



Board of Pilotage Commissioners – Tug Escort Rulemaking Workshop #9 (Tribal Governments Only)

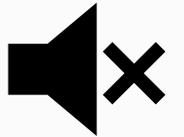
September 3, 2024
and
September 10, 2024





Zoom Reminders, Meeting Logistics

- Please use the raise hand function.
- Please use the comment function.
- Please mute while not speaking. Please don't interrupt others.
- Transcript of the meeting to support note-taking only.



How To Use the “Raise Hand” Function



Please raise your hand to let us know you'd like to speak

- Click on “raise hand”
- If you called in, press *9
- Use the chat feature

Meeting Objectives

- Review the timeline and milestones for Environmental Impact Statement (EIS) development and the Tribal Resources section
- Provide an overview of the rulemaking
- Review the methodology for development of the EIS's Tribal Resources section
- Receive feedback from Tribes on the EIS methodology and Tribal resources section

Overview

- Rulemaking Overview
- Timeline and Milestones
- EIS Background
- Methodology
- Input on Methodology



Rulemaking Overview

Roles and Responsibilities



BPC

- Outreach lead
- Government-to-Government consultation
- Final decisions on tug escort requirements



Ecology

- Rulemaking process
- Technical expertise
- Regulatory Analyses
 - Administrative Procedures Act
 - State Environmental Policy Act
 - Regulatory Fairness Act

Rulemaking Overview (ESHB 1578)

- **Vessel Types:** The BPC, in consultation with Ecology, must adopt tug escorts rules for the following vessels:
 - Small (5,000 – 40,000 dwt) oil tankers
 - ATBs, and towed barges greater than 5,000 dwt designed to transport oil in bulk internal to the hull

