



State of Washington

October 16, 2020

The Honorable Jay Inslee
Governor
P.O. Box 40002
Olympia, WA 98504-0002

Subject: Status Report on the state's progress to recover Southern Resident Orcas

Dear Governor Inslee:

In March 2018, you created the Southern Resident Killer Whale Task Force (Task Force) through Executive Order 18-02. The Task Force met for nearly two years and delivered 49 recommended actions. At your direction and with funding from the Legislature, state agencies are implementing many of the recommendations. In advance of Orca Recovery Day 2020, which will be celebrated on October 17, we are writing to provide you with an update on progress since the final Task Force report was released in November 2019.

Orca recovery is a broad endeavor that includes an extensive network of partners, stakeholders, and tribes. Recognizing that the state is involved in and relies on this extensive network to be successful, this update specifically profiles agency activities and identifies agency progress across the main threat categories for orcas (prey availability, vessel noise and disturbance, and contaminants).

The convergence of a global pandemic with a related economic downturn impacted all state activities including orca recovery. The line item vetoes, the contracts and hiring freezes, and staff furloughs have diminished our ability to advance elements of the recovery effort. With agency staff at home, monitoring and restoration efforts in the field were curtailed this spring but eventually resumed once appropriate COVID-19 protocols were put in place.

The pandemic also had direct impacts on the whales themselves. We've been vigilant in monitoring how the COVID-19 pandemic has influenced Southern Resident Orca recovery. As soon as you announced the Stay Home, Stay Healthy order, the agencies convened the Southern Resident Orca research community to discuss the expected decrease in on-the-water activities and whether and how the scientific community in Washington and Canada could collaborate to monitor the health and activities of the whales remotely, in order to protect public safety. The whales were not present in Puget Sound during the late spring, so researchers were not able to study direct changes to whale behavior in relation to reductions in vessel activity. However, underwater hydrophones were able to collect data throughout this time period, and starting in late June (when the Southern Residents returned), several long-term research programs adjusted their study protocols and collected important new data.

The pandemic also led to some unique conditions that have increased risks for Southern Residents. Recreational boating, both motorized and human-powered, has become a popular hobby that allows families to stay socially distant while enjoying the outdoors. Following the temporary cessation of boat

sales early in the pandemic, we witnessed a surge in boat purchases and new boaters out on the water. The closure of the marine border to Canada means that all of these boaters are unable to spread out, thus increasing vessel traffic and resulting underwater noise and disturbance impacts in Washington waters. We have been working hard to promote the “Be Whale Wise” messaging so these boaters learn the rules, slow down and give the whales plenty of space. The Washington Department of Fish and Wildlife (WDFW) will report to the Legislature in November 2022 about effectiveness and potential changes to the vessel rules.

Despite the multitude of challenges, we have been able to accomplish considerable gains in increasing prey availability for Southern Resident Orcas, reducing contaminants that affect Southern Residents and their food, and reducing noise and disturbance to create a marine environment that supports recovery. Below, we share updates on state progress in each of these areas, and we reference the Task Force recommendations these activities support.

Prey availability

The Southern Resident Orcas need steady and sufficient availability of prey to meet their dietary needs, and many of our recovery efforts focus on protecting and restoring salmon and the habitat they depend on to thrive. The state has focused on producing more fish, accelerating habitat protection and restoration, supporting the food web that supports salmon, and curtailing salmon predation by pinnipeds and other predators.

Interagency efforts

- The Recreation and Conservation Office (RCO) passed through \$175 million dollars for salmon recovery efforts in 2019 and 2020. Eighty-four percent (\$147 million) of the following programs specifically targeted Chinook, the Southern Residents' preferred prey: state salmon funding through the Washington Coastal Restoration Initiative, the Puget Sound Acquisition and Restoration Program, the Estuary and Salmon Restoration Program, and the Brian Abbott Fish Barrier Removal Board, and federal funding from NOAA of the Pacific Coastal Salmon Recovery Fund. Partner agencies include WDFW and PSP. This funded nearly 350 projects and leveraged over \$38 million in local matching funds for Chinook Salmon Recovery. *(Recommendation 1)*
- Washington State secured \$11 million in federal NOAA funding through the Pacific Salmon Treaty to restore habitat for salmon and to increase hatchery production for orca. This funding is passed through RCO, and in part will fund hatchery production administered by WDFW. *(Recommendation 10)*
- The Governor's Salmon Recovery Office (GSRO), RCO, and WDFW are supporting your update of the Statewide Salmon Recovery Strategy via collaboration with tribes, agencies, and the broader recovery community in Washington State. *(Recommendation 1, 10)*
- The Department of Natural Resources (DNR) Aquatic Restoration Program in partnership with WDFW are working to restore the shorelines of McNeil Island. Bulkheads, creosote-treated pilings, and large debris have been removed. Future work includes estuary restorations and additional bulkhead removals. *(Recommendation 1)*

