that the train derailment would have burned to Nebraska if the normal winds had existed before the fire was extinguished. Shame he didn't point out that Hanford is between Mosier and Nebraska....Equally disturbing is that the loss of one tie bolt is the difference between normal and catastrophic failure. Clearly, the railroad inspection process is not adequate to prevent a repeat occurrence. Sounds like the railroad track design is unable to carry the applied loads. Please add these comments to both areas of rule making as well.

Respectfully,
Anne

Track failure likely cause of oil train derailment

By DONNA GORDON BLANKINSHIP - Associated Press Sunday, June 5th 2016
Train oil cars burn in the Columbia River Gorge Friday, June 3, 2016 after a train derailed near the town of Mosier. (Photo: Chopper 2/KATU)





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SEATTLE (AP) - Track failure was likely the cause of the oil train derailment in Oregon, an official with Union Pacific Railroad said Sunday.

A failure of the fastener between the railroad tie and the line was likely the problem, but more investigation will be required before railroad officials know for sure, Raquel Espinoza said Sunday.

Union Pacific inspects the tracks that run through Mosier, Oregon, twice a week, and the most recent inspection took place on May 31, Espinoza said. Union Pacific had completed a more detailed and technical inspection of this section of track at the end of April and found no problems.

The railroad is focused on removing the crude oil from the damaged cars as safely and quickly as possible, Espinoza said. Its priority is to bring people home safe to Mosier, where 16 of 96 tank cars train derailed Friday and started a fire in four of the cars.

"We're doing everything we can to get you back home, but we're not going to risk your safety," Espinoza said at a news conference. When asked if she knew how much the cleanup was going to cost the company, Espinoza said, "I don't know and it doesn't matter."

"Our priority here is bringing people home. Nothing else matters," she added. Repairs to a water treatment system, which runs under the tracks, would need to be completed before people could return to their homes, the railroad said.

About a hundred people - a quarter of the town's population - have been evacuated from their homes since Friday in an area about a quarter mile around the train.

Mosier's mayor and fire chief said Sunday the derailment and fire in their town could have been a lot worse. Fire Chief Jim Appleton says the usual amount of wind in Mosier - about 25 mph - could have turned this incident into a major disaster, destroying the town and sending flames across state lines.

"My attention was focused on the incident that didn't happen," Appleton said. "It probably would have burned its way close to Omaha, Nebraska. That's how big it would have been."

Mayor Arlene Burns said the people of Mosier were "incredibly lucky."

"I count myself lucky that we dodged a bullet," Burns said, after noting that her own child was at school within a few blocks of the derailment. "We hope that this is a wake-up call."

The fire and derailment damaged essential city services in the small Oregon town, authorities said Sunday.

The Mosier waste water treatment plant and sewer system were not operational Sunday. Residents were told not to flush their toilets and advised to boil any water before they drank it or cooked with it. Mosier exhausted its water reserves fighting the fire and cooling the trains. Burns said the aquifers were completely depleted. Officials have been conducting continuous water and air monitoring since plumes of black smoke filled the sky near the scenic Columbia River Gorge.

"Today's priority is focused on safely restoring essential services to the community of Mosier as soon as possible," incident spokeswoman Judy Smith of the U.S. Environmental Protection Agency said in a statement. Authorities were working to clean up an oil sheen in the Columbia River near the scene of the derailment, while the oil inside the remaining tank cars was being moved to trucks.

No injuries have been reported. But Oregon health officials are asking people with questions or concerns to call a hotline to talk to a health expert at 888-623-3120.

Including Friday's incident, at least 26 oil trains have been involved in major fires or derailments during the past decade in the U.S. and Canada, according to an Associated Press analysis of accident records from the two countries. The worst was a 2013 derailment that killed 47 people in Lac-Megantic, Quebec. Damage from that accident has been estimated at \$1.2 billion or higher.

From: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Sent: Monday, June 6, 2016 9:47 AM
To: anne coxon
Cc: Pilkey-Jarvis, Linda (ECY); Brooks, Jase (ECY)
Subject: RE: Oil By Train Comments

Hello Anne,

Thank you for your comment. Before I enter it into our system, I wanted to check with you to see if you want this applied as a formal comment on the Oil Spill Contingency Plan – Railroad rulemaking or the Oil Movement by Rail and Pipeline Notification rulemaking, or if you want it considered for both. I just want to make sure we enter it in the comment system correctly. Please let me know.

Thanks!
Kim

From: anne coxon [<mailto:annecoxon@hotmail.com>]
Sent: Monday, June 06, 2016 7:46 AM
To: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>; Pilkey-Jarvis, Linda (ECY) <JPil461@ECY.WA.GOV>
Subject: Oil By Train Comments

I would like to submit comments in regards to the "Oil By Train" rulemaking [<http://www.ecy.wa.gov/programs/spills/rules/main.html>], as follows:

What is the mitigation and recovery plan for a derailment along the Puget shoreline from Seattle northward? What happens when oil and coal are dumped into the Puget Sound when the tracks are located on the seawall next to the water. How does the railroad intend to pull the rail cars out of the Sound? What will happen to the bluff stability if impacted by a rail car or the energy released by the resulting explosion? What is the mitigation and response plan for a bluff fire? What happens if the derailment and resulting explosion/fire happens in the rail tunnel under downtown Everett. Please provide the public with the risk planning documents, if they exist. If they do not exist, then they need to be developed/approved with mitigation and

recovery plans in place before further shipments of oil/coal/combustibles/hazardous shipments are allowed to be shipped via rail.

Last week, an oil train derailed in Mosier, OR. We can learn a lot from this accident and apply the knowledge to WA state. Mosier is located in the Columbia River National Scenic area. Tinder dry high desert with sustained 30mph+ winds. Towering basalt cliffs funnel the winds - westerlies in the summer and easterlies in the spring/fall - through the Gorge making it world renown for windsurfing and kiting. Its a vacation destination, but its also home for a lot of hard working, decent people who are busy tending their wineries, their farms and their businesses. No one wanted to write letters and squeak the wheel.

Before the coal and oil train risk, the main train related risk was either hitting a windsurfer crossing the tracks or starting a grass fire from a train spark. Several years ago, there was a huge wildfire in Lyle, WA. Initially, the railroad took no responsibility for the wildfire until a video clearly showed the fire was started by a spark from the train wheel into the dry grass and the winds fanned the fire. Bingen, WA had a fire that started at the base of a steep basalt bluff (much like the one below our homes) that was not controllable because of the terrain and the winds - the fire shot up the bluff and burned the decks off of the homes along the bluff. Therefore, proximity of the rail lines to the water, and topography can create catastrophic risks.

When the oil and coal train traffic increased, there were concerns raised among the locals about coal dust and environmental risks. Then came the destructive oil car derailment in Quebec. In 2014, the mayor of Hood River wrote and published an open letter addressing the risks to the community <http://www.hoodrivernews.com/news/2014/jun/21/another-voice-exponential-increase-hazards-train-t/> Despite acknowledging that no risk evaluation has been conducted and no mitigation/reliable recovery plans existed, nothing happened.

It didn't take long for the predicted derailment to occur. The oil train that derailed last week was adjacent to the elementary school, the Interstate I-84, adjacent to the Columbia River and on top of the water/sewage treatment plant in Mosier. It was also at the base of a grass covered basalt slope. Fortunately, it was a calm wind day...

- The school administration arranged for the children to be bused into The Dalles (east of Mosier) because there was no other place to go.
- The interstate was closed westbound (Hood River to Portland). You could not drive through Hood River as the surface streets were gridlocked with people trying to get home and around the accident scene in Mosier.
- The rail line was closed both directions, but were reopened within days by simply "pushing" the derailed cars to the side to give the coal and oil trains enough room to move through the crash scene. These tanker cars are STILL full of volatile oil, except for the ones that exploded/burned/leaked into the Columbia River.
- The residents of Mosier were evacuated because of the explosions/fire/smoke and danger. They are still evacuated because the derailed train broke through the sewage treatment pipeline and dumped 10,000 gallons of oil into the sewage treatment plant and then it flowed with the untreated sewage into the Columbia River. Theft and burglaries are expected with the evacuation, so the residents are now needing escorts to visit their homes. There are not enough hotels/lodging and people have been left homeless in the excessive heat (105F).
- The interstate has been reopened but the exit/on ramps to Mosier are still closed. The old Columbia River highway has been opened to locals who live west of the crash scene because there is no other way to their homes. This means that the tourists/bikers/runners are no longer able to access the bike only Columbia River highway. The river is not a friendly place to be with E-coli and oil pollution. As a

tourist, how would you feel if you booked a week long vacation to do nothing that you came to do? The tourism industry is not looking good this summer.

In summary, there is a high probability and associated risk that an oil/coal train will derail along the shoreline between Seattle and Everett which will cause irreparable damage to our communities and the environment, with blatantly lacking mitigation and recovery plans:

1. Probability of an Everett train derailment is
1 [\[https://www.youtube.com/watch?v=2blm62Hpo68\]](https://www.youtube.com/watch?v=2blm62Hpo68)[\[http://blogs.seattletimes.com/today/2013/04/southbound-amtrak-train-derailed-near-everett/\]](http://blogs.seattletimes.com/today/2013/04/southbound-amtrak-train-derailed-near-everett/)
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Respectfully,
Anne Coxon

Brooks, Jase (ECY)

From: Morley, Kim (ECY)
Sent: Monday, June 06, 2016 6:20 PM
To: anne coxon
Cc: Brooks, Jase (ECY); Pilkey-Jarvis, Linda (ECY)
Subject: RE: Oil By Train Comments

Ok, thank you. We will apply them to both.

Sincerely,
Kim Morley

From: anne coxon [mailto:annecoxon@hotmail.com]
Sent: Monday, June 06, 2016 1:03 PM
To: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Subject: Re: Oil By Train Comments

Thanks for asking, Kim. I believe the comment letter applies to both rules in the rulemaking, and needs to be considered for both.

Anne

From: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Sent: Monday, June 6, 2016 9:47 AM
To: anne coxon
Cc: Pilkey-Jarvis, Linda (ECY); Brooks, Jase (ECY)
Subject: RE: Oil By Train Comments

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To: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>; Pilkey-Jarvis, Linda (ECY) <JPil461@ECY.WA.GOV>
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Anne Coxon

Brooks, Jase (ECY)

From: anne coxon <annecoxon@hotmail.com>
Sent: Monday, June 06, 2016 1:34 PM
To: Morley, Kim (ECY)
Cc: Pilkey-Jarvis, Linda (ECY); Brooks, Jase (ECY)
Subject: Re: Oil By Train Comments

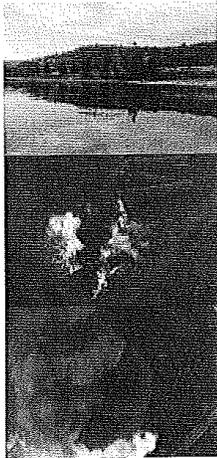
Thanks, all, for asking. I believe my comments cover into both areas of rule making so they should be attached to both.

Komo ran the following article yesterday [<http://komonews.com/news/local/oil-train-derailment-fire-damaged-oregon-city-water-system-06-05-2016>]. Interesting that the fire chief for Mosier commented that the train derailment would have burned to Nebraska if the normal winds had existed before the fire was extinguished. Shame he didn't point out that Hanford is between Mosier and Nebraska....Equally disturbing is that the loss of one tie bolt is the difference between normal and catastrophic failure. Clearly, the railroad inspection process is not adequate to prevent a repeat occurrence. Sounds like the railroad track design is unable to carry the applied loads. Please add these comments to both areas of rule making as well.

Respectfully,
Anne

Track failure likely cause of oil train derailment

By DONNA GORDON BLANKINSHIP - Associated Press Sunday, June 5th 2016
Train oil cars burn in the Columbia River Gorge Friday, June 3, 2016 after a train derailed near the town of Mosier. (Photo: Chopper 2/KATU)



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SEATTLE (AP) - Track failure was likely the cause of the oil train derailment in Oregon, an official with Union Pacific Railroad said Sunday.

A failure of the fastener between the railroad tie and the line was likely the problem, but more investigation will be required before railroad officials know for sure, Raquel Espinoza said Sunday.

Union Pacific inspects the tracks that run through Mosier, Oregon, twice a week, and the most recent inspection took place on May 31, Espinoza said. Union Pacific had completed a more detailed and technical inspection of this section of track at the end of April and found no problems.

The railroad is focused on removing the crude oil from the damaged cars as safely and quickly as possible, Espinoza said. Its priority is to bring people home safe to Mosier, where 16 of 96 tank cars train derailed Friday and started a fire in four of the cars.

"We're doing everything we can to get you back home, but we're not going to risk your safety," Espinoza said at a news conference. When asked if she knew how much the cleanup was going to cost the company, Espinoza said, "I don't know and it doesn't matter."

"Our priority here is bringing people home. Nothing else matters," she added. Repairs to a water treatment system, which runs under the tracks, would need to be completed before people could return to their homes, the railroad said.

About a hundred people - a quarter of the town's population - have been evacuated from their homes since Friday in an area about a quarter mile around the train.

Mosier's mayor and fire chief said Sunday the derailment and fire in their town could have been a lot worse. Fire Chief Jim Appleton says the usual amount of wind in Mosier - about 25 mph - could have turned this incident into a major disaster, destroying the town and sending flames across state lines.

"My attention was focused on the incident that didn't happen," Appleton said. "It probably would have burned its way close to Omaha, Nebraska. That's how big it would have been."

Mayor Arlene Burns said the people of Mosier were "incredibly lucky."

"I count myself lucky that we dodged a bullet," Burns said, after noting that her own child was at school within a few blocks of the derailment. "We hope that this is a wake-up call."

The fire and derailment damaged essential city services in the small Oregon town, authorities said Sunday.

The Mosier waste water treatment plant and sewer system were not operational Sunday. Residents were told not to flush their toilets and advised to boil any water before they drank it or cooked with it. Mosier exhausted its water reserves fighting the fire and cooling the trains. Burns said the aquifers were completely depleted.

Officials have been conducting continuous water and air monitoring since plumes of black smoke filled the sky near the scenic Columbia River Gorge.

"Today's priority is focused on safely restoring essential services to the community of Mosier as soon as possible," incident spokeswoman Judy Smith of the U.S. Environmental Protection Agency said in a statement. Authorities were working to clean up an oil sheen in the Columbia River near the scene of the derailment, while the oil inside the remaining tank cars was being moved to trucks.

No injuries have been reported. But Oregon health officials are asking people with questions or concerns to call a hotline to talk to a health expert at 888-623-3120.

Including Friday's incident, at least 26 oil trains have been involved in major fires or derailments during the past decade in the U.S. and Canada, according to an Associated Press analysis of accident records from the

two countries. The worst was a 2013 derailment that killed 47 people in Lac-Megantic, Quebec. Damage from that accident has been estimated at \$1.2 billion or higher.

From: Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Sent: Monday, June 6, 2016 9:47 AM
To: anne coxon
Cc: Pilkey-Jarvis, Linda (ECY); Brooks, Jase (ECY)
Subject: RE: Oil By Train Comments

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From: Morley, Kim (ECY)
Sent: Monday, June 06, 2016 9:06 AM
To: Don Steinke
Cc: Brooks, Jase (ECY); Pilkey-Jarvis, Linda (ECY)
Subject: FW: Vancouver testimony
Attachments: City of Vancouver, Testimony of R. Blackburn.pdf

Thank you Don. I have entered your comment into our online comment system for the Oil Spill Contingency Plan rule. You can view it here: <http://www.oilspills101.wa.gov/go/doctype/5779/286934/>.

I noticed that some of the comments in your email below reference the Oil Movement by Rail and Pipeline Notification rule (discussed at the 1:00 hearing on Friday). Do you want us to apply your comments to both rules? I just want to make sure we apply them correctly. Just let me know and we can add them to the Oil Movement by Rail and Pipeline Notification rule as well.

Thanks!
Kim

From: Don Steinke [mailto:crvancouverusa@gmail.com]
Sent: Friday, June 03, 2016 11:50 AM
To: Dameon Pesanti <Dameon.Pesanti@columbian.com>; Morley, Kim (ECY) <kmor461@ECY.WA.GOV>
Subject: Re: Vancouver testimony

Oil risk assessment conducted for the City of Vancouver attached.

My testimony today is below.

Testimony 16 06 03 Ecology

I'm Don Steinke, I believe I testified on your rule-making in the past, regarding worse-case scenario.

16 06 03

Ecology Oil Train Rulemaking

I'm Don Steinke, Vancouver WA

I believe the consulting firm hired to write your Marine and Rail Oil Transportation Study is the same one hired by to help write the Eis for the Tesoro Savage Oil Terminal. They have a conflict of interest in that BNSF is one of their clients.

The City of Vancouver Legal Team says the draft eis is useless for decision makers, and the city of Spokane Valley said the consultants omitted important information that was readily available on the NTSB, and the our state attorney general said the eis was inadequate particularly in Fire preparedness in Vancouver.

Regarding Best achievable protection, how about requiring all grade crossing to meet the highest standards.
Regarding Clean-up - - I wish you didn't use that word because oil spills cannot be cleaned up.
I wish you'd stop using the word safety. The trains can't be made safe.

Financial liability not part of planning
Not addressing fires

I think there is new information on that issue, and even though today's hearing is not exactly about that, contingency planning needs to include better information on worst case scenario..

The City of Vancouver paid for an insurance consultant to compute the risk of a Maximum Foreseeable Loss in the event of a crude by rail accident. The consulting firm is the Blackburn Group of NY. It specializes in Enterprise risk management, claim management and settlement solutions in the Energy Distribution sector.

The report is pre-filed with EFSEC three weeks ago for adjudication and I will read excerpts. Regarding an oil train accident in Vancouver, The consultant says: "It is reasonable to estimate an expected MFL for a catastrophic accident in the region at approximately \$5-6 billion. That is a rough figure."

Speaking for myself, As I recall, the dollar amount of your previous worst-case scenario was way too low.

Back to the consultant's report.

That the total risk values are into the billions is not surprising. BNSF has been up front that even available railroad liability insurance (apart from the applicant) tops out at "about \$1.0 Billion" and "[i]nsurance is not commercially available to sufficiently protect us against catastrophic loss."