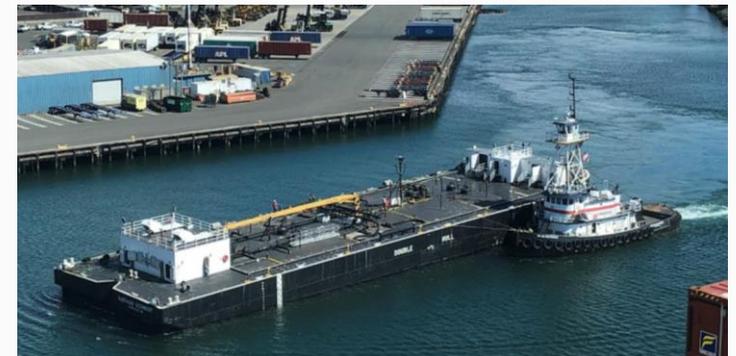


© Frans Eykel
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Tanker



ATB



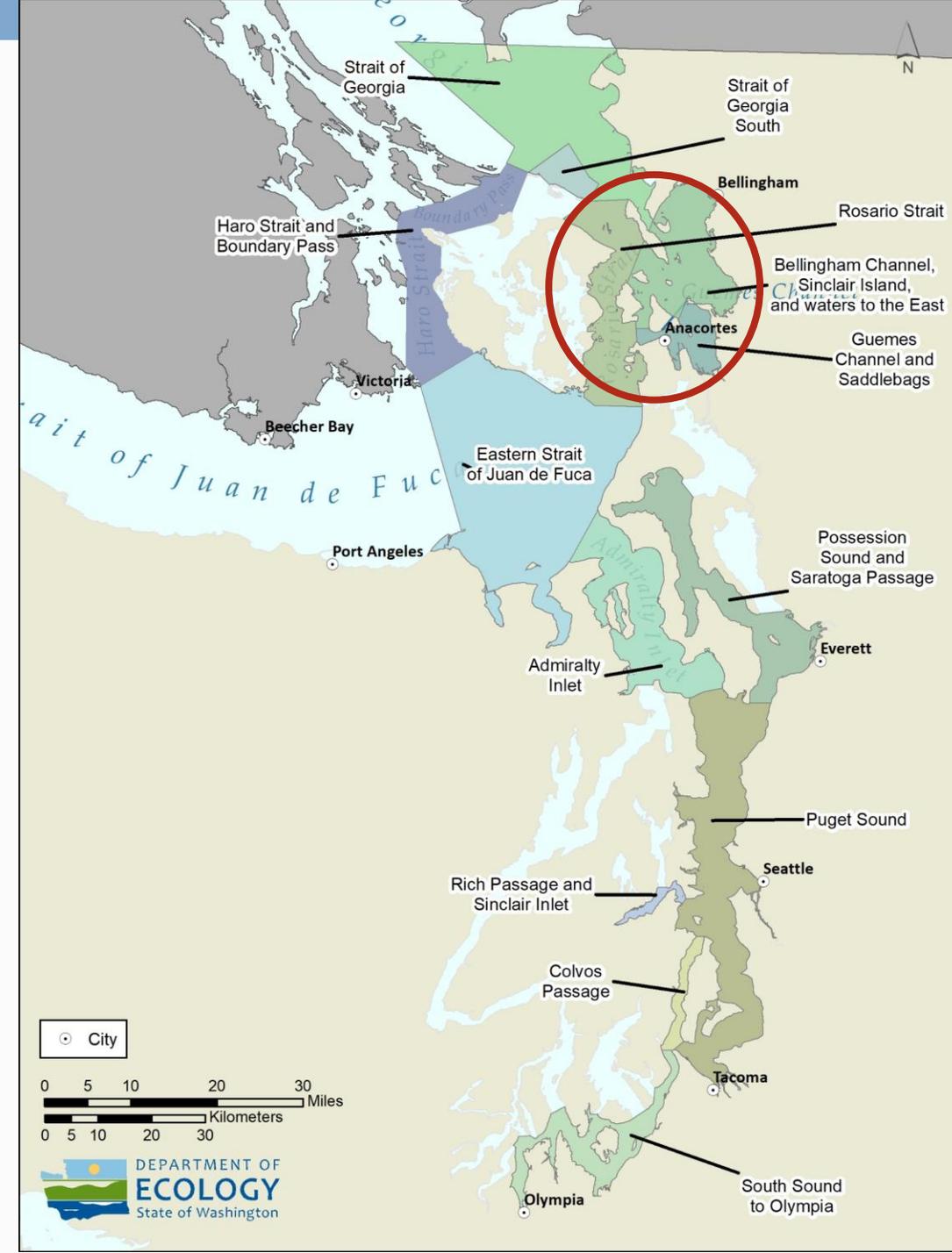
Tank Barge

Target Vessels (Examples)

Vessel Type	Tanker	ATB	Towed Barge
Smaller Range Example	 <p>© Frans Eykel MarineTraffic.com</p>		
Larger Range Example	520 feet / 25,235 DWT	421 feet / 11,500 DWT	241 feet / 5,310 DWT
	604 feet / 39,309 DWT	690 feet / 27,000 DWT	360 feet / 13,821 DWT

Rulemaking Geographic Scope:

- “East of the line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area.”





Rulemaking Overview Continued

- The adopted rules could:
 - Establish new escort requirements for the target vessels
 - Adjust escort requirements implemented by ESHB 1578 for Rosario and waters east
 - Suspend the existing escort requirements for Rosario and waters east
 - Determine that no change from the current requirements is needed
- The adopted rules could also specify operational and functional requirements

Why Tug Escorts?

- Tug escorts have been part of the vessel traffic safety system in Washington since 1975.
 - Pre-2020: Oil tankers > 40,000 DWT east of Discovery Island/New Dungeness Light
- Rationale: Provide immediate assistance in loss of propulsion or steering incidents to prevent drift groundings or collisions, additional set of eyes and equipment.
- Studies (e.g. 2016 VTRA, Ecology Risk Model Report, 2024) have shown small-moderate benefits of tug escorts.