- In partnership with WDFW, DNR's Puget SoundCorps team is monitoring for forage fish (surf smelt and sand lance) on a monthly basis at all seven of the marine aquatic reserves. The data has been made available on a publicly available data viewer. *(Recommendation 15)*
- DNR and WDFW have been monitoring zooplankton to inform forage fish and Chinook conservation strategies. This program is essential for fisheries agencies and tribal partners to better manage Chinook and forage fish populations and helps us determine the role of our collective actions in the greater Puget Sound area versus marine drivers of productivity. The data will also aid in the forecasting of Chinook and forage fish abundance to inform continuous management decisions for fisheries and critical food for Orcas. *(Recommendation 16)*
- Washington Department of Ecology (Ecology) in partnership with WDFW worked with the federal agencies that operate dams on the Columbia River to increase spring spill to enhance salmon survival. *(Recommendation 8)*
- In partnership with RCO, tribes, and the Puget Sound recovery community, the Puget Sound Partnership's Leadership Council directs the Puget Sound Acquisition and Restoration (PSAR) Fund. This biennium, the Legislature provided \$49.5 million for PSAR, which is funding projects around Puget Sound. Notably, we removed two dams – the Middle Fork Nooksack River dam and the Pilchuck Dam – restoring access to 53 miles of priority salmon habitat. *(Recommendation 1)*
- In partnership with the tribes, the state continued to play a key role in providing technical expertise, funding, and policy support for multiple efforts across the region to open up access or reestablish runs above dams. In addition the Middle Fork Nooksack and Pilchuck dam removals, some of the major accomplishments include constructing a new fish passage facility at Mud Mountain Dam, securing funding to finalize fish passage designs at Howard Hanson Dam, and continued efforts on re-introduction above Chief Joseph and Grand Coulee Dams. The state's role on these efforts has been to support the activities that have been ongoing in many cases for decades. *(Recommendation 7)*
- A 15-year effort combined with funding from WDFW, Ecology, the Partnership, and federal and non-governmental partners, culminated in 2019 with completion of the largest restoration project since Nisqually delta. Dike removal at Leque Island restored 250 acres of tidal marsh in the Stillaguamish River watershed. *(Recommendation 1)*

Washington Department of Fish and Wildlife

- Due to 2019 legislation that gave WDFW's civil authority to enforce the hydraulic code, WDFW has adopted rules to implement stronger protections that enhance our ability to ensure adequate prey for salmon. *(Recommendation 4)*
- WDFW increased hatchery production by more than 25 million salmon smolts while meeting Endangered Species Act requirements to protect wild fish. *(Recommendation 6)*
- WDFW adopted rules to increase bag limits on non-native bass, walleye, and channel catfish, and the Department increased the suppression of northern pike that eat and compete with salmon. *(Recommendation 14)*