² In a U.S. Dept. of Transportation Report, titled "The Transportation of Hazardous Materials: Insurance, Security, and Safety Costs" (December 2009), this level of insurance was documented as: well short of the \$5-\$6 billion that Class I railroads estimate would be necessary in a 'nightmare scenario,' Once their primary insurance has been exhausted, carriers would be held liable for the balance, forcing even the largest railroad into bankruptcy.³

Me: The contingency planning should include a real worst case scenario.

Q: Would it be expected, for the type of insurance policies we have been discussing, that there would be exclusions for intentional sabotage or acts of terrorism?

A: Absolutely.

Q: So, for an intentionally caused MFL it is probable that for most, if not all, of the insurance policies the applicant holds there would be no pay-out?

A: Correct.

There are no "all risk" policies sold for this type of risk at this time.

While the insurance markets base risks on average daily events, do they also limit their exposure to what some might refer to as black swan events?

A: They attempt to, certainly. But the MFL outlined in this testimony is not representative of a black swan event, as the insurance markets are already aware of this type of risk. As

addressed above, oil train accidents have been covered in the media, with video footage widely available.⁴ As the insurance industry is aware of the risks, it has to account for them.

Q: So is it a fair assessment that given the insurance market has to account for the MFL risk by not insuring against it, and the applicant is using a Delaware LLC to also avoid that same risk, that the applicant is effectively asking local citizens here in Washington to shoulder their MFL risks?

A: Yes

According to FEMA, there is a one in three chance of a Cascadia subduction zone event, in the next 50 years. And if it is a full on event, Fema says, "We assume everything west of I-5 will be toast." I don't believe the Blackburn Group was aware of that. We have a lot of high value resources West of I-5. The Blackburn Group was focused on Vancouver. I believe the I don't believe they considered the Tacoma or Seattle areas.

Disclosure: By Don Steinke Ecology Rule Making

I read the Marine and Rail Oil Transportation Study in late 2014. It appeared to be written by committee. It tried to follow HB 1449 but when it was handed off to Senator Doug Erickson we got sausage. My testimony is a bit like sausage also kind of written by committee. . . . Another committee member suggested.

A key purpose behind ES HB 1449 was to provide communities and regions of the state with adequate information to understand the risks they face from oil transportation by rail and pipeline. Because of this purpose, we urge Ecology to provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc.

consistent with the route segments to understand areas where unique risks or problems exist.

2. We are concerned that the draft rule language requires a railroad route to be reported to Ecology only, "If Known". To prevent the facilities from cutting corners in reporting requirements, we believe Ecology should incorporate language in the final rule that makes it clear that the agency will assume that the route is known and the burden is on the facility to show that they do not know the route taken by an oil-by-rail shipment through documentation.

3. We urge Ecology to centralize information for rail, pipeline, and vessel reporting systems so we can have a one stop shop for public information. This includes the TYPE of oil as well as how much oil and how the oil is traveling.

4. Finally, we strongly support the draft rule's clarification that facilities are obligated to report all oil shipments scheduled to arrive at their facility. The purpose of the bill that was passed was to improve transparency to understand the changes and risks to our communities and the environment.

You also need to know that many people not here have formally expressed concern or opposition to the oil trains.

The Columbia Gorge commission

The following cities and organizations are intervening in the EFSEC process. Spokane, the Columbia River Intertribal Fish Commission, The Fruit Valley Neighborhood Association, ILWU local 4, the City of Vancouver, and maybe others.

The Cities of Bingen, Stevenson, Portland, Vancouver, Seattle, Mt Vernon, Elma, Montesano, Aberdeen, Hoquiam, Ocean Shores, Westport, Mt. Vernon and even Anacortes have passed resolutions of concern or opposition to oil trains. As has the Washington State Council of Fire Fighters, the Skamania County Fire District, and the Vancouver Fire Fighters Union local 452.

In other words, you will not be sticking your neck out to use your discretionary authority to make the rules as protective as possible.

A Vice President of NW Natural gas told me you should require every rail crossing to meet the highest standards.

Thanks. I'm available for questions.

On Fri, Jun 3, 2016 at 11:07 AM, Dameon Pesanti <Dameon.Pesanti@columbian.com> wrote:

Hi Don,

Could you please send me that Vancouver study? I can't find it on EFSEC's website.

Thanks,

Dameon

Dameon Pesanti
Staff writer at The Columbian
(360) 735-4541
@dameonoemad

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**BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of:
Application No. 2013-01

TESORO SAVAGE, LLC

VANCOUVER ENERGY DISTRIBUTION
TERMINAL

CASE NO. 15-001

**PREFILED TESTIMONY OF ROBERT
J. BLACKBURN FILED BY THE CITY
OF VANCOUVER**

Q: Please state your name, place of employment and title, and address.

A: Robert J. Blackburn, CPCU, Managing Principal
Blackburn Group, Inc.
1173 Pittsford Victor Road, Ste. 250
Pittsford, New York, 14534

Q: What does Blackburn Group do?

A: I founded Blackburn Group, Inc. in 1991 as a company specializing in marketing products and services for the risk, insurance, and claim management fields.

The company provides enterprise risk management and claim settlement solutions. We assist companies in identifying risks and insuring against those risks. The company maintains and manages over 8,100,000 claims valued at over \$550 billion in our proprietary databases.

Q: What types of businesses have you worked with?

A: Energy production and distribution, manufacturing, retail, real estate, construction, etc.

TESTIMONY OF ROBERT J. BLACKBURN - 1

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1 Q: Can you briefly describe your work at Blackburn Group, Inc.?

2 A: Enterprise risk management, claim management and settlement solutions.

3 Q: What other positions have you held?

4 A: Prior to founding Blackburn Group, Inc., I established and managed a risk management
5 and retention company for Jamesport Associates. As Vice President and Chief Operating
6 Officer, I developed and managed the strategies for the combined company assets of over
7 \$2.5 billion and \$500 million in annual sales in the aviation and real estate industries. I
8 have also held senior management positions at Home Properties, Inc., Deloitte and
9 Touche, LLP, Wilmorite, Inc., Citibank, N.A., Page Avjet Corporation, and Harris
10 Corporation. Additionally, I have served as an advisor and consultant to FM Global
11 Insurance Company and other insurance companies.

12 Q: What is your educational background?

13 A: I graduated from St. John Fisher College in Pittsford, NY in 1978 with a BS in
14 Management, Finance, and Economics, and have completed graduate studies at the
15 University of Rochester Simon Business School. I have served as a risk management
16 guest lecturer at both institutions and as a guest speaker at numerous risk and claim
17 management industry events. I am a Chartered Property Casualty Underwriter, Certified
18 Adjuster, Property and Casualty Insurance Broker (NY Resident License; reciprocal
19 ability in all 50 states); Independent General Adjuster (NY Resident License; reciprocal
20 ability in all 50 states); Life and Health Insurance Broker (NY Resident License;
21 reciprocal ability in all 50 states).

22 Q: What organizations are you a member of related to insurance/risk management?

23

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- 1 • Association for Cooperative Operations Research and Development (ACORD),
Member, 1985-2001.
- 2
- 3 • Chartered Property and Casualty Underwriters (CPCU) Society Member, 2011-
present.
- 4 • Diocese of Rochester, NY, Stewardship Council and Risk Management Committee
Chairperson, 2010 - present.
- 5
- 6 • Hillside Children's Center, Insurance Committee Member, 1992-2004.
- 7
- 8 • Institute of Management Accountants, Member, 1980-2001.
- 9 • Insurance Accounting and Systems Association, Member, 1991-2001.
- 10
- 11 • New York Self Insurers Association, Member, 2012 - present.
- 12 • New York State Center for Advanced Technology in Electronic Imaging Systems,
Member, 1996-2001.
- 13 • Risk and Insurance Management Society, Member, 1996-2010.
- 14 • Risk and Insurance Management Society, Society Director and Officer, 1988-1996.

15 Q: Have you written on the topic of insurance?

16 A: Yes. Papers and reports have included:

- 17 • Claim and Litigation Management Processes, January 1995.
- 18 • Enterprise Risk Management Development, February 1995.
- 19 • The Risk Management Program Development Methodology, April 1996.
- 20 • The Benefits of Establishing a Captive Insurer or Other Alternative Risk Finance
Vehicles, June 1996.
- 21 • The Limitations of the Traditional Approach to Risk and Insurance Management,
May 1997.
- 22 • The Benefits of N-tier Applications in Managing Risk, February 1998.
- 23 • The Need for Reduced Risk Costs and Improved Quality, July 1998.

TESTIMONY OF ROBERT J. BLACKBURN - 3

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- The RiskPro Manual for the Enterprise, February 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007.
- Management of Risks for the New Millennium, January 2000.
- The New Insurance Distribution Model, June 2001.
- Global Risk in Today's Business Environment, July 2001.
- The Risk Management Network - Straight through Processing for an Interconnected World, July 2001.
- Biometrics – How they are Changing the World of Operational Risk Management, October 2001.
- September 11th has Changed Everything in the World of Risk Management, November 2001.
- Security Risks – How Organizations are Responding to New Vulnerabilities, November 2001.
- Risk Management for Real Estate and Retail Businesses, December 2001.
- Confronting the Risks – The New Utility Organization, January 2002, September 2003.
- The Risk Report, Home Properties, 2002-2008.
- Six Key Risk Management Strategies for 2009, Various National Newsletters, January 2009.
- The RiskPro Monthly Newsletter, January 2009 to present.
- Various Articles and Presentations for Enterprise Risk Management and Claim Settlement Solutions, January 2010 to present.

Q: What is a Maximum Foreseeable Loss (MFL) estimate?
A: An MFL or Maximum Foreseeable Loss is an estimate of a worst case operational risk scenario. In other words, the financial risk or total dollar amount associated with a worst case incident. An MFL is not limited to one type of cost, but includes costs associated

TESTIMONY OF ROBERT J. BLACKBURN - 4

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1 with loss of life, injury to persons, destruction of property, loss of use of property, first
2 responder costs, and cleanup expenses.

3 Q: Did the City of Vancouver ask you to consider: (1) the financial risks; and (2) whether
4 insurance or other financial assurances are available to address those risks, associated
5 with a proposal to transport and handle Bakken crude oil and diluted bitumen, within the
6 City of Vancouver, WA?

7 A: Yes.

8 Q: In assessing risk levels, what types of considerations are useful?

9 A: Well, first the commodity itself. I am not a petrochemical engineer. However, I look at
10 what is being handled and whether catastrophic accidents have occurred elsewhere for
11 similar risk profiles. For purposes of estimating a maximum foreseeable loss, or MFL, the
12 analyst attempts to measure the worst loss that is likely to occur because of a single
13 event. In this case, I was told that the proposal involved the transport and handling of 15
14 million gallons of Bakken crude oil and diluted bitumen per day or four HHFTs per day.
15 I have been told that "HHFT" stands for "High-Hazard Flammable Train" and is the term
16 used by the federal government (USDOT-PHMSA) to describe freight trains carrying 20
17 or more tank cars of crude oil in a block.¹ This is a highly volatile compound which has
18 been involved in a number of catastrophic accidents. Another consideration is where the
19 commodity is located. In this instance, the proposal is within the City of Vancouver,
20 which has a population base of about 170,000, making it the fourth largest city in
21 Washington. Another factor is the presence of environmentally sensitive features. That

22 _____
23 ¹ 49 CFR § 171.8.

1 informs estimates of environmental clean-up and infrastructure replacement costs. Here,
2 it is my understanding that the proposal is located proximate to the Columbia River.

3 Q: What do you believe is a reasonable MFL to remedy damages flowing from a
4 catastrophic accident?

5 A: It is reasonable to estimate an expected MFL for a catastrophic accident in the region at
6 approximately \$5-6 billion. That is a rough figure.

7 Q: What is the basis for a \$5-6 billion rough estimate?

8 A: This estimate is derived from considering costs associated with other major accidents and
9 insurance reports. As an example, the Lac Megantic incident, involving a small town of
10 roughly 6,000 in Quebec Province, Canada, was a catastrophic accident. It occurred in
11 2013, killed 47 people, and destroyed the downtown. Damage estimates are now at about
12 \$3 billion according to recent media reports. Compensation has been a major issue with
13 that incident. The short-line railroad hauling the crude oil filed for bankruptcy because it
14 didn't have enough insurance to pay the claims.

15 That the total risk values are into the billions is not surprising. BNSF has been up
16 front that even available railroad liability insurance (apart from the applicant) tops out at
17 "about \$1.0 Billion" and "[i]nsurance is not commercially available to sufficiently protect
18 us against catastrophic loss."² In a U.S. Dept. of Transportation Report, titled "The
19 Transportation of Hazardous Materials: Insurance, Security, and Safety Costs"
20 (December 2009), this level of insurance was documented as:

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23 ² Attached is a true and correct copy of excerpts from a BNSF Power Point (Attachment 1).

TESTIMONY OF ROBERT J. BLACKBURN - 6

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well short of the \$5-\$6 billion that Class I railroads estimate would be necessary in a 'nightmare scenario,' e.g., an accidental release of TIH gas in close proximity to a large number of people. Once their primary insurance has been exhausted, carriers would be held liable for the balance, forcing even the largest railroad into bankruptcy.³

The City of Vancouver, with its considerably larger population, has higher risks for loss of human life and physical injury, along with considerably higher infrastructure values.

Q: Are you aware of other high profile rail accidents involving the release of flammable materials?

A: Of course. The City has retained experts to address those incidents, but they have garnered considerable media attention. True and correct copies of photos of such incidents pulled from media coverage are at Attachment 3.

Q: Could the MFL be calculated with greater precision?

A: Yes. The \$5-6 billion figure is, as I have mentioned, a rough estimate. To have greater certainty requires more data on actual investments made within the area, what it would take to reconstruct those investments, along with calculated blast zones and their locations relative to infrastructure and people. To obtain a more precise number is a fact intensive exercise. Of course, even with those factors, insurance risks cannot be quantified with absolute precision for any single event. The costs of any incident would vary, depending on the severity of the incident, number of lives lost, proximity to areas with environmental sensitivity, etc. So, we have to also look at other events which have in fact happened.

³ Attached is a true and correct copy of report excerpts (Attachment 2), p. 21.

TESTIMONY OF ROBERT J. BLACKBURN - 7

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1 Q: Based on what you have reviewed so far, assuming an MFL of \$5-6 billion, can the
2 applicant look to the commercial markets to provide that insurance, whether through
3 traditional or non-traditional insurance instruments, to cover that risk?

4 A: No. There is no market to cover that entire risk at present. Further, based on what I have
5 been provided from the application, Draft EIS excerpts, and lease requirements, the
6 proposed financial security is minimal in terms of covering worst case scenarios. It
7 certainly would not cover an MFL event. The lease with the property owner requires the
8 tenant to have \$10 million per occurrence and \$15 million aggregate liability insurance,
9 coupled with \$25 million in environmental pollution coverage. Very little is documented
10 at this point confirming what the applicant is assuming and would pay over to injured
11 parties, in the event of a catastrophic accident. That analysis has been postponed.

12 Q: What insurance could the applicant obtain?

13 A: It would be expected that the applicant could, in theory, purchase insurance of up to \$1
14 billion. Thus, a shortfall of \$4-5 billion toward the estimated MFL is anticipated. (Of
15 course, how the injured parties would access the funds which may be available is an
16 entirely separate question.)

17 Q: So, does the proponent have the capability - from a dollars perspective and through the
18 commercial markets - to fully remedy impacts resulting in injury and casualties, natural
19 resource and property damage, emergency responder resource impacts, and infrastructure
20 damage?

21 A: No. Given how high the MFL is, those products are not commercially available.
22
23

TESTIMONY OF ROBERT J. BLACKBURN - 8

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1 Q: OK. Let's turn to the application and the types of insurance the applicant states will be
2 provided. Can you read from the application at Section 1.3, Assurances, p. 1-7,
3 subsection 1.3.1 - Commercial General Liability Insurance, last paragraph?

4 A: Yes. "Tesoro Savage Petroleum Terminal LLC will purchase insurance policies to cover
5 liabilities arising from environmental, casualty, and other major incidents. The insurance
6 industry views facilities such as the Tesoro Savage Vancouver Energy Distribution
7 Terminal as low to moderate risk. Therefore, high coverage limits are available at
8 reasonable cost."

9 Q: Is that an accurate assessment?

10 A: Only if one assumes there are caps/exclusions on insurance so there is no MFL pay-out
11 exposure. There are various insurance companies with diverse opinions about current risk
12 taking and transfer. With the above assumption in mind, this statement may be true for
13 certain insurers, but untrue for others. An appropriate way to approach the subject would
14 be to complete applications for insurance to multiple insurers to determine the insurers
15 current underwriting appetite for risk taking and premium quotation.

16 Q: Ok. What about property insurance? Can you read from Section 1.3, Assurances from
17 the application, subsection 1.3.3 - Property Insurance?

18 A: "Tesoro Savage Petroleum Terminal LLC will obtain and maintain at all times during the
19 term of construction and operation of the Facility, physical damage insurance on the
20 buildings and improvements that are to be erected on the premises on an "all risk" basis,
21 including coverage against damage or loss caused by earth movement and flood in an
22 amount sufficient to cover any expected loss or damages. Upon completion of project

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TESTIMONY OF ROBERT J. BLACKBURN - 9

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1 design, insurance underwriters will evaluate the design and estimate maximum potential
2 damage due to failure. In some cases, design changes may be implemented to reduce the
3 damages. Insurance would then be purchased to cover the maximum expected damages."

4 Q: What does that language mean?

5 A: That statement means that insurers will underwrite the facility considering the potential
6 damages. They would take into consideration loss control and safety factors built into the
7 facility. However, there are no "all risk" policies sold for this type of risk at this time.
8 Commercial property insurance in the United States is written in one of two ways: on a
9 "Named Peril" basis or on a "Special Peril" basis. If the risks are covered by a "Named
10 Peril" policy, it will only cover those perils named in the policy. A typical broad form
11 named peril policy would cover fire, windstorm, hail, aircraft, riot, vandalism, explosion
12 and smoke. When coverage is written on a named peril basis, it is up to the insured to
13 prove that one of the named perils caused the loss. Otherwise, if the risks are covered by
14 a "Special Peril" Policy, then the insurance company must prove that the peril causing the
15 damage is not excluded.