Modeling 2020 Tug Escort Requirements



Drift Groundings
Declined by 2.3% in
BPC Zones



1 in 44 drift
groundings
prevented in BPC
Zones



Oil Volume at Risk
declined 3.1%,
Oil Outflow declined
2.6% in BPC Zones



Escort Tug Underway
Time Increased by
134% in Tug Escort
Report Study Area

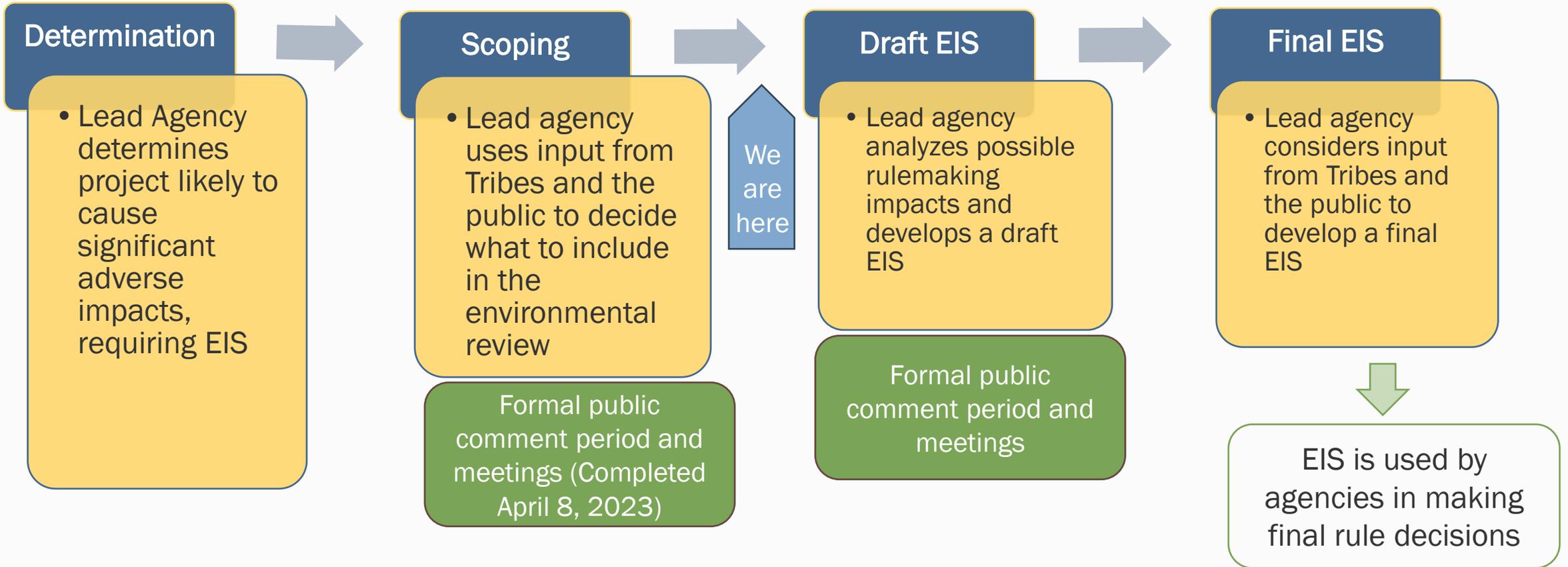


EIS and Tribal Resource Section Timeline and Milestones

EIS Process

Government to Government Consultation with Tribes as Requested by Tribal Governments

Workshops to share information and seek input from Tribes and stakeholders



Rulemaking and EIS Happen Concurrently

Rulemaking Action	SEPA Action	Proposed Timeline
Rulemaking Announcement (CR-101 filing):	Determination of Significance / Scoping Comment Period	February 22, 2023
Rule Development Workshops	EIS Development Workshops	March 2023 – January 2025
Rule Proposal and start of comment period (CR-102 Filing)	Issuance of Draft EIS with CR- 102 and comment period.	Anticipated June 2025
Rule Adoption (CR-103 Filing):	Final EIS issued at least 7 days before the CR-103	Anticipated December 2025
Rule Effective	N/A	Anticipated January 2026 (Typically, 31 days after CR- 103 filing)



Draft EIS Milestones and Next Steps

Milestone	TENTATIVE Timeline	Input Opportunity
Methods Development	June – Aug. 2024	This workshop, 1-1 meetings, submit informal comments
Workshop Series #9	Sept. 2024	Tribal Resources Workshops Only
Technical Analyses	July – Dec. 2024	Submit informal comments, 1-1 meetings
Workshop Series #10 + Technical Deep Dive Workshop: Noise	Nov. 2024	Comments, updates on underwater noise methods and analysis, early review of other technical analyses
Workshop Series #11	Jan. 2025	Comments on proposed rule language, preliminary econ update
Early Review Sections of Preliminary Draft EIS	Late spring/early summer 2024	Possible early review for OTSC and Tribes
DEIS/CR-102 Comment Period	Summer 2025	Formal comments, public hearings



Engagement Options and Preferences

Always Required

- Government-to-Government Consultation
 - Always available
 - Handled at Agency Executive level
 - Formal letters to Chairs and Natural Resource Directors
- Formal comment periods (DEIS publication, etc.)