- WDFW secured a permit to help manage pinniped populations in the Lower Columbia River to increase salmon for orcas. (*Recommendation 13*)
- WDFW is continuing to work to understand the population and diet of seals and sea lions in Puget Sound and their effects on prey availability for Southern Resident Orca. WDFW co-hosted two transboundary workshops to discuss the state of the science and will publish a manuscript on predation data (to include Chinook and Coho data for 2016-2018). Additionally, with funding from several tribes, WDFW is coordinating with partners in British Columbia to create a complete harbor seal 2019 stock assessment for the Salish Sea. (*Recommendation 12*)
- WDFW is conducting an analysis to compile a list of fish barriers in streams supporting priority Chinook stocks for Southern Resident Orca. WDFW is also conducting rulemaking to implement the Fishway, Flow and Screening statute, though this significant rulemaking effort is unlikely to be completed this biennium. (*Recommendations 1 and 3*)
- WDFW's Estuary and Salmon Restoration Program (ESRP) supported \$10 million in investments into salmon and estuary habitat, including adoption of the ShoreFriendly program that educates and provides incentives to shoreline homeowners to protect and restore beaches. Meanwhile, WDFW and the U.S. Army Corps of Engineers have partnered in the design phase of the Duckabush estuary restoration project as part of the Puget Sound Nearshore Ecosystem Restoration Project (PSNERP). (*Recommendations 1 and 5*)
- WDFW helped the Upper Columbia United Tribes' efforts to complete Phase I of the Northwest Power and Conservation Council Upper Columbia River salmon reintroduction process. This effort includes disease screening for cultural releases of summer Chinook above Chief Joseph and Grand Coulee dams. WDFW also initiated policy work to begin identifying new sources of funding to support the phased reintroduction process above Chief Joseph and Grand Coulee. (*Recommendation 7*)

Department of Natural Resources

- For the last two summers, the DNR Aquatic Restoration Program has partnered with the Army's Engineer Dive Detachment and Natural Resource Consultants to remove 12 derelict fishing nets from deep water habitats of the shores of San Juan Island, within the feeding grounds of the Southern Resident Orcas. (*Recommendation 1*)

State Conservation Commission

- In 2018, the Washington Conservation Districts, led by the Pierce Conservation District, declared October 19, 2018 Orca Recovery Day. This event brought together 11 conservation districts and 27 other organizations in effort to bring out over 800 volunteers across 17 restoration events. (*Recommendation 1*)
- In 2019, Orca Recovery Day grew to a Pacific Northwest region-wide event, uniting 109 organizations across 65 events that stretched from British Columbia to Napa Valley, California. Over 33 acres of salmon habitat was restored with over 17,000 native plants. (*Recommendation 1*)
- In 2020, Orca Recovery Day is being celebrated on October 17 with small, in-person volunteer events and an at-home Ecochallenge. (*Recommendation 1*)

Department of Transportation

- Washington State Department of Transportation (WSDOT) is on track to deliver 24 fish barrier projects with the legislative investment of \$275 million this biennium. WSDOT maintained fish passage project delivery despite COVID impacts. This funding level represents an over 150% increase from the prior biennium and supports the agency's ramp up to meet the terms of the U.S. Federal Court Culvert Injunction. (*Recommendation 1*)

Vessel noise and disturbance

Southern Resident Orcas need sufficient space and quiet so they can forage and communicate without disturbance. The state has focused on implementing and enforcing the new, more stringent rules about vessel speed and distance near Southern Resident Orcas, and we are working on reducing impacts from various types of maritime activities - from recreational boating to commercial whale watching and from ferries to regional/international shipping.

Interagency Efforts

- Commerce, Washington State Ferries, and PSP are working with the Ports, NOAA, and many others to pilot an "ECHO-like" program through your Washington Maritime Blue alliance, currently envisioned as "Quiet Sound." Quiet Sound would have topic-area working groups to lead projects and programs on vessel operations, incentives, innovations, notification, monitoring, evaluation, and adaptive management. (*Recommendations 22, 46, and 49*)
- Washington State Ferries, PSP, and Commerce worked to expand the Whale Report Alert System into Puget Sound, and it is now adopted by Puget Sound Pilots, Washington State Ferries, and local tug and tow operators and is under consideration by the U.S. Navy. (*Recommendations 23 and 25*)
- The Partnership worked with Department of Licensing to distribute messaging on new Washington laws for distance and speed near orcas to all licensed boaters in Washington. (*Recommendation 19*)
- Ecology is working with WSDOT investing funding from the Volkswagen diesel settlement to retrofit one of Washington State Ferries' Jumbo Mark II ships with a hybrid propulsion system, paving the way for future full-electric operation. (*Recommendation 23*)

Puget Sound Partnership

- Partnership staff drafted and vetted safe, voluntary standards to reduce the potential interference of depth finders with Southern Resident Orca's echolocation. (*Recommendation 21*)
- Partnership staff participated in Canada's Southern Resident Killer Whale Technical Working Groups (vessels and sanctuaries) to help strengthen and align standards between Washington and Canada. (*Recommendation 42*)