16 Q: Let's turn to Environmental Impairment Liability Insurance, subsection 1.3.5.1 on p. 1-8.
17 Can you read that section?

18 A: "Tesoro Savage Petroleum Terminal LLC and its operator(s) will be responsible, as
19 required by law, for acts of environmental impairment related to the ownership and
20 operation of the Tesoro Savage Vancouver Energy Distribution Terminal. Such losses
21 may, in some circumstances, be covered by general liability insurance, which Tesoro
22 Savage Petroleum Terminal LLC and the construction contractor will carry. In addition,
23

TESTIMONY OF ROBERT J. BLACKBURN - 10

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1 Tesoro Savage Petroleum Terminal LLC and/or its contracted operator(s) will obtain
2 environmental impairment liability insurance to the extent such coverage is available on a
3 commercially viable basis. This insurance will cover the acts of Tesoro Savage
4 Petroleum Terminal LLC and its operator(s) at the site, consistent with or in excess of
5 then-prevailing industry standards for such insurance in the petroleum transportation
6 industry. Commercial viability will be determined by reference to the norm of the
7 industry."

8 Q: Are there some caveats here? What does it mean to say that the applicant - a Delaware
9 LLC - will obtain "environmental impairment liability insurance" but only to the extent
10 "such coverage is available on a commercially viable basis?" And, what does it mean to
11 determine such viability "by reference to the norm of the industry?"

12 A: At the time of commencement of the project, Tesoro and its contractors will complete
13 several applications for environmental impairment and other commercially available
14 liability insurance. They will access the worldwide insurance markets through brokers to
15 obtain the most advantageous terms, conditions, and premiums for transferring risks to
16 insurers during a specified period of time, most likely for one year. Thereafter, they will
17 assemble all quotations to determine what is available to them for all liability risks.
18 Similar facilities with a responsibility to maintain insurance for their operations would
19 have previously gone through the same process and obtained the most advantageous
20 terms, conditions, and premiums. Their industry-experienced brokers will be able to
21 report the state of the insurance market at that time for reasonableness of the terms,
22 conditions, and premiums.

23 TESTIMONY OF ROBERT J. BLACKBURN - 11

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1 Q: Is the applicant in effect admitting it cannot obtain insurance against an MFL event?

2 A: At the current time, yes. Presumably for a similar operation, they may be able to obtain
3 \$1 billion of coverage. If the MFL is \$5-6 billion, then there will be a \$4-5 billion
4 insurance shortfall.

5 Q: Let's turn to subsection 1.3.5.2, p. 1-8 of the application. Can you read that paragraph
6 starting with "In accordance....?"

7 A: "In accordance with RCW 88.40.025, the Applicant will demonstrate financial
8 responsibility in an amount determined by the Washington State Energy Facility Site
9 Evaluation Council (EFSEC) as necessary to compensate the state and affected local
10 governments for damages that might occur during a reasonable worst-case spill of oil
11 from the Facility into the navigable waters of the state. The amount of financial
12 responsibility will consider such matters as the amount of oil that could be spilled into the
13 navigable waters from the Facility, the cost of cleaning up the spilled oil, the frequency
14 of operations at the Facility, the damages that could result from the spill, and the
15 commercial availability and affordability of financial responsibility. In accordance with
16 RCW 88.40.030, the financial responsibility required may be established by any one of,
17 or a combination of, the following methods acceptable to EFSEC: (1) evidence of
18 insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of
19 financial responsibility."

20 Q: So, what are we looking at here as a dollar amount for clean up and is there an insurance
21 market to cover that?
22
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TESTIMONY OF ROBERT J. BLACKBURN - 12

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1 A: It would appear at this time that perhaps Tesoro could obtain \$1 billion of insurance.
2 Otherwise, surety bonds, self-insurance, or other financial responsibilities would be
3 required to cover the presumed MFL shortfall of \$4-5 billion.

4 Q: One last question about the application. Can you read the first sentence of subsection
5 1.3.6, Site Closure Bond (Ch. 463-72 WAC)?

6 A: "No set-aside from operating funds is anticipated for site abandonment, but Tesoro
7 Savage Petroleum Terminal LLC will obtain a site closure bond in an amount to be
8 determined by EFSEC upon approval of an initial site restoration plan."

9 Q: Do you have a comment on that?

10 A: It would appear that the applicant does not intend to fund a site abandonment, but instead
11 provide a site closure bond after a site restoration plan is submitted and approved. The
12 two should be clearly linked, meaning whether abandoned or closed, adequate bonding is
13 provided. I would recommend that their engineer submit a "deconstruction" plan so that
14 the measurement of all known risks and compliances is determined for evaluation. That
15 way at least an engineer would have to consider all of the issues to mitigate risks of
16 adverse events and final compliances back to a pre-operations condition. The idea is to
17 secure sufficient funding guarantees at each step the risk profile changes (i.e., from
18 "existing conditions," through "operation," back to "existing conditions").

19 Q: Turning now to the applicant's lease with the Port, can you summarize insurance levels
20 identified in summary form on pgs. 5-6?

21 A: Yes. The document provides for: (1) property insurance (\$1 million and five percent of
22 values per location); (2) liability insurance (\$10 million per occurrence/\$15 million

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TESTIMONY OF ROBERT J. BLACKBURN - 13

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1 aggregate, with specific requirements for employer liability and automobile liability of \$1
2 million each); and (3) pollution legal liability insurance (\$25 million as an extension of
3 the commercial general liability insurance or a separate policy).

4 Q: Would these insurance amounts be adequate to cover an MFL event?

5 A: No, the figures proposed are well short of that. And, as I have explained, such insurance
6 is not available at this time.

7 Q: Would it be expected, for the type of insurance policies we have been discussing, that
8 there would be exclusions for intentional sabotage or acts of terrorism?

9 A: Absolutely.

10 Q: So, for an intentionally caused MFL it is probable that for most, if not all, of the
11 insurance policies the applicant holds there would be no pay-out?

12 A: Correct.

13 Q: Turning to Section 1.1, p. 1-3 of the Proponent's Application, can you read: (1) paragraph
14 1, sentence 2; (2) subsection 1.1.2; (3) subsection 1.1.3, first sentence; (4) subsection
15 1.1.3, last sentence; and, (5) subsection 1.1.4, first sentence?

16 A: Yes.

17 1. The Applicant is Tesoro Savage Petroleum Terminal LLC (Applicant).

18 2. Tesoro Savage Petroleum Terminal LLC is a Delaware limited liability company
19 that is qualified to do business in the state of Washington. Its members are Savage
20 Companies and Tesoro Refining & Marketing Company LLC.

21 3. Tesoro Corporation, a Fortune 150 company, is an independent refiner and
22 marketer of petroleum products.

23

TESTIMONY OF ROBERT J. BLACKBURN - 14

CITY ATTORNEY'S OFFICE
PO BOX 1995
VANCOUVER, WA 98668
Tel: (360) 487-8500
Fax: (360) 487-8501

1 4. Tesoro Refining and Marketing Company LLC is a subsidiary of Tesoro
2 Corporation.

3 5. Savage Companies is a privately held operator that provides supply chain
4 management solutions.....

5 Q: So, in summary, the applicant is a Delaware LLC which includes as members a second
6 LLC and a "privately held operator?"

7 A: That is what the application states.

8 Q: What type of financial information is publicly available for this Delaware LLC, the
9 second LLC, and the "privately held operator?"

10 A: For the applicant, the Delaware LLC, I am not aware of any publicly available
11 information regarding its financial standing. That is the same for Tesoro Refining and
12 Marketing Company, LLC. And, since Savage Companies is a private company, it may
13 have financial statements to verify its income and assets, but that is not publicly
14 available. However, Tesoro Corporation financial information is available from the U.S.
15 Securities and Exchange Commission (SEC) EDGAR System. The information is
16 required to be filed periodically with the SEC depending upon the types of transactions
17 for public corporations. For example, Tesoro Corporation filed its most recent 10K on
18 February 25, 2016.

19 Q: So, we do not know the assets and liabilities of this Delaware LLC - which is the
20 applicant - or even the location of such assets, assuming they exist?

21 A: Correct regarding the Delaware LLC, and its two members, a second Delaware LLC and
22 Savage Companies, the private corporation. The Tesoro Corporation assets and liabilities

23

TESTIMONY OF ROBERT J. BLACKBURN - 15

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1 are enumerated in its 10K and other reports found at
2 <https://www.sec.gov/Archives/edgar/data/50104/000005010416000055/0000050104-16->
3 [000055-index.htm](https://www.sec.gov/Archives/edgar/data/50104/000005010416000055/0000050104-16-000055-index.htm).

4 Q: OK. So if an MFL event occurs, is compensation from what one presumes is the parent
5 company a possibility?

6 A: I did look at the Tesoro Corporation 2015 10K Financial Statement Risk Factors and
7 Capitalization. The Risk Factors section acknowledges insufficient insurance to cover
8 known risks of their operation. They did report maintenance of \$20 million in marine
9 terminal operator's liability coverage, subject to a \$150,000 deductible, and an additional
10 \$650 million in umbrella coverage for a total of \$670 million in coverage for sudden and
11 accidental pollution events and liability arising from marine terminal operations. Copies
12 of insurance policies would verify coverage. As of December 31, 2015, the total equity
13 of the organization is \$7,740,000,000, total debt is \$4,073,000,000, with combined total
14 capitalization of \$11,813,000,000. (This is based on a February 25, 2016 filing, which
15 updated the earlier December 31, 2015 10K Report.)

16 However, by utilizing the Delaware LLC structure, and without evidence of
17 contractual indemnifications, I do have a question as to whether the applicant can shield
18 the parent company from liability exposure from this project, including an MFL event. I
19 presume they would be required to provide a contractual indemnity for this project,
20 effectively providing their combined capitalization for uninsured obligations.

21 Q: Are you familiar with the term "black swan event?"

22 A: Yes.

23

TESTIMONY OF ROBERT J. BLACKBURN - 16

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1 Q: How do you interpret that phrase?

2 A: A black swan event is a large-scale occurrence that is difficult to predict; however it has a
3 huge impact on the region or world. It presents itself when seemingly disparate expected
4 events occur in the same place at essentially the same time. The single black swan event
5 is not within the insurance industry's historical loss experience, nor was it anticipated.

6 Q: While the insurance markets base risks on average daily events, do they also limit their
7 exposure to what some might refer to as black swan events?

8 A: They attempt to, certainly. But the MFL outlined in this testimony is not representative
9 of a black swan event, as the insurance markets are already aware of this type of risk. As
10 addressed above, oil train accidents have been covered in the media, with video footage
11 widely available.⁴ As the insurance industry is aware of the risks, it has to account for
12 them.

13 Q: So is it a fair assessment that given the insurance market has to account for the MFL risk
14 by not insuring against it, and the applicant is using a Delaware LLC to also avoid that
15 same risk, that the applicant is effectively asking local citizens here in Washington to
16 shoulder their MFL risks?

17 A: Yes.

18

19

20

⁴ For example, footage from the derailment in Casselton, North Dakota on December 30, 2013, is posted at <https://www.youtube.com/watch?v=CxkUhVswF5U>; footage from the derailment in Lac Megantic, Quebec, July 6, 2013, is posted at <http://youtube.com/watch?v=tV16r7iQVeo>; and, footage from the derailment in Lynchburg, Virginia, April 30, 2014, is posted at <http://youtube.com/watch?v=c15d1JSFQPg>.

22

23

TESTIMONY OF ROBERT J. BLACKBURN - 17

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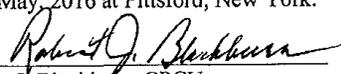
ATTACHMENT 1

BNSF Power Point Excerpt

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I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED this 10 th day of May, 2016 at Pittsford, New York.


Robert J. Blackburn, CPCU
Managing Principal, Blackburn Group, Inc.

TESTIMONY OF ROBERT J. BLACKBURN - 18

CITY ATTORNEY'S OFFICE
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ATTACHMENT 1

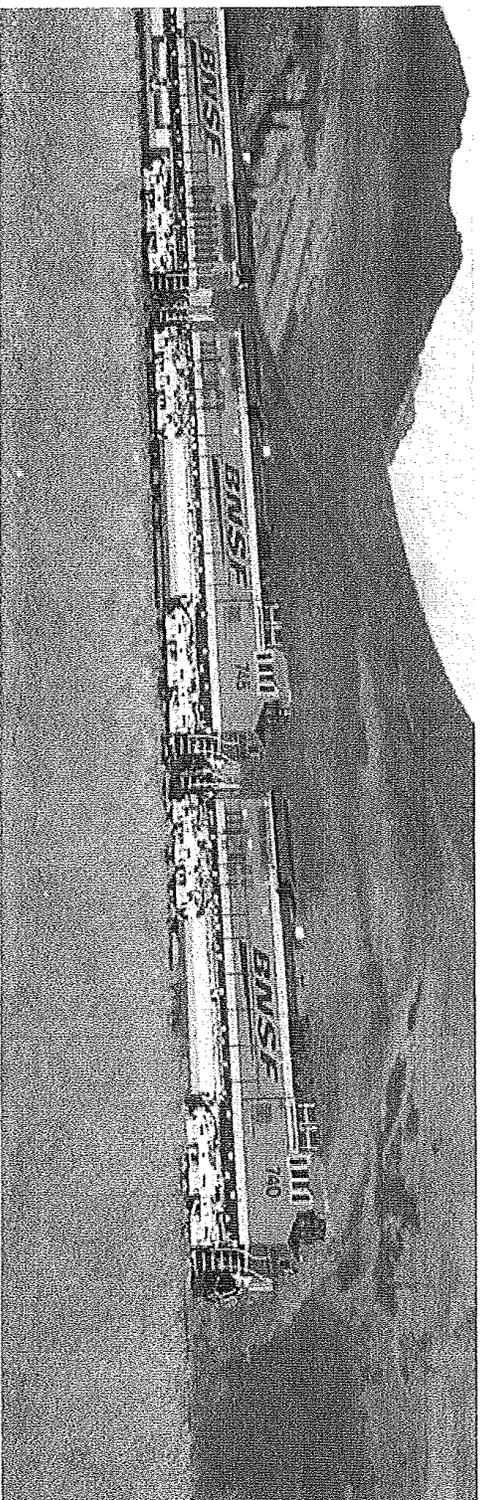
BNSF Power Point Excerpt

BNSF Railway Company

Ex Parte No. 677 (Sub-No.1) Common Carrier Obligation of Railroads- Transportation Of Hazardous Materials



July 22, 2008



VE_INF_0028706

Policy Issues Raised By Transport of These Commodities

- The risks associated with these commodities we are required to assume as common carriers are unquantifiable and uncontrollable.
- The potential for an accident cannot be fully eliminated.
- Insurance is not commercially available to sufficiently protect us against catastrophic loss.
- There are limits on the availability of insurance, at ever-increasing cost. Our insurance costs increased substantially after 9/11.

Insurance Markets

- The market for railroad liability insurance has contracted substantially over the past several years.
- Five years ago, rails were able to purchase in excess of \$1.5 Billion in coverage; today, available coverage is about \$1.0 Billion.
- Number of insurance companies willing to write freight railroad insurance has decreased, while the price charged for remaining coverage has increased dramatically.
- Required self retention levels have also increased.

ATTACHMENT 2

**US Dept. of Transportation,
The Transportation of Hazardous Materials,
(December 2009), Excerpt**

The Transportation of Hazardous Materials: Insurance, Security, and Safety Costs

A report to Congress as required by Section 1555(b) of the
Implementing Recommendations of the 9/11 Commission Act of 2007
(Pub. L. 110-53)

Prepared by:

U.S. Department of Transportation
December 2009

While \$1 billion is more than sufficient to cover losses from “routine” TIH-related incidents, it is well short of the \$5-\$6 billion that Class I railroads estimate would be necessary in a “nightmare scenario,” e.g., an accidental release of TIH gas in close proximity to a large number of people.⁴⁵ Once their primary insurance has been exhausted, carriers would be held liable for the balance, forcing even the largest railroad into bankruptcy.

Class II and III railroads that haul TIH commodities claim that their situation is especially precarious, as they cannot acquire, or would have a difficult time acquiring, adequate insurance coverage. According to Keith Borman, Vice President and General Counsel for the ASLRRA, small railroads cannot afford premiums for “meaningful” amounts of insurance coverage, necessary to protect against ruinous liability.⁴⁶ Based on a conversation we had with another ASLRRA representative, Class II railroads would likely be content with \$200 million in coverage and Class III carriers would likely be satisfied with \$100 million in coverage. While there is sufficient capacity within the rail insurance market to satisfy this demand, many short line haulers simply do not have the cash-flow to pay for such insurance coverage. As such, Class II and III railroads that haul TIH material only maintain \$10 to \$100 million in coverage.

3.5 Liability Sharing Controversy

Railroads, particularly Class I carriers, assert that they are forced to “bet the farm” with every TIH movement because the liability from a catastrophic incident can potentially be in the billions of dollars – well beyond what carriers can protect against through current means (i.e., commercial insurance). Given that this level of risk is derived primarily from TIH movements, which only account for about 0.3% of total annual carload haulage, rail carriers are attempting to establish a liability sharing arrangement with TIH shippers. They hope to achieve this by either (1) requiring shippers to indemnify liability costs; (2) requiring shippers to maintain a second layer of insurance for “catastrophic coverage;” or (3) establishing a *Price-Anderson*-like arrangement in which shippers would contribute into a secondary liability coverage pool. The *Price-Anderson* model is derived from the Price-Anderson Nuclear Industries Indemnity Act, which was enacted in 1957 for the nuclear power industry as a means of indemnifying nuclear power producers against excess liability.⁴⁷ Under this arrangement, nuclear power reactor licensees are required to carry the maximum amount of insurance available to them in the insurance market to protect against the liability of nuclear-related incidents. Any monetary claims that fall within this insurance coverage would be paid by the insurance company. In the event that an individual power producer’s primary insurance has been exhausted, a liability pool, funded by a contribution of \$95.8 million from each of the U.S. nuclear power producers, could be tapped to cover the balance of its liability. Should this liability pool

⁴⁵ This figure was derived from testimony by Class I carriers in STB Ex Parte No. 677 (Sub-No. 1).