Planned/Underway

- Tribes only Workshops, standing regular meetings with Ecology as requested
- Informal comment periods and early review of preliminary drafts
- Inclusion of statements from Tribal Governments
- Quarterly check-in emails and calls to Tribal staff
- Updates at ATNI, other regional meetings
- Travel support for Workshops and Meetings



Questions or Discussion

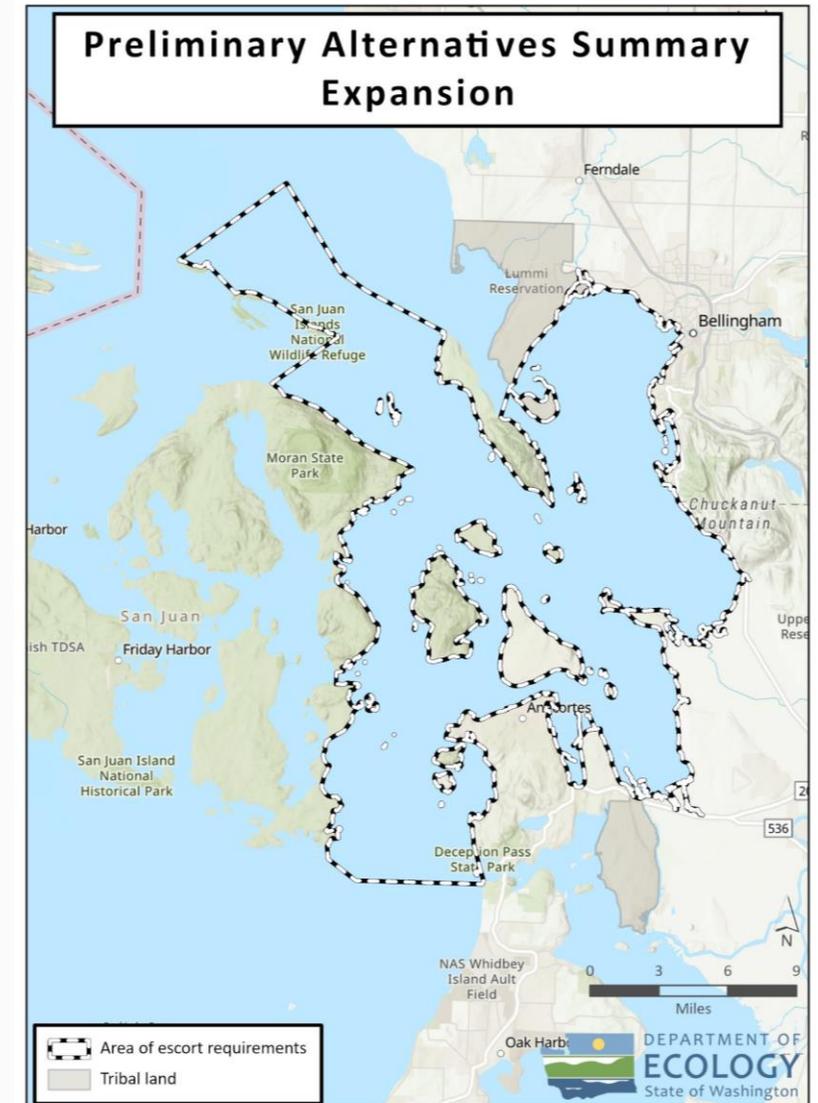


EIS Overview



EIS Study Area (in General)

- **EIS Study Area:**
Includes commutes
- **Preliminary Alternatives:** Where requirements would occur





EIS Will Include

Element	Include in EIS
*Air Quality and GHG Emissions	Yes
Water Quality	Yes
*Plants and Animals (incl. SRKW, marine mammals)	Yes
Energy and Natural Resources	Yes
*Environmental Health: Releases (oil spills)	Yes
*Environmental Health: Noise (incl. underwater noise, ambient/operational noise)	Yes
Aesthetics, Light, and Glare	Yes
*Tribal Natural and Cultural Resources	Yes
Historic and Cultural Resources (other, non-tribal)	No
*Transportation: Vessel Traffic	Yes
Recreation	Yes