Department of Fish and Wildlife

- WDFW is creating a commercial whale-watching licensing program and establishing rules for how, when, and where commercial whale watching vessels view Southern Resident Orca. The draft rules will be released for public comment by October 21. *(Recommendation 18)*
- The Legislature increased the buffer distances for vessels and created a “go-slow” zone around whales to decrease disturbance, and WDFW Enforcement has increased patrols in order to educate boaters and enforce the new rules. *(Recommendations 17, 26, and 20)*

State Parks

- State Parks included protection of Orca whales in the boater education curriculum. *(Recommendation 19)*

Department of Transportation

- To reduce vessel noise, WSF completed a fleet-wide noise study to establish noise ‘footprints’ for each vessel. A noise mitigation plan that identifies operational methods to quiet vessels when in proximity to all cetaceans, including Southern Resident Orcas, will be complete by the end of 2020. *(Recommendation 23)*
- Washington State Ferries will complete a system-wide Electrification Plan by end of month and has incentivized vessel construction contracts to reduce engine noise. *(Recommendation 23)*

Contaminants

Southern Resident Orcas and their prey rely on a clean, functional ecosystem. Efforts resulting from the Task Force and subsequent action and legislation have made significant enhancements to the way Washington regulates, manages, and cleans-up contaminants ranging from greenhouse gas emissions, to toxic chemicals, to nutrient pollution.

Interagency Efforts

- Working with PSP’s Puget Sound Ecosystem Monitoring program, the University of Washington’s Puget Sound Institute has developed a framework for prioritizing Chemicals of Emerging Concern to inform state-wide Chemical Action Planning prioritization. *(Recommendation 30)*
- WDFW and Ecology conducted targeted field studies in multiple Puget Sound rivers to identify where along the juvenile salmon’s migratory pathway they are exposed to toxic chemicals so that these contaminant sources may be addressed. *(Recommendations 32 and 33)*

Department of Ecology

- Ecology is implementing a statewide phase-out of major sources of hydrofluorocarbons – global warming “super pollutants” – which will reduce carbon pollution by 1 million metric tons of carbon dioxide equivalent. *(Recommendation 43)*
- Ecology is conducting rulemaking to support implementation of the Clean Energy Transformation Act, which requires Washington utilities to be carbon neutral by 2030. *(Recommendation 43)*

- Ecology is using newly provided funding and authority to enhance the state's ability to identify harmful chemical pollutants, undertake action to ban, treat, and clean up toxics and reduce stormwater threats in Puget Sound. *(Recommendation 30)*
- The state increased funding to reduce stormwater threats and accelerate clean-up of toxics in Puget Sound that are harmful to orcas. *(Recommendations 30, 31, and 32)*
- Newly issued municipal stormwater permits now require smaller jurisdictions to implement local source control. *(Recommendation 32)*
- Ecology has outlined a plan for reducing nutrients in Puget Sound, and continues to work with stakeholders and experts to explore broad-based strategies for nutrient reduction, including both point and non-point sources of nutrient pollution. *(Recommendation 40)*
- Ecology has begun work to issue new permit requirements that will reduce harmful nutrient pollution that disrupts the base of the food web that juvenile Chinook rely upon. *(Recommendation 39)*

Department of Fish and Wildlife

- WDFW continued to monitor toxic contaminants in seaward migrating juvenile Chinook salmon, with a focus on the Duwamish River in 2018. *(Recommendations 30 and 33)*
- WDFW conducted targeted field studies with Ecology in multiple Puget Sound rivers to identify where along the juvenile salmon's migratory pathway they are exposed to toxic chemicals, so that these contaminant sources may be addressed. *(Recommendations 32 and 33)*
- WDFW completed Puget Sound-wide studies of contaminants in adult Chinook salmon and Pacific herring, documenting the food-web pathway of these contaminants to Orcas. *(Recommendations 30 and 33)*
- WDFW provided key science support for the Washington State Attorney General's Office (AGO) to settle their \$90M lawsuit against Monsanto Corporation, the company held responsible for the production and release of toxic PCBs, the chemicals of primary concern regarding orca, Chinook, and herring health. AGO recommended that the settlement be used for remediation. *(Recommendation 31)*

Implementation, Adaptive Management, and Coordination

To continue to make progress in the near term, and ultimately succeed in recovering the Southern Resident Orcas, there has to be a sustained, concerted effort in implementation, a robust feedback loop on what is working and what is not so we can alter the course accordingly, and a continued commitment to work together. When the Task Force concluded its work, the state agencies continued to coordinate to respond to changing conditions, measure results of our efforts, and help the public get involved in the recovery effort. It will take all of us working together to recover the Southern Residents.

