Neah Bay Tug Stakeholders Group

October 31, 2009

Senator Phil Rockefeller
218 John A. Cherberg Building
PO Box 40423
Olympia, WA 98504-0423

Representative Dave Upthegrove
333 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600

RE: Interim Report to the Legislature as Required by ESSB 5344

Dear Senator Rockefeller and Representative Upthegrove:

As representatives of vessel owners/operators maintaining oil spill contingency plans required by ESSB 5344 to pay for a response tug at Neah Bay, we are writing to provide you an interim report on our compliance efforts. Representatives of stakeholders cited in the legislation have met on four occasions in addition to a number of individual stakeholder communications. We have also met with legal counsel. Please consider this correspondence as the interim compliance report due October 31, 2009 as required by the ESSB 5344 Section 4 (2).

Anticipated Annual Cost of Providing the Emergency Response System- Section 4(2)(a)

We do not have a firm estimate of the cost of complying with the legislation at this time. We will have a better idea of the cost after we are able to receive bids from tug providers. We solicited tug broker services from two tug brokers and have collectively made a selection to award the broker services to L&R Midland. We will work with the tug broker to develop a Request for Qualification for tug service providers. We are also working with legal counsel, LeGros Buchanan & Paul, of Seattle to prepare documents to form an entity to address compliance issues. All vessel categories required to maintain coverage under a Washington State oil spill contingency plan will be appropriately represented.

Additionally, we have agreed that the Washington State Maritime Cooperative (WSMC) and the Marine Exchange (MAREX) are ideally suited to provide administrative support. We are working closely with WSMC and MAREX on a number of issues from invoicing to contract implementation details.

Methodology for determining anticipated annual cost for each class of covered vessel Section 4(2)(b): The stakeholders have considered a number of methodologies for cost apportionment, credits, invoicing, etc. We have not yet agreed to a cost sharing split though negotiations are focused on apportioning the cost between tank vessel and non-tank vessel sectors. We envision that vessel categories within those two main groups will work out final cost sharing details respectively.

Furthermore, we collectively remain concerned as to how much the non contingency plan holders will be participating in cost sharing. Smaller vessels and those traveling to/from Canadian ports comprise over half of the Neah Bay tug responses. This issue is highlighted by the fact that the two tug response incidents in the past year have been for a Canadian-bound bulker and a small fishing boat – both of which are not required to participate in cost sharing. Although, the legislation requires the Director of the Department of Ecology to engage Canada in cost sharing, we are unaware of any progress made in this regard. This "unknown," and the fact that we are competing with Canada for discretionary cargo, has complicated cost sharing negotiations.

Crediting enhanced navigation or structural characteristics and frequent callers - 4(2)(b)(i) and (ii)

We have collectively discussed that once an oil/non-oil split is agreed to, the oil sector and non-oil sectors will apply credits or not as they see fit within their respective sectors. Initial meetings included presentations on how to incorporate credits into vessel invoicing.

Consideration of current economic conditions - 4(2)(b)(iii)

The overall economic condition has impacted all sectors of the maritime industry. The sectors have various perspectives on how to consider the current economic conditions. In order to simplify compliance with the interim report criteria by submitting a joint report, each sector has agreed to provide general statements regarding the economic condition as provided below:

(a) Oil Tankers

The oil sector has been severely impacted by the current economic crisis. The decline in oil consumption in the United States has resulted in decreased demand for oil which has in turn caused a reduction in the transportation of crude oil and product. Tank ships and tank barges are being laid up, new building orders have been and are being canceled, and companies are attempting to sell their marine assets to offset costs. Many companies have chosen to continue operating ships at a loss due to the high cost of lay up vs. the cost of operation.

(b) Tank Barges AND Tug and Oil Barge Combinations

The tug and barge industry is typically a lagging economic indicator and has unfortunately been hard hit by the current downturn in the economy. Because of the type and nature of our work, we do not predict a recovery in the near future and in fact are expecting a continued downward trend. This not only endangers the stability of our crew's employment but causes any increase in costs to be more heavily scrutinized.

(c) Cargo Vessels (Container, Bulk, Other)
The *New York Times* stated on May 13th of this year, "*The current downturn has so badly battered shipping that it makes the auto industry look healthy by comparison.*" Locally, cargo/revenue declines have led to a precipitous drop in cargo handling and company jobs with local companies experiencing their first lay-offs in thirty years. Companies are downsizing, laying up ships, slashing discretionary spending, consolidating functions and re-routing discretionary cargo. The Pacific Northwest ports are considered discretionary ports with the vast majority of cargo moving through to points east. As a result of these conditions, companies are compelled to find ways to avoid even the smallest costs. Our ports have recognized this challenge and have cut costs to retain/attract cargo. They are threatened by subsidized expansion efforts in Vancouver and Prince Rupert, Canada, the expansion of the Panama Canal in 2014, Mexico port development and other competitive threats.

(d) Passenger Vessels
During the last 10 years the Port of Seattle has been very active in its efforts to attract a share of the Alaska cruise trade to homeport in Seattle - and with some success. The cruise, just as other parts of the marine sector (as well as the tourism and travel industry) are going through a very challenging period in this economic downturn and are concerned about all additional costs mandated by government, and the value for money spent. The cost of operation is particularly troubling in Alaska market, where we are now seeing declines in traffic year to year.

(e) Other Covered Vessels (Fishing)
Some in the fishing sector feel that economic considerations are irrelevant to the cost of a compliant tug. Others in this sector offered the following: Affected vessels in the commercial fishing industry participate primarily in the Bering Sea/Aleutian Islands (BS/AI) pollock fishery and, to a lesser extent, in the Bering Sea crab fisheries. BS/AI pollock quotas and revenues are currently 30% below the five-year average and expected to remain so for 2010. Bering Sea king crab and snow crab stock harvest quotas were also reduced by similar amounts for the 2009-2010 season. In general, seafood market prices are currently below levels of 2007-2008.

In summary, stakeholders representing all covered vessel categories have been and still are in negotiations to finalize compliance plans including a cost sharing agreement.

On behalf of the Covered Vessel Stakeholder Group listed in the enclosure, we submit this interim report as required by SB 5344.

Sincerely,

M R Moore

Michael R. Moore
Co-Chair Stakeholder Group

F.E. Holmes

Frank E. Holmes
Co-Chair Stakeholder Group

cc: Governor Chris Gregoire
Senate Majority Leader Lisa Brown
House Speaker Frank Chopp
Senator Kevin Ranker
Representative Kevin Van de Wege
Senator Jim Honeyford
Representative Shelly Short
Dale Jensen, Department of Ecology

Neah Bay Tug Stakeholders Group Membership:

Captain Michael Moore, Pacific Merchant Shipping Association
Frank Holmes, Western State Petroleum Association
John Hansen, NW Cruise Association
Jason Lewis, American Waterway Operators
Leslie Hughes, North Pacific Fishing Vessel Operator Association
Rich Berkowitz, Transportation Institute
Glenn Reed, Pacific Seafood Processors Association