Note: Environmental Justice – to be integrated throughout and its own chapter

** = Priority Element as identified by the BPC*



Functional and Operational Requirements (FOR)

Functionality

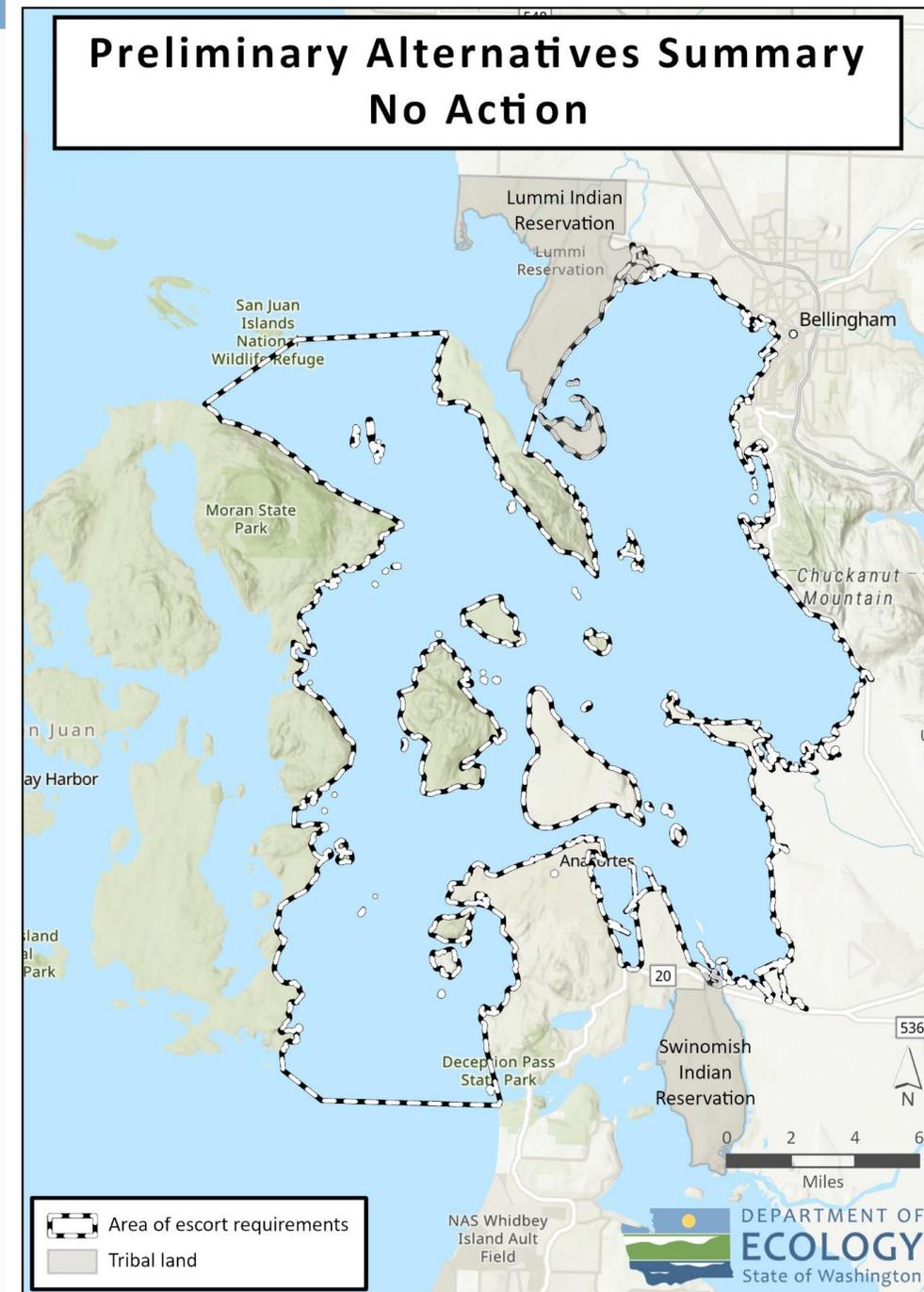
- Minimum 3,000 horsepower
- Minimum of twin-screw propulsion