⁴⁶ Based on the written testimony of the ASLRRA, submitted to the STB in Ex Parte No. 677 (Sub-No. 1).

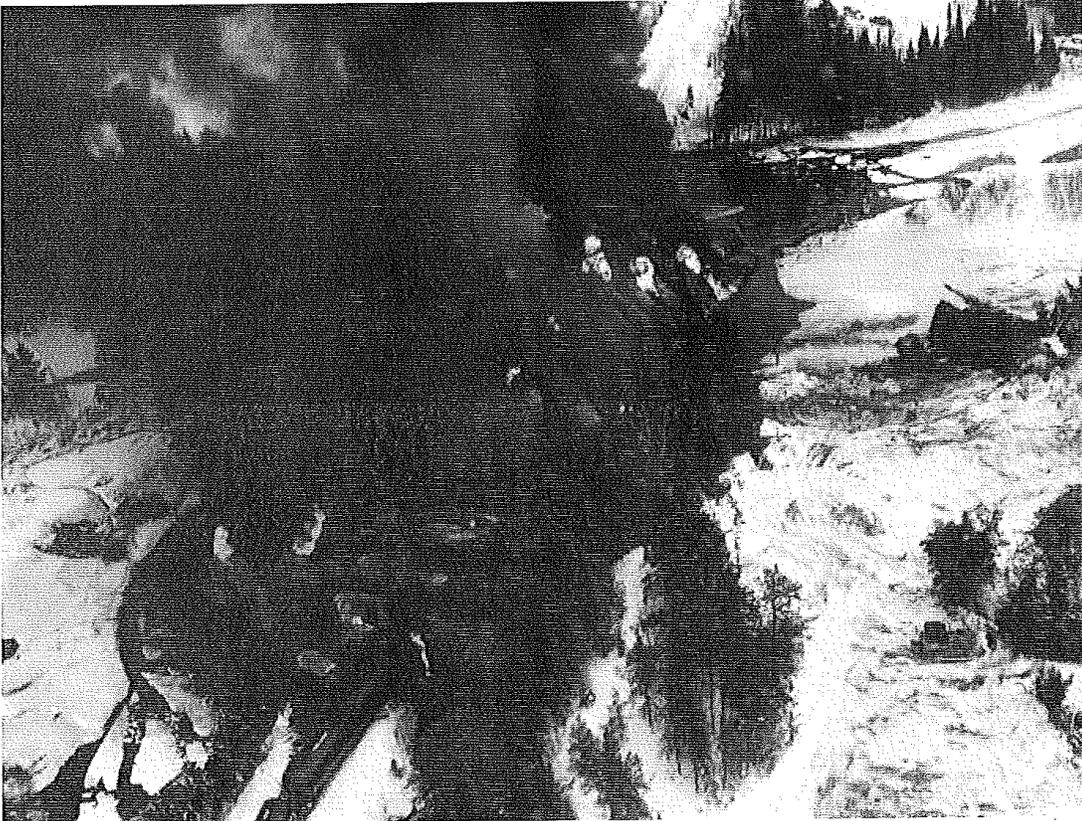
⁴⁷ See Pub. L. 85-256.

ATTACHMENT 3

Photographs, Rail Accidents

GOGAMA, ONTARIO

March 7, 2015

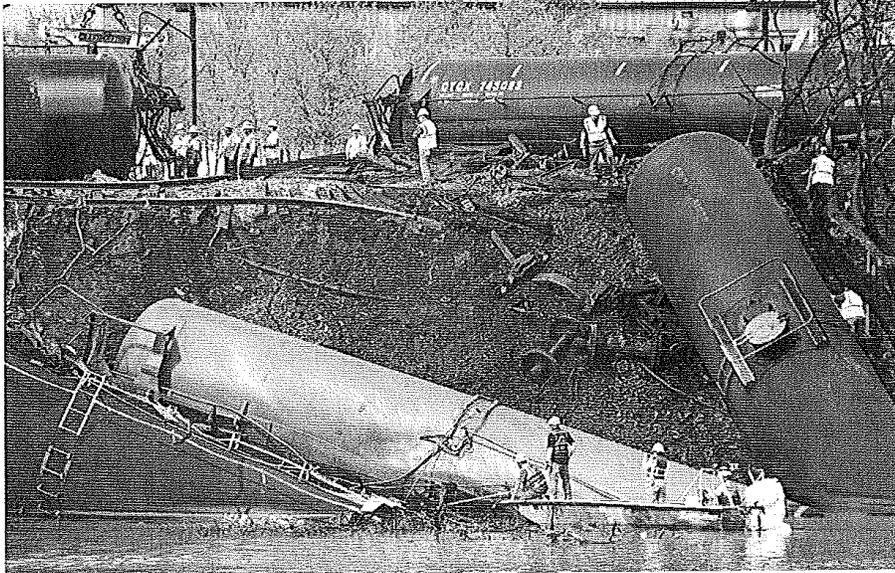


Gogama Photograph 1¹

¹ Gogama Photograph 1 published May 6, 2015, at <http://www.sightline.org/2015/05/06/oil-train-explosions-a-timeline-in-pictures/>.

LYNCHBURG, VIRGINIA

April 30, 2014



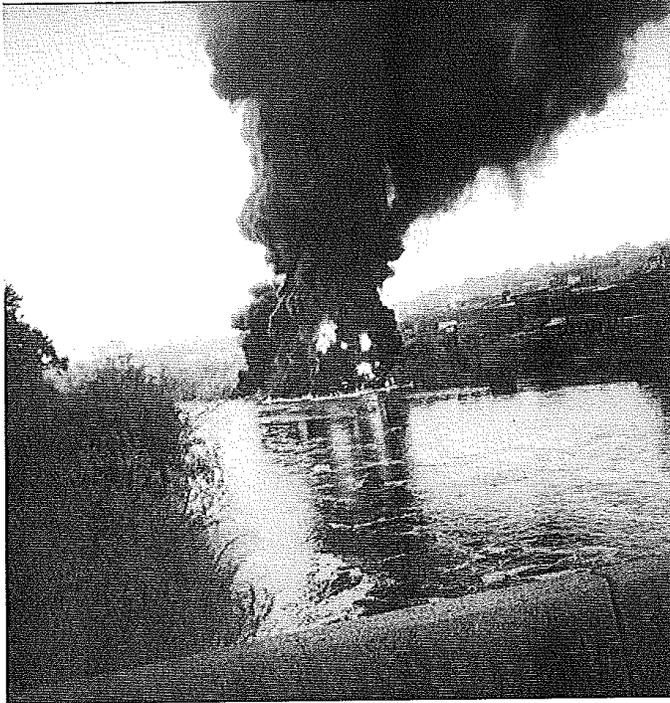
Lynchburg Photograph 1²

² Lynchburg Photograph 1 published February 24, 2015, at <http://thinkprogress.org/climate/2015/02/24/3626212/csx-fined-for-lynchburg-virginia-derailment/>.



Lynchburg Photograph 2³

³ Lynchburg Photograph 2 published May 2, 2014, at <http://news.nationalgeographic.com/news/energy/2014/04/140430-oil-train-derails-in-lynchburg-virginia/>.

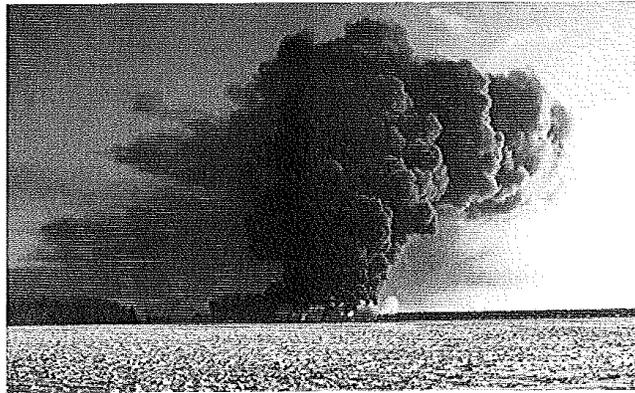


Lynchburg Photograph 3⁴

⁴ Lynchburg Photograph 3 published April 30, 2014 at <http://www.desmogblog.com/2014/04/30/breaking-csx-railroad-bomb-train-carrying-crude-oil-explodes-lynchburg-virginia>

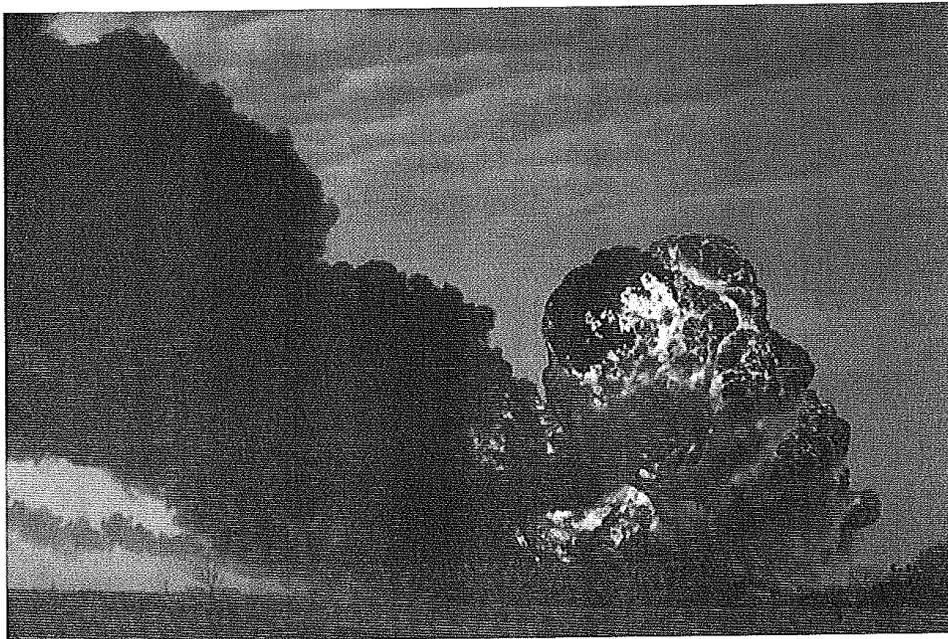
CASSELTON, NORTH DAKOTA

December 30, 2013



Casselton Photograph 1⁵

⁵ Casselton Photograph 1 posted at http://www.nts.gov/investigations/pages/casselton_nd.aspx.



Casselton Photograph 2⁶

⁶ Casselton Photograph 2 published December 30, 2013, at http://usnews.nbcnews.com/_news/2013/12/30/22113442-mile-long-train-carrying-crude-oil-derails-explodes-in-north-dakota.

LAC MEGANTIC, QUEBEC

July 6, 2013



Lac-Mégantic Photograph 1⁷

⁷ Lac Megantic Photograph 1 published August 19, 2014, at <http://www.theguardian.com/world/2014/aug/20/lac-megantic-oil-train-disaster-inquiry-finds-string-of-safety-failings>.



Lac-Megantic Photograph 2.⁸

⁸ Lac-Megantic Photograph 2 published July 13, 2015, at <http://globalnews.ca/news/2107803/judge-rejects-canadian-pacifics-challenge-of-lac-megantic-lawsuit/>.



Lac-Megantic Photograph 3⁹

⁹ Lac-Megantic Photograph 3 published May 6, 2015 at <http://www.sightline.org/2015/05/06/oil-train-explosions-a-timeline-in-pictures/>

Brooks, Jase (ECY)

From: anne coxon <annecoxon@hotmail.com>
Sent: Monday, June 06, 2016 7:46 AM
To: Morley, Kim (ECY); Pilkey-Jarvis, Linda (ECY)
Subject: Oil By Train Comments

I would like to submit comments in regards to the "Oil By Train" rulemaking [<http://www.ecy.wa.gov/programs/spills/rules/main.html>], as follows:

What is the mitigation and recovery plan for a derailment along the Puget shoreline from Seattle northward? What happens when oil and coal are dumped into the Puget Sound when the tracks are located on the seawall next to the water. How does the railroad intend to pull the rail cars out of the Sound? What will happen to the bluff stability if impacted by a rail car or the energy released by the resulting explosion? What is the mitigation and response plan for a bluff fire? What happens if the derailment and resulting explosion/fire happens in the rail tunnel under downtown Everett. Please provide the public with the risk planning documents, if they exist. If they do not exist, then they need to be developed/approved with mitigation and recovery plans in place before further shipments of oil/coal/combustibles/hazardous shipments are allowed to be shipped via rail.

Last week, an oil train derailed in Moser, OR. We can learn a lot from this accident and apply the knowledge to WA state. Mosier is located in the Columbia River National Scenic area. Tinder dry high desert with sustained 30mph+ winds. Towering basalt cliffs funnel the winds - westerlies in the summer and easterlies in the spring/fall - through the Gorge making it world renown for windsurfing and kiting. Its a vacation destination, but its also home for a lot of hard working, decent people who are busy tending their wineries, their farms and their businesses. No one wanted to write letters and squeak the wheel.

Before the coal and oil train risk, the main train related risk was either hitting a windsurfer crossing the tracks or starting a grass fire from a train spark. Several years ago, there was a huge wildfire in Lyle, WA. Initially, the railroad took no responsibility for the wildfire until a video clearly showed the fire was started by a spark from the train wheel into the dry grass and the winds fanned the fire. Bingen, WA had a fire that started at the base of a steep basalt bluff (much like the one below our homes) that was not controllable because of the terrain and the winds - the fire shot up the bluff and burned the decks off of the homes along the bluff. Therefore, proximity of the rail lines to the water, and topography can create catastrophic risks.

When the oil and coal train traffic increased, there were concerns raised among the locals about coal dust and environmental risks. Then came the destructive oil car derailment in Quebec. In 2014, the mayor of Hood River wrote and published an open letter addressing the risks to the community <http://www.hoodrivernews.com/news/2014/jun/21/another-voice-exponential-increase-hazards-train-t/> Despite acknowledging that no risk evaluation has been conducted and no mitigation/reliable recovery plans existed, nothing happened.

It didn't take long for the predicted derailment to occur. The oil train that derailed last week was adjacent to the elementary school, the Interstate I-84, adjacent to the Columbia River and on top of the water/sewage

treatment plant in Mosier. It was also at the base of a grass covered basalt slope. Fortunately, it was a calm wind day...

- The school administration arranged for the children to be bused into The Dalles (east of Mosier) because there was no other place to go.
- The interstate was closed westbound (Hood River to Portland). You could not drive through Hood River as the surface streets were gridlocked with people trying to get home and around the accident scene in Mosier.
- The rail line was closed both directions, but were reopened within days by simply "pushing" the derailed cars to the side to give the coal and oil trains enough room to move through the crash scene. These tanker cars are STILL full of volatile oil, except for the ones that exploded/burned/leaked into the Columbia River.
- The residents of Mosier were evacuated because of the explosions/fire/smoke and danger. They are still evacuated because the derailed train broke through the sewage treatment pipeline and dumped 10,000 gallons of oil into the sewage treatment plant and then it flowed with the untreated sewage into the Columbia River. Theft and burglaries are expected with the evacuation, so the residents are now needing escorts to visit their homes. There are not enough hotels/lodging and people have been left homeless in the excessive heat (105F).
- The interstate has been reopened but the exit/on ramps to Mosier are still closed. The old Columbia River highway has been opened to locals who live west of the crash scene because there is no other way to their homes. This means that the tourists/bikers/runners are no longer able to access the bike only Columbia River highway. The river is not a friendly place to be with E-coli and oil pollution. As a tourist, how would you feel if you booked a week long vacation to do nothing that you came to do? The tourism industry is not looking good this summer.

In summary, there is a high probability and associated risk that an oil/coal train will derail along the shoreline between Seattle and Everett which will cause irreparable damage to our communities and the environment, with blatantly lacking mitigation and recovery plans:

1. Probability of an Everett train derailment is
1 [\[https://www.youtube.com/watch?v=2blm62Hpo68\]](https://www.youtube.com/watch?v=2blm62Hpo68)[\[http://blogs.seattletimes.com/today/2013/04/southbound-amtrak-train-derailed-near-everett/\]](http://blogs.seattletimes.com/today/2013/04/southbound-amtrak-train-derailed-near-everett/)
2. Track inspections were not adequate to prevent derailments (the Mosier tracks were highly inspected - six times since March '16) and the derailment occurred despite the inspections. Why did the train derail if the tracks and inspections were adequate?
3. Upgraded oil cars did not prevent the explosions/fire and are, therefore, inadequate in mitigating the risks associated with "oil by train" shipments.
4. The same train or a similar train would have been traveling along the Puget Sound shoreline under our Everett bluffs and downtown had it not derailed.

Respectfully,

Anne Coxon

RECEIVED
Department of Ecology

JUN 14 2016

KINDER MORGAN
Spills Program

Kinder Morgan Canada Inc.
Suite 2700, 300 – 5th Avenue SW
Calgary, AB Canada T2P 5J2
Tel: (403) 514-6400
Fax: (403) 514-6622
Toll Free: 1 (800) 535-7219
www.kindermorgan.com

VIA EMAIL & MAIL SUBMISSION

8 June 2016

Department of Ecology
Spills Program
P.O. Box 47600
Olympia, Washington 98504-7600

To: Ms. Kim Morley, Program Performance / Management Analyst

Dear Ms. Morley:

Re: **Rule Proposal Notice: Oil Movement by Rail and Pipeline Notification
Comments of Trans Mountain Pipeline (Puget Sound) LLC**

Trans Mountain Pipeline (Puget Sound) LLC ("Puget"), as operated by Kinder Morgan Canada Inc., is in receipt of the Washington Department of Ecology's ("Ecology") Rule Proposal Notice entitled Oil Movement by Rail and Pipeline Notification, proposed Chapter 173-185 of the *Washington Administrative Code*.