Interagency efforts

- The state agencies have collaborated to respond to several National Marine Fisheries Service comment periods, including submitting comments on the incidental take authorization for the Navy's testing and training activities. *(Recommendation 25)*

Recreation and Conservation Office/Governor's Salmon Recovery Office

- GSRO received funding in the 2019-2021 Biennial budget for a position to coordinate orca recovery. Due to hiring freezes related to the economic downturn the position is on hold and has not been hired. Nonetheless, the state agencies in coordination with your office have initiated ongoing coordination efforts to keep priority efforts moving forward and to harmonize communication and adaptive management of the Southern Resident Orca recovery effort overall. (*Recommendation 42*)

Puget Sound Partnership

- The Partnership is supporting science and monitoring to inform and accelerate recovery.
- The Partnership prioritized the Task Force recommendations in the 2018-2022 Action Agenda, which leverages federal funding to support recovery efforts.
- The Partnership advances communications and outreach efforts surrounding Orca Recovery.
- The Partnership's new data portal, [Puget Sound Info](#), provides accurate, timely information about the status of Puget Sound recovery, including data about Southern Resident Orca and Chinook salmon.

State Conservation Commission

- The Conservation Commission developed a statewide promotional campaign about Orca Recovery Day and encouraged people to reach out to their local Conservation Districts and learn what steps they can take to be part of the solution. 2,300 people participated in Orca Recovery Day events.

Moving Forward

Building on all the work done so far, the state agencies are working hand in hand across institutions and with your office to amplify our state's Southern Resident Orca recovery effort.

- We need to push forward with implementing the recommendations from the Southern Resident Killer Whale Task Force.
- We need to continue to partner with Canada and major ports to continue to monitor and reduce shipping impacts. Puget Sound's major ports (Seattle, Tacoma, and Northwest Seaport Alliance) and numerous collaborators will soon launch a Joint Innovation Project to reduce shipping impacts as part of your Maritime Blue initiative.
- We need to continue to work with the United States Navy to reduce noise and disturbance impacts from training activities around orcas.
- We need to approve funding for robust Chinook Recovery through acquisition and restoration efforts at the Washington Recreation office, providing support to the following grant programs: state salmon funding, the Puget Sound Acquisition and Restoration Program, the Estuary and Salmon Restoration Program, the Brian Abbott Fish Barrier Removal Board, and the Washington Coastal Restoration Initiative.

- We need to push forward on your multi-agency effort working with tribes to protect riparian ecosystems.
- We need continued support for state authorities and programs critical to the environmental and natural resource protection.
 - We need to continue work to stand up a compliance program based on the new hydraulic project approval civil authorities granted by the Legislature to better protect shorelines.
 - We need to continue to work on nutrient general permits for wastewater treatment plants and look towards providing assistance for local implementation.
- We need to track our progress, and better understand the science of how to continue to increase prey availability, reduce vessel and noise disturbance, and clean up Puget Sound.
- We are concerned about potential budget reductions related to Southern Resident Orca recovery and the likelihood they will slow down our efforts.

Thank you, Governor Inslee, for being a champion for the Southern Resident Orcas and for supporting policy action and budget investments into the recovery effort. Your attention to this issue enabled all of these interwoven efforts to collectively support the whales and improve their prospects for survival.

Sincerely,




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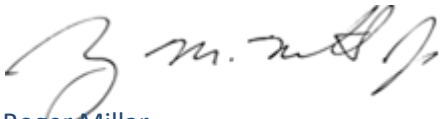


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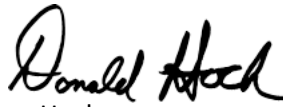
The Honorable Jay Inslee

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Handwritten signature of Roger Millar in black ink.

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Don Hoch
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