Proposed Chapter 173-185 requires bi-annual reporting of crude oil throughput via pipeline and advance notice of crude oil delivery by railroad car. For pipelines, reporting for the January 1 – June 30 period would be due July 31, and reporting for the July 1 – December 31 period would be due January 31 of the following year. Proposed Chapter 173-185 also requires disclosure of nonaggregated volume, or pipeline-specific, information to the state emergency division and any county, city, tribe, port and local government emergency response agency, to assist these agencies to effectively prepare for and respond to oil spills and other accidents. Proposed Chapter 173-185 also requires aggregated volume information collected to be available and to inform the public of the nature of crude oil movement through their communities.

Puget supports the efforts of Ecology to provide throughput information to response agencies for the purpose of response preparation, and to the public for the purpose of awareness, and is providing the following comments for consideration.

Puget owns a pipeline that delivers product from the International Boundary near Sumas, Washington to Washington State refineries in Anacortes, Cherry Point and Ferndale.

The Pipeline Hazardous Material Safety Administration ("PHMSA") and the Federal Energy Regulatory Commission ("FERC") require Puget to report throughput in the Annual Report for Hazardous Liquid Pipeline Systems and the Form 6 Annual Report of Oil Pipeline Companies, respectively. The Annual Report for Hazardous Liquid Pipeline Systems requires total annual throughput for a calendar year in

barrel miles, and is due June 15 annually. The Form 6 Annual Report of Oil Pipeline Companies requires total throughput for the calendar year in both barrels and barrel miles, and is due April 18 annually. As such information is available to the public, Puget would appreciate consideration being given to accessing such information in lieu of a bi-annual report.

Puget notes that Ecology proposes that the bi-annual information be provided one (1) month after each reporting period. One month may not provide an adequate amount of time to collect all throughput data and make necessary reconciliations and adjustments as required. For this reason, Puget suggests that the reporting deadline be extended to September 30 for January 1 – June 30, and March 31 for the July 1 – December 31 reporting periods.

Puget thanks Ecology for the opportunity to provide feedback on the proposed legislation.

Yours truly,



Megan Sartore
Regulatory Compliance Lead, Regulatory Affairs
(403) 514-6614 (Direct)
(403) 514-6622 (Fax)
Megan_Sartore@kindermorgan.com

Department of Ecology
Oil Transportation Safety
Notice Requirements
Public Hearing
May 23, 2016
George Keefe
georgewanc@gmail.com

My wife and I live in Edmonds five blocks from the railroad tracks and about six blocks from our beautiful and vulnerable Puget Sound. We live, day and night, within the blast zone.

A key purpose behind the bill was to provide communities and regions of the state with adequate information to understand the risks they face from oil transportation by rail and pipeline. I respectfully urge Ecology to provide more detailed information on the types of oil, volume of different types of oil, oil spills, etc. consistent with the route segments to understand areas where unique risks or problems exist. I strongly support the draft rule's clarification that facilities are obligated to report all oil shipments scheduled to arrive at their facility. The purpose of the bill was to improve transparency to understand the changes and risks to our communities and the environment. These changes are important to fulfill the objectives of the "Community Right to Know" bill.

The draft language in WAC 173-185-100 states that route information will be published on Ecology's website if the route is known. I respectfully urge that Ecology incorporate language in the final rule that makes it explicitly clear that the agency will assume that the route is known and the burden is on the facility to report that they do not know the route taken by an oil-by-rail shipment.

I respectfully urge Ecology to post the type of oil to be transported on the new website, which is consistent with the agencies existing authority and allows the public to have a complete description of what type and how much oil is moving to understand the full magnitude of risks to our communities and natural resources. The design of the website is an important opportunity to improve the current information system.

I suggest that Ecology include language in a draft rule that states the agency will provide public notice of these updates through an email notice.

June 6 2016

Department of Ecology

Comments Regarding New Rules Oil Transport

PO Box 47600

Olympia WA 98504-7600

I would like to comment on the state's provisions for transporting oil via rail throughout Washington State.

The recent oil spill along the Columbia River has brought into focus the problems with transporting dangerous, flammable materials including oil, chemicals and coal by rail. I've been worried about this problem since I lived a block from the train tracks in Puyallup, and since the incident at Lac Magantic. I live several blocks further away from the tracks in Puyallup at present, and I'm still concerned about it. Explosive materials moved via trains through populated areas is a dangerous situation that is almost certainly going to end in catastrophe sooner or later. Advance notice of movement won't make what's moved any less dangerous, and contingency plans can only go into effect after disaster has struck. I think Washington can and must do better than to settle for those weak plans.

Right now, explosive materials travel by train on 100+ car trains through areas where the explosive materials are feet from houses and businesses. I think we have proof that whatever measures the rail workers put in place are not sufficient to eliminate accidents and make those nearby safe. I'd also like to ask you to think seriously about another aspect of this problem.

Right now, train company workers monitor and inspect the tracks from above, from vehicles and on-foot, which is great. They've been doing a good job of that. But they can't possibly keep up with the shifting material above and under the tracks. We have had repeated landslides (not mudslides as reported in the media) in the Everett area above the tracks. One deep concern of mine is how the areas the tracks are built on are being undermined from below by tidal action. Take Meadowdale Marine for one example: For years the bay waves at high tide have been literally eating away the substructure under the tracks and it needs to be shored up, which they've been doing, and that's

great. There are other areas, such as at Chambers Creek where the USGA tournament was held, where the beach area that holds up the tracks has suffered easily visible, severe erosion. They put boulders in these areas, but that isn't going to be enough. The erosion of the material under the tracks as a result of high tide and storm action is a factor to some extent from the Olympia area to the Canadian border. I've seen this from the Amtrak train, and also closeup and in person on the beach while doing beach cleanups. As we send longer and heavier trains along the tracks, another element that will effect their stability is the pressure of the weight and vibrations, above material that is already weakened by erosion. As we experience climate change, scientists tell us about sea level rise, and that storms will be more severe, and those will cause even worse erosive tidal action in these areas. Scientists tell us that we can expect a large earthquake and accompanying tsunami along the Cascadia subduction zone. Even if we're lucky enough to not have a train on the tracks at that time, both the EQ and tsunami will damage the tracks. What provisions are being made to move the tracks inland to avoid or lessen these problems? The state may not like to even consider the cost of doing that, but it's going to have to be done sooner or later, and the cost of doing it can only go up.

Sabrina Ellis

122 15th St. SW #1

Puyallup WA 98371



Anita J. Thomas
1414 Kauffman Avenue, Apt 201
Vancouver, WA 98660

Kim Morley
WA Dept of Ecology, Spills Program
P.O. Box 47600
Olympia, WA 98504-7600

ref # Chapter 173-185 WAC

Dear Kim Morley and rule-writing Department of Ecology Committee Members:

Please draft the most thorough and comprehensive rules possible under the new law governing safety and notification requirements for the transport of oil by rail throughout Washington State. The urgent need for stringency was made painfully clear last Friday (6-3-2016) with the spectacular derailment and fire near Mosier, OR in the Columbia Gorge. Damaged rail cars stand in silent rebuke on their makeshift siding a few feet from the newly-laid track at the accident site in mute demand for the strongest possible safety standards for oil transport throughout Washington State.

Further, please formulate the rules so that all fire marshalls and other emergency first responders and city officials along the entire route of oil train travel through Washington State are given timely notice of oil train schedules. Municipalities need to have time to prepare for expected arrivals and periods when trains will be stopped on their tracks blocking emergency vehicles and other traffic. The oil slick in the Columbia caused by the Mosier derailment exemplifies the reason for notifying all towns and their first responders in harm's way from oil trains in our scenically blessed and sensitive state.

The Mosier derailment happened on a straight piece of track at slow speed. What more compelling mandate could you imagine for the most stringent rules your expertise can craft? Washington voters will be watching you as you do this critically important work on our behalf.

Yours most sincerely,

Anita J. Thomas, citizen, Vancouver, WA



RECEIVED
Department of Ecology

MAY 09 2016

Spills Program

MAYOR'S OFFICE
Kelli Linville, Mayor
City Hall, 210 Lottie Street
Bellingham, WA 98225
Telephone (360) 778-8100
Fax (360) 778-8101

May 6, 2016

Kim Morley
Department of Ecology, Spills Program
PO Box 47600
Olympia, WA 98504-7600

Dear Ms. Morley:

Pursuant to the changes proposed in Chapter 173-185 WAC, the City of Bellingham offers its comments on the rule.

The reporting standards help to address the changes in recent years of the types and properties of crude oil being transported by rail. Trains transporting crude oil bisect Bellingham on a regular basis to the two area refineries, BP and Phillips 66. Additionally, there are two refineries to the south that receive regular shipments of crude as well. Given the location of train tracks through the city, mostly abutting Bellingham Bay and through residential, commercial, and marine and industrial trade areas, an incident involving an oil train would potentially create a significant environmental, safety, health, and economic impact.

The following are specific comments to sections of proposed WAC 173-185:

- **WAC 173-185-070 Advance Notice-Facility Requirements**

The City is in support of the proposed rule and requests that Section (2) (d) include "number railroad cars delivering crude oil" to the list.

- **WAC 173-185-090 Disclosures-Emergency management division and county, city, tribal, port, and local government emergency response agencies**

Please clarify that the email request to access the information need only be submitted once and further that Ecology will manage a clearinghouse and/or database of requestors.

Thank you for the opportunity to comment. If you have any questions please contact Brian Heinrich, Deputy Administrator, at 360-778-8117, bmheinrich@cob.org

Sincerely,


Mayor Kelli Linville


Council President Pinky Vargas

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Department of Ecology

MAY 06 2016

Spills Program

Comment for the reporting requirement -

I fail to see what good this reporting requirement would perform. The only purpose it would serve would be to add yet another layer of useless bureaucracy. Please forget about this requirement.

Perhaps adding this bureaucracy layer is the main purpose of this reporting requirement. I feel the proponents of this requirement seek to discourage the business of oil in any way they can. These proponents should come to realize that the oil business surrounds our lives and created this country.

The oil will be shipped no matter how much bureaucracy is added. However, if the proponents of this requirement put enough bureaucracy in the way of rail / pipeline transport they shall face the least desirable method of transportation. The oil would be transported by truck. Our highways would be chocked with trucks transporting oil.

Sincerely, Randy S. Gray

30-APR-2016

A handwritten signature in black ink, appearing to read 'Randy S. Gray', written over a horizontal line.

RECEIVED
Department of Ecology
JUN 07 2016
Spills Program

I am against the any large increase in oil shipments or coal shipment unless safety is dramatically increased!

After the train derailment in Oregon can't you see how dangerous a large increase of oil, coal and other train shipment would be.

What is causing all the train wrecks?? I am guessing poor maintenance is part of the cause.

Are the Railroad companies keeping all the tracks, rails, ties, wheel carriage, brakes and track bed in top working condition??? Are they now using the heavy duty tankers with stronger valves?

Driving along Hwy 2, I could see a place where there was a dip in the rail.

Won't that cause a train to derail?

I believe the oil and coal companies should be required to help pay for upgrading all ties, tracks, rails, brakes, wheel carriage, trestle plus all the supports holding up the rails through all towns, gullies, rivers, etc., all along the tracks

Plus either overpasses or underpasses must be built where the train tracks pass over roads.

Thank you
James White
James White

WA DOE Hearing 5/17/2016

RE: The Oil Movement by Rail and Pipeline Notification rule-making.

My name is David Hunt (615 W. 23rd, Spokane, WA. 99203)

I own homes in both Spokane and North Idaho.

I need to begin by reminding us all - that we now know that oil trains and oil cars can quickly become a very fatal, extremely explosive weapon. I also want to state that I am 100% opposed to allowing billionaires and multinational corporations to hold an explosive weapon to the heads of the rest of us and the communities that we live, work, play, and pay taxes in. The corporate capitalism model of the last century is neither democratic nor sustainable. And neither, for that matter is our collective continuation of a fossil fuel based economy and lifestyle - and we all either know that now - or are beginning to become aware of it.

So, in rearranging a few deck chairs on this Titanic fiasco, I wish to offer 3 specific comments on The Oil Movement by Rail and Pipeline Notification rule-making.

1. The communities of the state need accurate, complete information on the types of oil, volume of oil, complete info regarding spills (location, type of oil, volume of oil, etc.), that is consistent with route segments. True "Community Right to Know" requires no less.
2. Facilities must carry the FULL burden for reporting accurate route information. There should be absolutely NO "if known" vagueness or loopholes allowed. DOE needs to remedy this language to ensure that the responsibility for accurate information, 100% of the time, rests entirely upon those engaged in and profiting from this high risk business, (which has and will continue to create both risks and hazards for individuals and communities - as we have seen far too many times already). Safety simply demands 100% accuracy in ALL routing information.
3. In order to accomplish a notification system that provides SAFE and ACCURATE information to communities, responders, effected residents, and the public, DOE must require all facilities (and related industries involved), to provide accurate information on the TYPES and VOLUMES and the mode of transportation, ROUTE, and constantly updated SCHEDULE information for ALL oil shipments.

Thank you,
David Hunt

Comments received through the comment form are included below.

Gregory Monahan gregorymonahan29@gmail.com

"I urge you to require that rail roads provide advance notice to first responders of oil train traffic. Notification shall include type of rail cars planned to be used for shipping crude oil.

I also request that both rail and pipeline companies be required to notify the closest first responders as well as the appropriate state agency immediately of any spills, derailments, or other oil related incidents.

I further request that penalties for non-compliance of any rules be stiff enough to motivate compliance and that penalties be assessed for each violation of the rules,"

T. Jeffrey Johnson Jeffrey@AmericanEnvironmentalServices.us

“Comments being submitted today by email.”

Marilyn Boyd bubbie50@yahoo.com

“DEPARTMENT OF ECOLOGY STATE OF WASHINGTON Thank you for addressing the safe transport of oil across our state by rail and pipeline. These guidelines are necessary to ensure the safety of railroad workers & citizens, our waterways and aquatic species, our farmlands, terrestrial and avian species, and our businesses and infrastructure. Rail & pipeline safety measures are long overdue and it is imperative to implement and stringently enforce these measures. After the recent derailment in Mosier, Oregon, this is even MORE URGENT! WAC 173-185-040 Enforcement and penalties. Any violation of this chapter ‘may’ be subject to enforcement and penalties under RCW 90.48.140 and 90.48.144 To ensure accountability, I believe this wording should be changed to ‘any violation of this chapter WILL be subject to enforcement and penalties under RCW 90.48.140 and 90.48.144.’ WAC 173-185-070 advance notice 2(c) Railroad route taken to the facility within the state, ‘if known’ I have serious doubts that the railroad would not know which routes are used for these shipments. Once again, to ensure accountability, Ecology should incorporate language in the final rule assuming the route is known and require the facility to provide full documentation if unknown. The infrastructure supporting the heavy loads of both coal and oil trains needs to be seriously addressed before continuing to allow the transport of these hazardous cargo. I live on an unstable bluff within the blast zone. There have been numerous slides and at least one train derailment. Passenger trains are not allowed on the tracks after a slide, but freight, including coal and oil trains, is allowed. These extremely heavy trains cause more vibrations than passenger trains and should be delayed the same as passenger trains. I belong to the Snohomish Train Watch group, which formed to monitor the transport of coal and oil across the region, and to educate ourselves and get answers to multiple questions regarding safety and response plans. Unfortunately, BNSF and our fire chief were unable to give us their response plans specific to oil train derailment, fire, explosion because there were none. Neither infrastructure nor tank car design had been addressed prior to these shipments. I urge the Department of Ecology to implement the MOST STRINGENT prevention, preparedness and response rules applicable to transporting oil by rail. Thank you, Marilyn Boyd 1620 Hoyt Avenue Everett WA 98201-2012”

Robert Curcio bobcurcio@sbcglobal.net

“The increase in crude by rail traffic, and the inability for the national railroad companies to prevent recurrence of crude by rail transportation accidents, all point to doing all that can be done to allow communities and spill emergency providers to be well informed of movement information. In this way, they can be better prepared for incidents, and can grow their response equipment and personnel consistent with the pace of actual railroad crude by rail movements.”

Den Mark Wichar deedub@webtv.net

“State attorney general reports that crude oil spill cleanup in Washington could top \$170,000,000. And the main involved railroad reports that oil spill cleanup could exceed \$775,000,000. It is beyond merely clear that movement & storage of crude oil are not safe anywhere in The Evergreen State. Therefore, Ecology's rulemaking cannot be too strict.”

Eleanor Wireman iweccan@gmail.com

"I live on the outer edge of a blast zone were Bakken oil to explode on the track going through Kennewick WA.

But worse there are two schools immediately adjacent to the tracks in Kennewick and one in Pasco. The closest is an elementary school, with only one road for possible evacuation (the other goes over a grade level crossing)

Notice of trains carrying oil should be sent directly to the schools any day a movement is scheduled. I will likely send more comments by email with the maps attached, but you should include an inventory and address list in the ruling of all schools adjacent to tracks over which Bakken oil may pass.

Oh, and my son's apartment in Cheney is also in the blast zone."

James Jarzabek jjarzabek@yahoo.com

“The recent oil-by-rail spill at Mosier, Oregon emphasizes the fact that this mode of transport can never be safe. The rail location on the Columbia river increases the potential for an environmental disaster 1,000-fold. All oil-by-rail should be prohibited on the Columbia. If it must occur, then government should require a bond of no less than \$1 Billion, to cover worst case damage estimates of \$600M or greater. Local communities citizens should not be liable for recovery.”

Appendix B: Transcripts from public hearings.

Chapter 173-185 WAC – Oil Movement by Rail and Pipeline Notification Public Hearing – Spokane, WA – May 17, 2016

Hearing Transcription

1 **Speaker 1:** I'm Erica Bronson, Hearing Officer for the rule proposal for Washington
2 Administrative Code Chapter 173-185 - Oil Movement by Rail and Pipeline Notification. Let the
3 record show that it is 7:50 pm on May 17th, 2016 and this hearing is being held at the Ramada at
4 Spokane International Airport in the Lower Level Ballroom located at 8909 West Airport Drive,
5 Spokane, Washington, 99224. Legal notice of this hearing was published in the Washington State
6 Register on April 20th, 2016 as number WSR 16-08-118. In addition, notices of the hearing were
7 mailed to 36 tribal governments, emailed to about 1,100 interested people, posted on Ecology's
8 website for the rule, posted on social media including Facebook, Twitter, and Ecology's blog, and
9 a state-wide news release on the rulemaking and hearings was issued on April 6th, 2016. I will be
10 calling people up to provide testimony in the order your name appears on sign-in sheet. Once
11 everyone who indicated that they would like to testify has had the opportunity, I will open it up for
12 other. When I call your name please come up to the front, sit in this chair here, this is the
13 recording device here and I will give you the microphone to speak into. Please state your name
14 and it looks like we have everyone contact information on the sign-in sheet here so there's no need
15 to repeat that into the microphone. And you can also state any organizational affiliation if you
16 wish too. Please speak clearly, I'm not providing a good example, so that we can get a good
17 recording of your testimony. Okay so we will begin with Laura Ackerman who will be followed
18 by David Hunt.

19 **Speaker 2:** I'm Laura Ackerman, the Lands Council here in Spokane. As you know this
20 legislation came out of 1449. There's a public hearing in Spokane in October of 2014 and I was
21 there and a part of the legislation had a community right to know objective and a lot of people
22 expressed that that was really important. And so we really think Ecology should provide more
23 detailed information on the types of oil, the volume of different types of oil, oil spills and we want
24 it consistent with the route segments to understand which areas are unique in whether a risks where
25 there problems in Spokane. For example, we have an elevated track that changes things slightly

26 when as supposed to at grade. The track runs very close to Interstate 90 and two hospitals are very
27 close to the tracks. A lot of people who are in a low income or disabled, there are people of color
28 who live downtown and those kinds of things are really important, I think, for first responders to
29 know about and for the community to know about that. So that's why one of the reasons why
30 that's really important for Spokane and probably for other communities and also the highest train
31 track in the county is grows up to Latah Creek which flows right into the Spokane River and as
32 you know there was a train that derailed there in 1991, a grain train. If that had been oil, it would
33 have been disastrous into Hangman creek or Latah Creek, into the Spokane River and we also have
34 further upstream for Plantes Ferry in the valley places where oil trains cross the river. I have
35 pictures of them. I'm a kayaker. I know that they're there. The route if known, somebody brought
36 this up and we think this is really important and in a final rule we want to make it clear that the
37 agency will assume that the route is known and that the burden is on the facility to show that they
38 don't know the route taken by an oil by rail shipment through documentation and I think even this
39 is under rule for railroads, railroads clearly know where they have been and know where they were
40 going and that should be easy information for the facilities to get from railroad. I mean they have
41 to go on tracks. They are not taking back roads. They are not off on any... they're not flying.
42 There is no other way for them to do and we know the railroads so I think that's a pretty easy thing
43 for them to do. And we'd also like to see centralize information from the different reporting
44 systems so that we can just have it all together in one place for public information and including
45 the existing vessel notification system. I think what you've heard this afternoon and this evening
46 from public comments that people are sort of frustrated because everything is so "siloe", it's so
47 segmented with rulemaking, with other things and that's not your fault. But at so many different
48 pieces and so many different agencies at the federal and state level and people don't want to siloe.
49 They want it all together as much as possible and this is one way to do it and so the design of the
50 website is really important because we need to know the clear differences of the type of oil and the
51 volumes, the mode of transport, etcetera. And we have seen this in Puget Sound because they
52 move oil sands. Oil sands or tar sands and the information for that it's been inconsistent. It's been
53 opaque. And the industry has tried to hide the type of oil that's moving through the state so the
54 design of the website is really important We also would like updates, public notice updates when
55 there are website updates you know - for example email. So whenever there are changes that
56 needs to be... you know public needs to know that and some consistent, easy manner. And we

57 would like facilities to report all shipments of oil. So we really strongly support the draft rules
58 clarification that facilities are obligated to report all oil shipments at their facility because as you
59 know the purpose of the bill... because it's a Safety Bill that's in its name was to improve the
60 transparency to understand the changes and risk to the communities and to the environment. And
61 all have... I'm going to stop my comments there on half, more likely comments when I write them.
62 Okay, thank you.

63 **Speaker 1:** Thank you. Next up we have David Hunt followed by Pauline Druffel.

64 **Speaker 3:** My name is David Hunt and thank you to Department of Ecology, Erica, Kathy, Jase
65 and the rest of you that are working on this issue. Appreciate the opportunity to comment also. I
66 need to begin by reminding us all that we now know that oil trains and oil cars can quickly become
67 a very fatal, extremely explosive weapon. I also want to state that I'm a hundred percent oppose to
68 allowing billionaires and multi-national corporations to hold an explosive weapon to the heads of
69 the rest of us and the communities that we live or play and pay taxes in. The corporate capitalism
70 model of the last century is neither democratic nor sustainable and neither for that matter is our
71 collective continuation of a fossil fuel base economy and lifestyle and we all either now know now
72 or beginning to become aware of that. So in rearranging a few deck chairs on this titanic fiasco, I
73 wish to offer three specific comments on the Oil Movement by Rail and Pipeline Notification
74 rulemaking. First is the communities of the state need accurate, complete information on the types
75 of oil, volume of oil, complete information regarding spills, including location, type of oil, volume
76 of oil, etcetera that is consistent with route segments. True community right to know requires no
77 less. Secondly, facilities must carry the full burden for reporting accurate route information.
78 There should be absolutely no..., if known vagueness or loop holes allowed. Department of
79 Ecology needs to remedy this language to ensure that the responsibility for accurate information,
80 100% of the time rest entirely upon those engaged in and profiting from this high risk business
81 which has and will continue to create both risks and hazards for individuals and communities as
82 we have seen too many times already. Safety simply demands a hundred percent accuracy in all
83 routing information and I understand the railroads supremacy and grandfather clauses and federal
84 guidelines for railroads are differently but certainly if we put the responsibility on the facilities, the
85 facilities will put the responsibility back on the railroad and there will better information and better
86 communication of that information. And thirdly, lastly, in order to accomplish the notification
87 system that provides safe and accurate information to communities, responders, affected residents

88 and the public, DOE must require all facilities and related industries involved provide accurate
89 information on the types and volumes and the mode of transportation, route and constantly updated
90 scheduled information for all oil shipments. Thanks.

91 **Speaker 1:** Okay, thank you David. So next we have Pauline Druffel who will be followed by
92 Kevin Kohl.

93 **Speaker 4:** Thank you for this opportunity to speak up about the rulemaking. My name is Pauline
94 Druffel and I'm conscious that one of the things that we, the public have experienced is that we
95 don't know. There's so much that we don't know about what these oil tankers are containing and
96 what the dangers are about how we might be impacted by accidents related to them. So I agree
97 with this idea of requiring all the players in these shipments, the shipments of oil of whatever type
98 that they be required to certainly to let the Department of Ecology know what their shipping. But I
99 think that we, the public should know more and faster what is being carried. And the discussion
100 about aggregate and we will be told in the aggregate remains unclear to me about what just means,
101 but I'm gathering what we've been told quarterly. And that seems like a long time to have like it
102 seems too in-frequent and so I would hope that that could be changed to much more common. Is
103 that we and I think Laura mention something about email of notice that we wouldn't have to every
104 once in a while go look on the site to find out what's true but that we... that those of us who are
105 testifying that expressing interest would be on an email list. I do get notices every once in a while
106 that come from Department of Ecology or whatever, because I've been involved and so I would
107 like to have us get notices on regular basis about such information also. I think that's all I will say
108 today, for now, thank you.

109 **Speaker 1:** Okay, thank you. Kevin Kohl is next. Okay so he is going to pass so I'll just open up
110 the floor to anyone else who did not indicate previously. Go ahead.

111 **Speaker 5:** My name is Bart Haggin and I've been involved in the oil business for a long time. I
112 think that it's really instructed that the Department of Ecology come out with what they do know
113 and what they had any control over so we have someone idea that the circumstances between a
114 federal government and DOE. So I think that would be very helpful so we don't thread a lot of
115 extra ground and try to find out just where the game is being played. It seems incredible to me and
116 I think it's outrageous that we're so ignorant of what's going on. Obviously, there is no excuse for
117 the trains to come into the State of Washington and be volatile. And until recently that's been a
118 case and as far I have not heard any confirmation that the product that is coming into the State of

119 Washington is as safe at least as it is in Eagle Ford and Texas. And we would like to believe that
120 the circumstances and state government are superior to the kinds of regulations that take place in
121 Texas and Eagle Ford has not had any bombs to come off in Texas since the time of their similar
122 kinds of quality of oil that is being shipped within the state of Texas from Eagle Ford. But I think
123 there's a larger question here, I think the question is where is this oil going and why are they
124 shipping it West instead of the East or South or some other directions? So I think that needs to be
125 examined too. Why are we shipping something across the mountains and difficult circumstances
126 like we have here in Spokane where the rails are elevated and the chances for real disaster take
127 place are really enhanced? And I think it's really unbelievable that we have no idea where all of
128 this is coming from. That is to say, is any of it mixed with the bitumen from the tar sands? Is
129 there any other source other than the Bakken and the tar sands that is going to provide oil to State
130 of Washington? And then you have to go being on that note that the plan... I understand it is that
131 when the oil comes... when it is refined into jet fuel and gasoline and diesel oil, etcetera, all of that
132 is coming out of the refineries in and around the Anacortes. And so the question then is, why is it
133 going there and what is happening to it after that? The pipeline that goes down the West Coast,
134 terminates in Eugene. Is that where some of it going? Or is it all to go out of the country? Just as
135 a matter of profit making for the corporations and not servicing any of the facilities on the West
136 Coast as far as we can determine at this time. Without the oil from the tar sands, without the
137 bitumen from the tar sands, and without the oil from the Bakken we've been getting along very
138 well. There has been plenty. So we're not sure on that oil and so where is it going? What is the
139 point? Why is it being taken out of the ground and why is it being shipped in containers that we
140 have no idea how safe they are? This is still something that is off the table because this is covered
141 by federal regulations. So I think it's really important that DOE take it by the horns and give us
142 some of the idea of what they can do and what they can't do. And then we can take up these other
143 questions with the federal representatives as best we possibly can. But in a larger sense as one of
144 the previous speakers talked about, what are we doing? Why are we taking the stuff out of the
145 ground? Why are we refining it and so on when it's befouling the air not only here but planet,
146 why? So it seems to me that there has to be some kind of accountability to somebody as to why
147 these all taking place. And it doesn't seem to me like it can all fall on the shoulders of the DOE.
148 But DOE needs to be able to specify and clarify what their responsibility is and what they have any
149 control over. And it doesn't seem to me like they're doing a very good job of that. So this is a

150 very very serious situation where were the planet... you know it's a cliché but this is the only
151 planet we have and the resources that we're talking about here today are all finite resources. And
152 we got 7.3 billion people on the planet. We got over 300 million people in the United States and
153 all of that is unsustainable. So without going into all of the financial situation or without going
154 into the environmental situation, all of those things are actually leading us towards extinctions. So
155 it seems to me that they are ought to be more concern but I do think that reiterating the issue of
156 Department of Ecology is to give us some idea of what they are capable of doing, what we need to
157 be asking them in the way of questions and how that relates to the other kinds of government and
158 particularly in terms of the kinds of things that they're going on during legislative session in
159 Olympia. So somebody's before me said something about... I think it's Pauline said something
160 about we don't know very much and there's a lot of information, there's available that is not being
161 provided and it seems to me that it's incumbent upon the Department of Ecology to do a better job
162 of that.

163 **Speaker 1:** Okay, anyone else? All right, so thank you everyone who provided oral testimony. If
164 you would like to send Ecology written comments, please remember that they must be received by
165 June 10th, 2016. You may send them to the Department of Ecology Spills Program to Jase Brooks
166 at PO Box 47600 Olympia Washington 98504-7600. His email address is
167 jase.brooks@ecy.wa.gov. They can also be fax to 360-407-7288. Comments can also be address
168 to Kim Morley, the other rule writer. Her address is the same, her physical mailing address. Her
169 email address is kim.morley@ecy.wa.gov. You may also use our online comment forum on
170 Ecology Spills Program rule making website and that's
171 www.ecy.wa.gov/programs/spills/rules/main.html. You may also provide additional oral
172 comments at public hearings that will be held Monday, May 23rd, 2016 at 1 PM at the Holiday Inn
173 Downtown Everett, Ballroom One, 3105 Pine Street, Everett, Washington, 98201, on Thursday,
174 May 26th, 2016 at 1 pm by webinar. Webinars are online forum that you can attend from any
175 computer that has internet access. Instructions for joining the webinar can also be found on our
176 public involvement webpage for the rule at www.ecy.wa.gov/programs/spills/rules/1513inv.html.
177 Additionally, there will be another hearing in person on Friday, June 3rd, 2016 at 1 PM at the
178 Double Tree by Hilton Vancouver in the Columbia Room, which is located at 12712 South East
179 Second Circle, Vancouver, Washington, 98684. All testimonies received at this hearing as well as
180 the other hearings along with all written comments receives no later than June 10th, 2016 will be

181 part of the official hearing record for this proposal. Ecology will send notice about the Concise
182 Explanatory Statement or CES publication in which we respond to formal comments to everyone
183 that provided written comments or oral testimony on this rule proposal and submitted contact
184 information. To everyone that signed in for today's hearing and provided an email address and to
185 other interested parties and the agencies mailing list for this rule. The CES among other things will
186 contain the agency response to questions and issues of concern that were submitted during the
187 public comment period. If you would like to receive a copy but did not give us your contact
188 information on the signing sheet, please let one of the staff of the hearing know or contact Jase
189 Brooks of the contact information provided for submitting comments. The next step is to review
190 the comments and make a determination whether to adopt the rule. Ecology Director Maia Bellon
191 will consider the rule documentation and staff recommendations and will make a decision about
192 adopting the proposal. Adoption is currently scheduled for August 24th, 2016. If the propose rule
193 should be adapted that day and filed with the code reviser, it will go into effect October 1st, 2016.
194 If we can be a further help to you please do not hesitate to ask a staff member today or you can
195 contact Jase Brooks if you have questions later. On behalf of the Department of Ecology, I do
196 thank you all for coming. I appreciate your cooperation and courtesy. Let the record show that
197 this hearing is adjourned at 8:15 PM.

Chapter 173-185 WAC – Oil Movement by Rail and Pipeline Notification Public Hearing – Everett, WA – May 23, 2016

Hearing Transcription

1 **Speaker 1:** I'm Bari Schreiner, Hearing Officer for this hearing. This afternoon we're to conduct
2 a hearing on the rule proposal for Chapter 173-185 Washington Administrative Code -Oil
3 Movement by Rail and Pipeline Notification. Let the record show that it is 2:08 PM on May 23rd,
4 2016 and this hearing is being held at the Holiday Inn Downtown Everett, Ballroom One, 3105
5 Pine Street, Everett, Washington, 98201. Legal notice of this hearing was published in the
6 Washington State Register, April 20th, 2016, Washington State Register Number 16-08-118. In
7 addition, notices of the hearing were mailed to 36 tribal governments, emailed to about 1,100
8 interested people, posted on Ecology's website for this rulemaking, posted on social media:
9 Facebook, Twitter, Ecology's blog, and a state-wide news release on rulemaking and hearings was
10 issued on April 6th, and May 19th, 2016. I'm going to be calling people up to provide testimony in
11 the order that their names appears on the signing sheet. After all of those people have testified, I'm
12 going to ask that if there's anyone else in the audience who may have changed their minds. If you
13 didn't signed up already you'll still get the chance. At this time the number of people that signed
14 up, we have six people signed up. We're going to ask everyone to keep their comments for about
15 seven minutes. If you need more time than that, we're going to ask you to go for about seven
16 minutes, I'll let you know when it's done and when everyone else had a chance to go through, if
17 you want to come up for the second time, please feel free to come up again. We want to make sure
18 everybody gets a chance to provide testimony today. So the first person I have on my list is Lovel
19 Pratt who will be followed by Barnaby... I'm sorry if I don't say your names right... Barnaby
20 Dow. If you could please come forward and speak into the microphone here so that we can make
21 sure we get both a good recording and everyone is able to hear you.

22 **Speaker 2:** Hi my name is Lovel Pratt and I'm in Munlo Cove Consulting and I'm here today
23 representing the Friends of the San Juans. I want to thank Ecology for this rulemaking process and
24 this opportunity provided testimony. I would like to provide comment on the difference between
25 preliminary draft ruling language and the current draft ruling language. In the preliminary draft
26 rule language in Section 173-185-070 and Section 173-185-080, the name and type of crude oil
27 was required to be reported by facilities and that requirement is omitted in the current draft

28 language. However, in Section 173-185-100, disclosures - the public, it does include the
29 requirement that the public receive information about the type of crude oil on an aggregated basis.
30 So it seems to ensure that the public does receive this information about the type of crude oil being
31 transported. It seems imperative that this be reported to Department of Ecology by facilities so
32 that the public can accurately receive the information about the type of crude oil being transported
33 through the state as this is of great importance to the public and type of crude oil has significant
34 differences in terms of its requirements, in terms of emergency response, and impacts to
35 community etcetera. The other thing that I'd like to just ensure is that... and perhaps this is
36 addressed in the current language, but I want to ensure that if there been any changes in reports on
37 deliveries of crude oil to facilities that those changes also get reported so that emergency
38 responders can have advance notification of all transported products through the state. And then
39 finally, we've had some questions and answers on this topic and my understanding of the
40 legislative intent is that the emergency responders be afforded all of the information about the
41 transported of crude by rail or pipe way, by rail through the state and that the public have an
42 aggregated understanding of that information and to the extent possible that that information for
43 crude products transported through the state and not necessarily to facility within the state that
44 those transports of crude be covered under this rule making. Because those transports of crude are
45 equally of concern for both the public and may have responded to by emergency responders in the
46 event of accidents regardless of whether the final destination for that product is within the state or
47 in adjoining states. Thank you.

48 **Speaker 1:** Thank you. So we have Barnaby Dow and followed by Dean Smith. Please state your
49 name for the record.

50 **Speaker 3:** Thank you very much. My name is Barnaby Dow, I am the External Affairs Manager
51 for King County Emergency Management. I've done a survey of all the proposed rulemaking
52 which are going on this week promulgated by Ecology and issue these remarks on behalf of King
53 County government and King County Local Emergency Planning Committee which has also taken
54 a look at these. Our first reaction is to compliment you and the legislature for the work that has
55 been produced on the rulemakings that we're considering this week. We want to compliment the
56 state emergency management division for the successful recruitment of four regional hazard
57 materials planners who are now in place and serving the emergency management community.
58 Those planners are a direct result of legislation that passed last year and they're already performing

59 a critical function and ensuring that local responders have tools that they need to respond to
60 hazardous materials incident including and especially incidents involving crude oil by rail, barge,
61 and pipeline. We remain deeply concerned, as so many citizens are... and business owners as
62 well..., about the risk to public safety and health, and the environment, and the economy posed by
63 the growth of oil train traffic through our region. With over two million residence and 1.3 million
64 jobs, King County is Washington's most populous county and the economic and industrial center
65 of the Pacific Northwest with an abundance of natural resources that support our diverse and
66 cherished quality of life. The region's North-South rail lines carry oil train traffic to the state's
67 most densely populated areas and the heart of our commercial and industrial centers. These rail
68 lines flow through the Pacific sound shorelines, they cross rivers and estuaries, they pass through
69 and near heavily used recreation areas and sports facilities. There are no alternative north-south
70 routes that oil trains can take in the central Puget Sound region to get oil to refineries located north
71 of King County. Therefore, we believe it's imperative that we get ahead of this rapid increase in
72 oil train traffic in our state. Regarding specifically WAC 173-185 on notifications, transparency
73 regarding capacity and make up of existing and forecast oil train traffic is key for ensuring that
74 safe guards can be put in place to protect the public health and safety and to prevent harm to our
75 environmental, economic, and public safety. And that is why we strongly support the notification
76 provisions contained within the rulemaking. The propose rules, however, may not go far enough
77 in answering the need to know the actual volumes of oil being transferred especially for transfer by
78 rail. This is critical information for emergency planning and for incident response. We urge that
79 the proposed notification protocols be implemented toward the transport of any quantity of oil and
80 not have minimum quantity of units of oil or units, this will enable local, county, and regional
81 jurisdictions adequate preparation to prepare for potential spills. On behalf of the government of
82 King County, I again thank you for your hard work and this opportunity.

83 **Speaker 1:** Okay, next we have Dean Smith who will be followed by David Perk.

84 **Speaker 4:** My name Dean Smith and I live in Everett Washington. I'm a retired physicist and a
85 software developer. I'm elected chairman of Port Gardner Neighborhood Association, the largest
86 neighborhood in Everett. BNSF tracks that carry crude oil in question run through my
87 neighborhood three blocks from my house. Two years ago, in frustration about the lack of
88 information about how many trains were passing through our area and their exact route, I
89 organized the Snohomish County train watch. Thirty citizens working in four hours shifts sat by

90 the tracks around the clock in several sites in our county for one week and recorded the passage of
91 every train we saw. In April 2014, we counted 16 crude oil trains and 24 coal trains. I mention
92 coal here because they run on the same tracks and there really is a relationships between the two
93 here in terms of vulnerabilities. In 2015 we repeated the exercise and we counted 12 crude oil
94 trains and 29 coal trains passing through our neighborhood in one week. In the case of Everett,
95 nearly all these loaded crude oil trains pass through the tunnel under the city. Through our
96 passenger transit center and pass densely populated areas. This year in 2016 we counted only
97 seven coal trains, one per day and 14 crude oil trains. Also in 2016 both crude oil trains and the
98 coal trains pass along West Marine View Drive on the west side of the city, no longer through the
99 tunnel and the dense population development areas. However, both coal and oil trains park along
100 West Marine View Drive for several hours to a day at a time. I have observed that personally. All
101 these loaded unit trains come north along Puget Sound on their way to the refineries in Anacortes
102 and Cherry Point or into Canada in the case of coal. The empties turn east at Everett and go over
103 Stephen's Pass such as the power of human citizen observation. The tracks along Puget Sound
104 from Seattle to Everett are built on fill material at the base of extremely fragile bluffs which
105 experienced frequent landslides. In 2014, there were two hundred such landslides and those slides
106 have been known to knock trains off the tracks. In fact, there is a video on YouTube of one such
107 slide knocking two cars off the tracks. The slide danger is so great that we don't allow passenger
108 service in that area for 48 hours after such a slide to assure that the rail bed is stable. The reason
109 we are interested in coal as well as crude oil is that coal trains run on the very same tracks and coal
110 trains are very heavy. When a coal train passes through my neighborhood, I can feel the vibrations
111 in the earth two blocks away. As a physicist I have to believe that those vibrations can cause slight
112 fissures in the fragile soils along our bluffs and could give way under the weight of later rainstorms
113 and increase a likelihood of landslides. Here are my suggestions for the protection of Washington
114 citizens from the consequences of the transport and use of fossil fuels. Number one, crude oil
115 carrying trains and in fact all vessels and vehicles - ships, trucks and trains - that carrying
116 hazardous materials and carry a hazmat placard also be required to carry a transponder that reports
117 GPS coordinates every ten minutes to a Washington State emergency notification system. These
118 data could be aggregated and integrated with a Google map and displayed on the website that
119 could be available for the first responders and selected security cleared citizen auditors.
120 Furthermore, the software should be design to automatically issue notifications to first responders

121 when those vehicles enter their territory. This is already being done with truck fleet owners and
122 with ships, vessel and is even available to private citizens. For instance, there's an app that you can
123 get on your android or iPhone device called glimpse. Glimpse shows a friend of yours exactly
124 where you are at any time. This is current, cheap, available technology - a 21st century solution.
125 I'll be happy to consult with state government on how to do this. Number two, presently we do not
126 allow passenger service along the railroad beneath the fragile bluffs between Seattle and Everett
127 for a period of 24 hours after a landslide. We should extend this moratorium to the transport of
128 hazardous materials and coal along those same tracks. Coal because of its enormous weight and
129 the vibration it induces in the soil along the tracks. Better yet we should prohibit passenger and
130 hazardous transport through that area after any rainstorm of more than half an inch since that is
131 when the landslides are most likely to occur. Incidentally, on the subject of coal trains and their
132 impact on crude transport I have recently begun to observe unit coal trains of hopper cars passing
133 through our way. Most of the coal we've seen going to the west port bulk terminals in Canada is
134 in rotating coupler cars that are dumped from the top. These hopper cars are dumped from the
135 bottom. There must be a new destination for these new hopper cars.

136 Does this mean we can expect even more heavy coal trains? I suspect so.

137 **Speaker 1:** Thank you. Next is David Perk followed by... I believe it's Rein Atterman.

138 **Speaker 5:** Hello. My name is David Perk. I'm a citizen of Seattle. I volunteer with several
139 environmental groups including Washington Environmental Council and I'm on the board
140 Seattle but I appear here as myself a citizen. In my observations of oil trains in the Seattle area,
141 one of my concerns regarding the WAC 173-185-100 disclosures to the public, one of my concerns
142 is that if information is aggregated on weekly basis that may not provide sufficient awareness to
143 stadiums or casinos or other facilities where large numbers of people gather. It's my observation
144 that oil trains are sometimes staged for hours or even days in different locations. The ones I'm
145 familiar are in South of Boeing field along Boeing field in a couple of locations, Myrtle Edwards
146 Park and I've also seen oil trains sitting at rest over the slough near Everett. And so it's my
147 observation that oil trains being the immense liability that they are that facility managers would
148 like to know more precisely when they're going to be passing by or for how long they're going to
149 be parked in their area. For example, we know from the KOMO 4 News reports from last October
150 that BNSF is not interested in scheduling oil train traffic past stadiums in such a way to avoid
151 games. That puts between twenty to forty thousand people at risk depending on the popularity of a

152 team. It would strike me that the facilities managers of the stadiums would probably like to be
153 able to either bring in specialized staff or additional staff so that they can adequately evacuate a
154 stadium should there be some sort of an incident. I don't know if the stadiums considering doing
155 that but it strikes me that would be good prevention. The other observation that I have about that
156 section is that if there are long delays in different places then the information that is conveyed to
157 the public might not be accurate to the degree that it should be. I would like to second the
158 comment made by Dean Smith preceding me that responders with automated notifications would
159 be a great improvement on the current system. Thank you very much.

160 **Speaker 1:** Thank you. Rein Atterman and then followed by Earl White.

161 **Speaker 4:** Thank you for taking testimony. My name Rein Atterman of the Washington
162 Environmental Council. I'm speaking on behalf of the members across the state who want greater
163 transparency in amount, type, and risks of oil transportation through our state. We worked to pass
164 the initiating bill, House Bill 1449 and appreciate the state moving forward on implementation of
165 this important bill. I want to highlight four points and we will be following up in a more
166 comprehensive comment letter by June 10th. A key purpose behind House Bill 1449 was to
167 provide communities and regions of the state with adequate information to understand the risk they
168 face from oil transportation by rail and pipeline. Because of this purpose we urge Ecology to
169 provide more detailed information on the types of oil, volume of different types of oil, oil spills
170 etcetera consistent with the route segments to understand areas where unique risks or problems
171 exist. Two, we are concerns that the draft rule language requires a railroad route to be reported to
172 Ecology only quote "if known". To prevent the facilities from cutting corners in reporting
173 requirements, we believe that ecology should incorporate the language in final rule that makes it
174 clear that the agency will assume that the route is known and burden is on the facility to show that
175 they do not know the route taken by the oil-by-rail shipment through documentation. Three, we
176 urge Ecology to centralize information for rail, pipeline and vessel reporting systems so that we
177 can have a one stop shop for public information. This includes the type of oil as well as how much
178 oil and how the oil is traveling. And finally we strongly support the draft rule clarification that
179 facilities are obligated to report all shipments included to arrive at their facility. The purpose of
180 the bill that was passed was improved transparency to understand the changes and risks to our
181 communities and environment. And again a more detailed comment letter is forth coming. Thank
182 you.

183 **Speaker 1:** Thank you. Next we have Earl White.

184 **Speaker 7:** The only thing that I would like to add is the problem of trains going through
185 Washington. So you know we have that problem in the Eastern Washington going to Oregon
186 because you're talking about the facility. Same way with going in to Canada, you have that
187 problem and now that they have gotten rid of the "we cannot export" then that means that you will
188 be having trains coming through here who will load directly on to ships. So probably you should
189 find some way to put that in there in preparation for all of that. Thank you.

190 **Speaker 1:** Thank you. So as this time now is everyone I had signed up? Is there anyone who has
191 changed their mind that would like to come up? I saw your hands first and then I will go to you
192 next and please remember to state your name for the record.

193 **Speaker 8:** Bob Creamer of Everett, Washington. I thank the Ecology for coming up with this
194 proposal. I think you guys did a great job as a start. And I'd like to make a couple of
195 recommendations to consider this time but possibly in the future. I think the transponder idea is a
196 rally great idea to basically indicate hazardous materials going through and to have it pin point
197 exactly where it is at any point in time and not only does it pin point it also tells how long it's been
198 there and if there is a situation that is trying to be covered up. Secondly, I think that there is a
199 loophole that you guys need to cover up. Anything being transferred through the state that doesn't
200 have destination within the state still needs to be reported on. Like just going into a terminal,
201 you're allowing things to go to Canada or Oregon or Idaho I think you need to make a point that if
202 anything is going to the state there must be some way of identifying what that is on that at some
203 point in time so we have a loop hole that needs to be covered up. I do think that you guys have
204 done a good start at this. I know that other concerns that everybody has with coal trains and
205 hopefully Ecology would take the comments about the coal trains and other hazard materials and
206 go to the next area that you guys could do to develop a topic of those. Thank you.

207 **Speaker 1:** Thank you. Please come on up. Please remember to state your name for the record.

208 **Speaker 9:** My name is Ralph Wood I was in Gold Bar. I would like to make sure that there are
209 some ways that we can verify what we are getting from the reports of traffic in Gold Bar. If I see
210 some tank cars who certainly hazardous sign in such and such a day in going such and such a
211 direction, I should be able to... at some point, say within a week or two be able to find that on the
212 information that you guys make available. Some way for us to check, to see that what we are
213 seeing is getting reported on. Thank you.

214 **Speaker 4:** I'm Dean Smith again from Everett. I'm recalling that in 2014 when we did the first
215 train watch in Snohomish County. We put out the report for that about a month later because it
216 took as awhile to collect all of the data and put it together and I got called into Representative
217 Larson's office the very next morning and he said, "What the heck do you think you're doing,
218 Smith? Don't you know this is national security information?" and I spent twenty years of my life
219 working with national security information, I have all kinds of top secret clearances that you can
220 imagine. I'm sure nobody in this room knows more about national security than I do. And I think
221 I know more than Representative Larson did and I don't think that movement of coal and oil trains
222 is national security information. I think we're being much too worrisome here about this. I think
223 that the oil companies might like to use that excuse but I don't think it's valid. I think the safety of
224 our citizens is much higher national security issue than the commercial security of oil refining.
225 Thank you.

226 **Speaker 1:** Thank you. Please remember to state your name.

227 **Speaker 10:** My name Caleb Braaten and I'm a student at the University of Washington.
228 However, I in no way speak on behalf of the University of Washington and all opinions expressed
229 are my own. My understanding that the purpose of this rules to have a system in place to receive
230 information regarding the transportation of crude oil so that it can be passed on to first responders
231 in cases of something like an oil spill. This rule requires that receiving facilities be the ones to do
232 the reporting of such transports. As we stated in this formal hearing earlier, in the case of
233 whatever is called the Burlington Northern Santa Fe rail line, the line travels throughout the
234 Washington State and travels into both the states in Oregon and Idaho. This rule as stated in the
235 Q&A before this formal hearing only requires the facilities in the state of Washington report upon
236 the shipments that pass through the state. This means in the case of Burlington Northern Santa Fe
237 rail line, that the shipment could pass either Idaho to Oregon or Oregon to Idaho and such
238 shipments would not be reported. If there's a spill on such a shipments, this rule has accomplished
239 nothing. I believe this to be a major pitfall that should be reprimanded. Thank you for reopening
240 this rule to the public's opinion. This is my first public hearing and it has been fun. Keep up the
241 great work.

242 **Speaker 1:** Thank you. Are there others that have changed their minds that would like to come up
243 at this time? Please remember if you provided testimony today and you signed in but you didn't
244 give us contact information for you either address or an email we wouldn't be able to notify you

245 when the response to comments or anything related to next steps is out. So if you do want that
246 please feel free to either stop and see me or Kim Morley on the back of the room and we can make
247 sure that you get added to those list. So if you would like to send Ecology written comments
248 please, remember they must be received by June 10th, 2016. I'm going to read some of this
249 information now but it is also available on some of the hand outs in the back of the room so if you
250 don't have to try to write it all but you need to send them to Department of Ecology Spills program
251 to either Jase Brooks or Kim Morley at PO Box 47600 Olympia Washington 98504-7600... sorry
252 the zip code is 98504-7600... seriously the flyers are better the way. You could email them Jase,
253 jase.brooks@ecy.wa.gov or kim.morley@ecy.wa.gov or they can be fax to 360-407-7288. You
254 can also submit comments through our online comment forum which can be found on Ecology
255 Spills program rulemaking website at www.ecy.wa.gov/programs/spills/rules/main.html. You can
256 also submit comments at the additional public hearings that will be held Thursday May 26th, 2016
257 at 1:00 PM by webinar. Webinars are an online meeting forum that you can attend from any
258 computer using internet access. Instructions for joining the webinar can be found on our public
259 involvement webpage at www.ecy.wa.gov/programs/spills/rules/1513inv.html. And also you can
260 attend the hearing on Friday June 3rd, 2016 at 1:00 PM at the Double Tree by Hilton in Vancouver,
261 the Columbia Room, 12712 Southeast Second Circle, Vancouver, Washington 98684. All
262 testimonies received at this hearing as well as the hearing held in Spokane on May 17th and at the
263 other hearings to be held in Vancouver and by webinar along with all written comments received
264 no later than June 10th, 2016 will be part of the official hearing record for this proposal. Ecology
265 will send notice about the Concise Explanatory Statement or CES to everyone that provided
266 written comments or oral testimony on the proposal and also submitted contact information,
267 everyone that signed in for the hearing that provided email addresses and other interested parties
268 on the agency mailing list for this rule. The CES with among other things contain the agency's
269 response to questions and issues of concerns that were submitted during the public comment
270 period. If you would like to receive a copy and didn't provide us the contact information, please
271 let one of us know. The next step is to review the comments and make a determination whether to
272 adopt the rule. Ecology Director Maia Bellon will consider the rule documentation and staff
273 recommendations and will make a decision about adopting the proposal. Adoption is currently
274 scheduled for August 24th, 2016. If the propose rules should be adopted that day and filed with the
275 code reviser it will go into effect October 1st, 2016. If we could be of any further help to you

276 today, please let us know. Thank you very much for coming. Let the record show that this hearing
277 is adjourned at 2:40 PM.

278 **Speaker 1:** Let the record show that it is 4:09 PM and we are re-opening the hearing on this rule
279 making to accept additional testimony. Can you please state your name for the record and provide
280 your testimony for us today?

281 **Speaker 11:** My name Steve Gary. I live in Skagit County North of Sedro-Woolley. Until I retired
282 a year ago, I was president United Steel Workers local 12-591 in Mt. Vernon. I represented
283 refinery workers in Anacortes. I'm currently working in a retirement with in Washington State
284 Blue Green Alliance. This is an issue that concerns the people I care about which are not just
285 refinery workers and environmental groups and others. I concerned about the risks that all our
286 community face as this hazardous material is moved through them. It is an extremely hazardous
287 material and it needs to be handled appropriately. I don't think the right question to ask is can this
288 material be handled safely? I think the right question to ask is will it be handled safely if the
289 details of that process were left entirely to corporation like the railroad or the others. I think the
290 answer to that is absolutely no, it will not be. I think in order to make sure it's handled safely the
291 community has to be given access to information. All emergency response agencies, fire
292 departments and others who are concern about this should have access to any information that they
293 need to plan appropriately to respond in case there is a problem. That's what I'm here to say. I
294 have some experience with this issue and with the substances as the refinery worker for 25 years
295 myself. And as someone who's dealt with major corporations for quite a long time as a union
296 officer. The risk that material poses to community cannot be underestimated. The willingness of
297 corporations to get it right on their own without providing information to the community should
298 also not be underestimated. I think the community has the right to know a responsibility in fact to
299 respond and in order to do that, they need have access to that information. That's what I got to
300 say.

301 **Speaker 1:** Okay, thank you very much.

302 **Speaker 11:** Thank you.

303 **Speaker 1:** Let the record show that we are stopping the hearing again at 4:11 PM and we will
304 remain here until 5 PM to accept any additional comments. Thank you.

305 **Speaker 1:** Let the record show that it is 5:01 PM and at this time we are concluding the hearing
306 for this rule making event.

Chapter 173-185 WAC – Oil Movement by Rail and Pipeline Notification Public Hearing – Vancouver, WA – June 3, 2016

Hearing Transcription

1 **Speaker 1:** Hi I'm Elena Guilfoil. I'm a Hearing Officer for this hearing. This afternoon we are to
2 conduct a hearing on the rule proposal for Chapter 173-185 WAC-Oil Movement by Rail and
3 Pipeline Notification. Let the record show, its June 3rd, 2016 1:18 in the afternoon. And this
4 hearing is being held at the Double Tree Inn by Hilton Vancouver, Columbia Room, 12712 South
5 East Second Circle, Vancouver, Washington, 98684. Legal notice of the hearing was published in
6 the Washington State Register on April 20th, 2016. The Washington State Register Number is
7 number 16-08-118. In addition, notices of the hearing were mailed to 36 tribal governments,
8 emailed to about 1,100 interested people, posted on Ecology's website for the rule, posted on
9 social media Facebook, Twitter and Ecology's blog, and a state-wide news release on the
10 rulemaking and hearings was issued on April 6th, 2016 and May 31st, 2016. I will be calling
11 people up to provide testimony based on order your name appears on the signing sheet. Once
12 everyone who has indicated they like to testify has had the opportunity, I will open it up for others.
13 Remember while we're not putting a limit we'd like you to try to be less than ten minutes. When I
14 call your name, please step up in the front, state your name and if you have haven't given us
15 contact information and email or an address, please do so. You can also provide this after the
16 hearing. As a reminder, you're never obligated to even give your name nor your contact
17 information but if you do that then we will send you our response to comments after it's been
18 prepared. So we will begin with Tim Young. Welcome back, sir.

19 **Speaker 2:** Thank you. For the record I'm Tim Young, Chairman of the Board of the
20 Commissioners of Skamania County Fire District 4. First of all I would like to thank the
21 Department of Ecology for conducting these hearings and we would like to point out that in my
22 opinion the level of attendance here is not a reflection of the magnitude of the risk that the region
23 facing with oil by rail. The district provides fire protection and emergency medical services at the
24 West of Skamania County which includes a portion of the Columbia River Gorge National Scenic
25 Area. They're approximately seven miles of BNSF Railway Company tracks and the Fire District
26 starting at the Clark's Skamania County line in the west to Smith Cripe Road in the east. BNSF
27 tracks are used for the transport of buck and crude oil in many locations. The tracks are adjacent
28 to the Columbia River. As pointed out on earlier testimony today, large bakken oil train fires will
29 be left to burn in situ because it's simply not the resources available both in terms of Class B foam

30 or water to extinguish those fires. And we're not aware as a Fire District of any agency in the
31 region, whether it's rural, suburban or urban that has stated they had the ability to extinguish a
32 bakken oil train fire. Additionally, I understand that the rulemaking is constraint to some degree
33 by the legislation that was passed, addressing it nonetheless we offer the following comments. The
34 Environmental and Fire Life Safety Hazards associated with oil by rail have been clearly
35 documented. Advance Oil Movement Notification will get local agencies of view of the
36 magnitude and frequency of these hazards to assist the maximizing response preparation. The
37 effect on this Advance Oil Movement Notification at the local level demands that the route be
38 known. The following notifications to the propose rule should be made. Number one, the advance
39 notice of railroad route taken should be mandatory. Propose rule should delete the term "if
40 known". Number two, all newly scheduled arrivals of railroad cars carrying crude oil after the
41 advance notice timeframe must be reported to Ecology as soon as possible and before the shipment
42 enters the state. This must include railroad route taken. And number three, all notice requirements
43 should apply to all railroad cars carrying crude oil that travel within the state regardless of whether
44 or not their destination is within the state. For example, the Chevron Burnaby British Columbia
45 Facility, this may shift on reporting requirement to the railroad in some cases but nonetheless that
46 information is needed. Thank you.

47 **Speaker 1:** Thank you. Then we have Don Steinke. Here we go, thank you.

48 **Speaker 3:** I'm Don Steinke from Vancouver. I don't know if your rules include oil going back.
49 We've heard that diluents ship from Gray's Harbor back through the state to somewhere. And I
50 want to second what Tim Young said that the people here do not reflect the interest and the
51 concern and in January we had about a thousand of people show up to testify at Clark County
52 Event Center expressing concern about the oil terminal in Vancouver and then about 490 people
53 showed up to speak in Spokane about the oil terminal proposed in Vancouver. So those are public
54 people that have expressed concern and people are kind a tired of going to hearings and so that's
55 part of the reason why we don't have a larger crowd here. I read the Marine and Rail Oil
56 Transportation Safety Study in 2014. It appears to be written by committee. My testimony is kind
57 of that way too today. Another committee member suggested that a key purpose behind the
58 engrossed substitute House Bill 1449 was to provide communities with the regions of the state
59 with adequate information to understand the risks they face from Oil Transportation by Rail and
60 Pipeline. Because of this purpose, we urge Ecology to provide more detailed information on the

61 types of oil, the volume of different types of oil. Oil spills consistent with the route segments to
62 understand where unique risks for problems exist. We are concerned that the draft rule language
63 which requires a rail route to be reported to Ecology only if known. To prevent the facilities from
64 cutting corners and reporting requirements we believed Ecology should incorporate language in
65 the final rule that makes it clear that the agencies will assume that the route is known and the
66 burden is on the facility to show that they do not know the route taken by an oil, by rail shipment
67 through documentation. We urge Ecology to centralize information for rail pipeline and vessel
68 reporting systems so we can have a one stop shop for public information. This includes the types
69 of oil as well as how much oil and how the oil is travelling. Four, we strongly support the draft
70 rules clarification that facilities are obligated to report all oil shipments scheduled to arrive at their
71 facility. The purpose of the bill that was passed was to improve transparency, to understand the
72 changes and the risk to our communities and the environment. You also need to know that many
73 people not here have formally expressed concerns or opposition to the oil terminal. The Columbia
74 Gorge Commission appeals to the oil terminal and all trains actually. The following cities and
75 organizations are intervening in the FSEC process. Spokane, Columbia River Inter-tribal Fish
76 Commission, the Fruit Valley Neighborhood Association, ILW Local for the city of Vancouver
77 and many others. Some of these resolutions are concern, some are opposition. The cities of
78 Bingen, Stevenson, Portland, Vancouver, Seattle... Seattle was first to say we don't want any more
79 oil trains to the State of Washington. Mount Vernon, Elma, Montesano, Aberdeen, Hoquiam,
80 Ocean Shores, West Port, Mount Vernon and even Anacortes have passed resolution of concern or
81 opposition. As has the Washington State Council of fire fighters, the Skamania County Fire
82 District and the Vancouver Fire Fighters Union Local 452. In other words you will not be sticking
83 your neck out to use your discretionary authority to make the rule as protective as possible.
84 Regarding earthquakes, I'm not too sure, how that fits into disclosure but somewhere you need to
85 include the possibility of a major subduction event of the coast of Oregon and Washington. I was
86 just reading that the people in California refer to "the next big one". Well the authors of this
87 report, FEMA, and seismologist from Oregon State University so the next big one is going to be...
88 the one that's forecast to coming here will be far worst than the biggest one that the San Andreas
89 fault could ever generate. Apparently, they can generate, they can calculate how big an earthquake
90 will be base on size of the fault and the one on the Cascadia Subduction Zone will be far worst that
91 the worst one than the San Andres fault could ever produce. Furthermore, we have evidence and

92 this has happened repeatedly about an average of every 243 years over the last 10,000 years, an
93 average of every 243 years of subduction on the Oregon Coast or Washington Coast. We're
94 overdo and it could be a major that the worst case is a 10% chance the next 50 years and a partial
95 subduction zone event will be one in three chance. What about that pipeline? Something we need
96 to be addressing that is going underneath Fruit Valley and coming down right next to I-5 or all the
97 way down in Columbia, all the way down I-5 and that will be the big mess and a lot of problems if
98 we don't address that in relationship to the subduction zone event . I'm available for questions.

99 **Speaker 1:** Thank you.

100 **Speaker 3:** Thank you.

101 **Speaker 1:** Thank you very much. Next we have Neatha Lefevre.

102 **Speaker 4:** I wasn't prepared to make a statement.

103 **Speaker 1:** Oh that's fine. Okay, thank you, then Ken Rone.

104 **Speaker 5:** I'm Ken Rone. I live in Vancouver, Washington. Don, thank you for your comments
105 on Cascadia subduction zone concerns. I commented on that very thing and my comments to the
106 DEIS. But they were mostly tidal and river related. That's a good point on the railroad, its impact
107 on the railroad. There was show last night on PBS where they talked about its impact on the full
108 run reservoir. But that geologist there anticipated that as subduction zone fault generated
109 earthquake would last for five minutes in duration. Who clears the tracks and approves the tracks
110 for further movement of oil trains after such an event or any such seismic event for that matter? It
111 also brings the image of any kind of interruption to the flow down the rail corridor, right, of an
112 event. Trains leaving North Dakota at the rate of four per day, the transit time can be calculated...
113 everybody... well I don't know, but I mean it's documented as to what the transport time is going
114 to be. Even if at the moment of an interruption the dispatch of trains out of North Dakota is halted,
115 there are still trains in the pipeline. Many trains, perhaps ten or more... and what are they going
116 to do? They just stop. They just stop until the interruption is resolved. That interruption could
117 take a significant amount of time, days, weeks, maybe months. But my final comment is involves
118 the reasonable restriction on releasing the propriety information about the rail flow into the state
119 and the reasonable expectation that it will not be release if it's aggregated. I think that the rule
120 should provide for those agencies that do receive individual notifications or notification of
121 individual transportation that any of those agencies as I recall, it was municipalities, counties,
122 cities, port districts, tribal and ecology state. None of those agencies should be allowed to

123 redistribute that proprietary information without being a known violation on rule. And finally,
124 again I think that the aggregation of that information is reasonable when it is published for the
125 public consumptions except in the event that once a route is published for a given oil train put on
126 records and submit it to the agencies, any deviation in that routing due to an event, congestion,
127 accident, whatever... for example, I'm needing to bypass and be delivered, be a stampede pass or
128 something like that that should be public information immediately not only release to those
129 response agencies that would be responsible for. For examples, Stampede Pass, Steven's pass but
130 for the public contemplation in those communities that would then be impacted from a routing that
131 everyone had other ways expected to be routed elsewhere. So that's the extent of my testimony.

132 **Speaker 1:** Thank you. Thank you very much. That is the extent of anyone who signed up the
133 comment. Is there anyone in the audience who would like to provide official comment?

134 **Speaker 3:** I would just like to repeat what I've said before, not to use the word clean up, and not
135 to use the word safety. The clean-up in Swinomish took forty years. They had to move buildings,
136 move a creek and you'll only get... I think Scott Ferguson told me that only 20% of the oil was
137 recovered. So if you could find another word and oh the...

138 **Speaker 1:** Don would you announce your name.

139 **Speaker 3:** I'm Don Steinke.

140 **Speaker 1:** Thank you.

141 **Speaker 3:** Gasp more thoughts. In England during World War II, they did name the facilities
142 where people went as safety shelters. They call them bomb shelters. To talk about clean up and
143 spill response as if it actually can happen. This seems like it's the pacifying the public and so
144 that's it. Thank you

145 **Speaker 1:** Thank you. So last time - anyone else? Well thank you all and I will finish up the...
146 so as a reminder if you would like to send comments to Ecology written comment please do so by
147 June 10th, 2016. Send them to Department of Ecology Spills Program, Jase Brooks PO Box 47600
148 or Kim Morley, at the same address, Olympia Washington 98504-7600. Or you can send them an
149 email jase.brooks@ecy.wa.gov or kim.morley@ecy.wa.gov. You can also send a fax with your
150 comments to 360-407-7288. You can also submit comments to the online comment forum which
151 can be found on Ecology Spills Program rule making website at
152 www.ecy.wa.gov/programs/spills/rules/main.html. In closing, all testimonies received at this
153 hearing as well as from the previous hearings held in Spokane, Everett, and view webinar along

154 with all written comments received no later than June 10th, 2016 will be part of the official record
155 for this proposal. Ecology will send notice about the Concise Explanatory Statement to everyone
156 that provided written comments or oral testimony on this propose rule and submitted contact
157 information. Everyone that signed in from today's hearing that provided email address and other
158 interested parties on the agency's mailing list for the rule. The Concise Explanatory Statement
159 while among other things contains the agencies response to questions and issues of concern that
160 were submitted during the public comment period. If you would like to receive a copy but did not
161 give us your contact information, please chat with our staff at the back table and they will gladly
162 take your contact information. The next step is to review the comments and make a determination
163 whether to adopt the rule. Ecology Director Maia Bellon will consider the rule documentation and
164 staff recommendations and will make a decision about adopting the proposal. Adoption is
165 currently scheduled for August 24th, 2016. If the propose rules is adopted on that day and filed
166 with the code reviser it will be effective 31 days later on October 1st. If we can help you further,
167 please don't hesitate to ask or you can contact Jase Brooks. On behalf of the Department of
168 Ecology, thank you for coming. I appreciate your cooperation and courtesy. Let the record show
169 that the hearing is ending now at 1:41 PM. Thank you very much.

Chapter 173-185 WAC – Oil Movement by Rail and Pipeline Notification Public Hearing – Webinar – May 26, 2016

Hearing Transcription

1 **Speaker 1:** Good afternoon. I'm Bari Schreiner, Hearing Officer for this hearing. This afternoon
2 we're to conduct the hearing on the rule proposal for Chapter 173-185 Washington Administrative
3 Code Oil Movement by rail and pipeline notification. Let the record show that it is 1:25 PM on
4 May 26th, 2016 and this hearing is being held the webinar podcast from the Department of Ecology
5 Headquarters Room 1F-08, 300 Desmond Drive South East Lacey, Washington 98503. Legal
6 notice of this hearing was published in the Washington State Register, April 20th, 2016,
7 Washington State Register Number 16-08-118. In addition, notices of the hearing were mailed to
8 36 tribal governments, emailed to about 1,100 interested people posted on Ecology's website for
9 the rule making, posted on social media Facebook, Twitter, Ecology's blog and a state wide news
10 release on the rule making and hearing was issued on April 6th, 2016. So I'm going to ask again, is
11 there anybody that would like to provide oral testimony on this proposal today? If so, please raise
12 your hand by pressing the hand button and that...

13 **Automated Voice:** The following participant has left the conference. No names are available.

14 **Speaker 1:** Please raise your hand by pressing the button on the upper right hand corner. [silence]
15 Let the record show that at this time, no one wants to provide oral testimony. If you would like to
16 send ecology written comment, please remember this must be receive by June 10th, 2016. Written
17 comments...

18 **Automated Voice:** The following participant has left the conference.

19 Speaker 1: Written comments received the same consideration as oral testimony received at the
20 hearings. You can send the comments to Department of Ecology Spills Program to Jase Brooks or
21 Kim Morley at PO Box 47600 Olympia Washington 98504-7600. I also want to note that this
22 information is available on our website and that link was sent out to people in the chat feature
23 earlier in the meeting and it's also available now on the spring for the presentation. You can also
24 email them to jase.brooks@ecy.wa.gov or kim.morley@ecy.wa.gov and they can be faxed to 236-
25 0407-7288. We also have online comment form which can be found on Ecology's Spills Program
26 rule making website www.ecy.wa.gov/programs/spills/rules/main.html. In addition, public hearing
27 for this proposal will be held on Friday June 3rd, 2016 at 1 PM at the Double Tree by Hilton in
28 Vancouver, The Columbia Room 12712 South East 2nd Circle Vancouver Washington 98684.
29 Before closing I'll ask one more time to double check. Is there anyone who would like to provide

30 comments? [silence] All right, being that there's no anyone wants to provide comments... all
31 testimonies heard, received at the public hearings as well as the hearings at Spokane and Everett,
32 and the one that's coming up in Vancouver along with written comments received no later than
33 June 10th, 2016 will be part of the official record for this proposal. Ecology will send notice about
34 the Concise Explanatory Statement or CES publication to everyone that provided written
35 comments or oral testimony on this rule proposal. If you are attending the webinar and you'd like
36 to receive that and haven't already signed up for ecology's list serve, please send contact
37 information using the chat feature and we'll get you added to those list. We were also be sending
38 it out to other interested parties that are already on our mailing list for this rule making. The CES
39 among other things contains the agencies response to questions and issues of concern raised during
40 the public comment period. Like I said you can send it on the chat or if you change your mind
41 later, you could contact Jase Brooks contact information provided for submitting comments and he
42 can get you added to that list too.

43 The next step is to review the comments and make a determination whether to adopt the rule.
44 Ecology's Director Maia Bellon will consider the rule documentation and staff recommendations
45 and will make a decision about adopting the proposal. Adoption is currently scheduled for August
46 24th, 2016. If the propose rules should be adopted that day and filed with the code reviser it will go
47 on to a fact on October 1st, 2016. If we could be of any further help to you, please let us know by
48 contacting Jase Brooks. On behalf of Department of Ecology thank you for coming. We
49 appreciate your cooperation and courtesy. Let the record show that this hearing is adjourned at
50 1:30 PM.