Operational

- Required pre-escort conference between escorted vessel, escorting vessel (and pilot if applicable)

✔ No Action Alternative

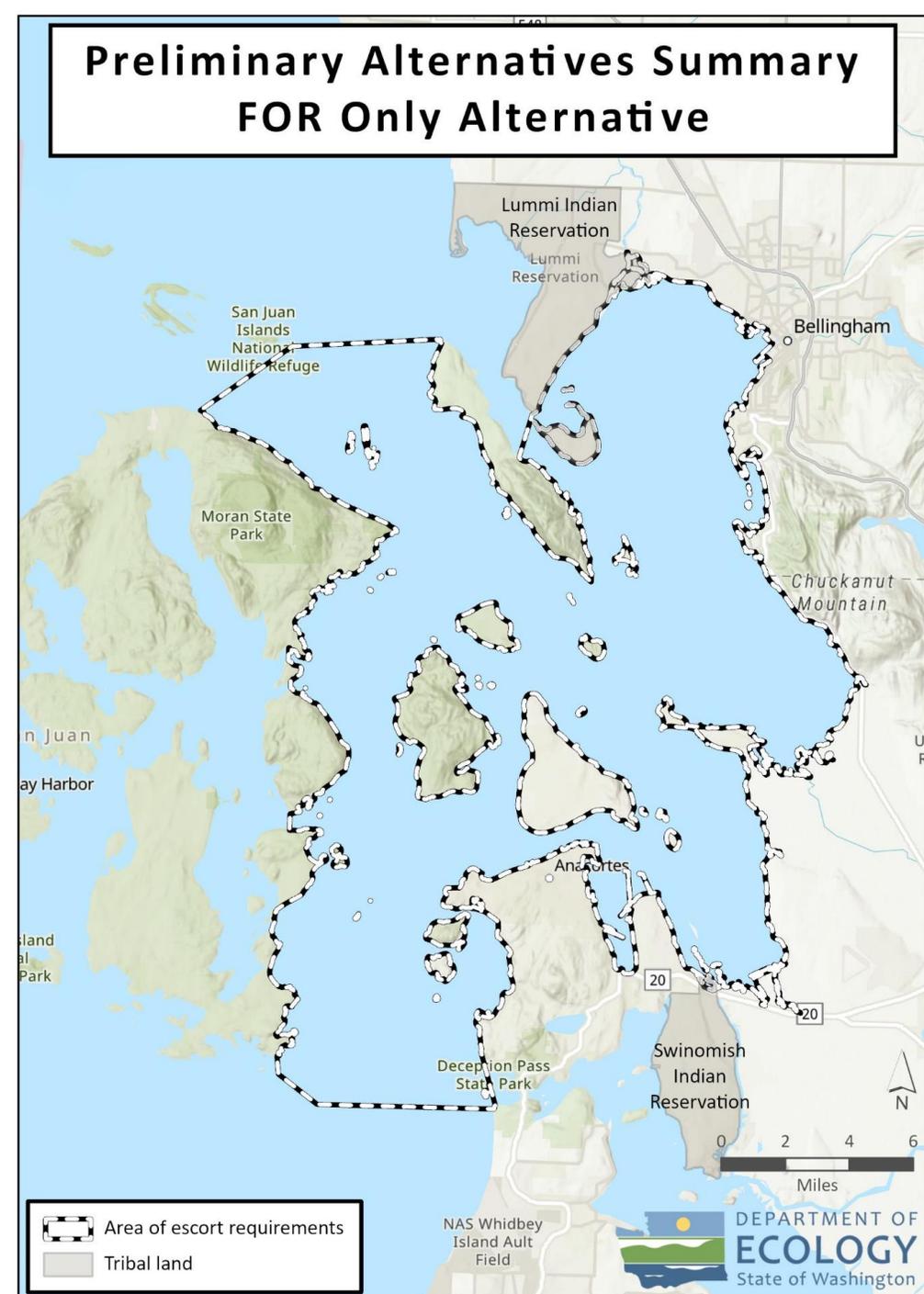
- **Description:** Maintain 2020 requirement for Rosario and waters east (no change).
- **Rationale:**
 - No Action alternative is required under SEPA.





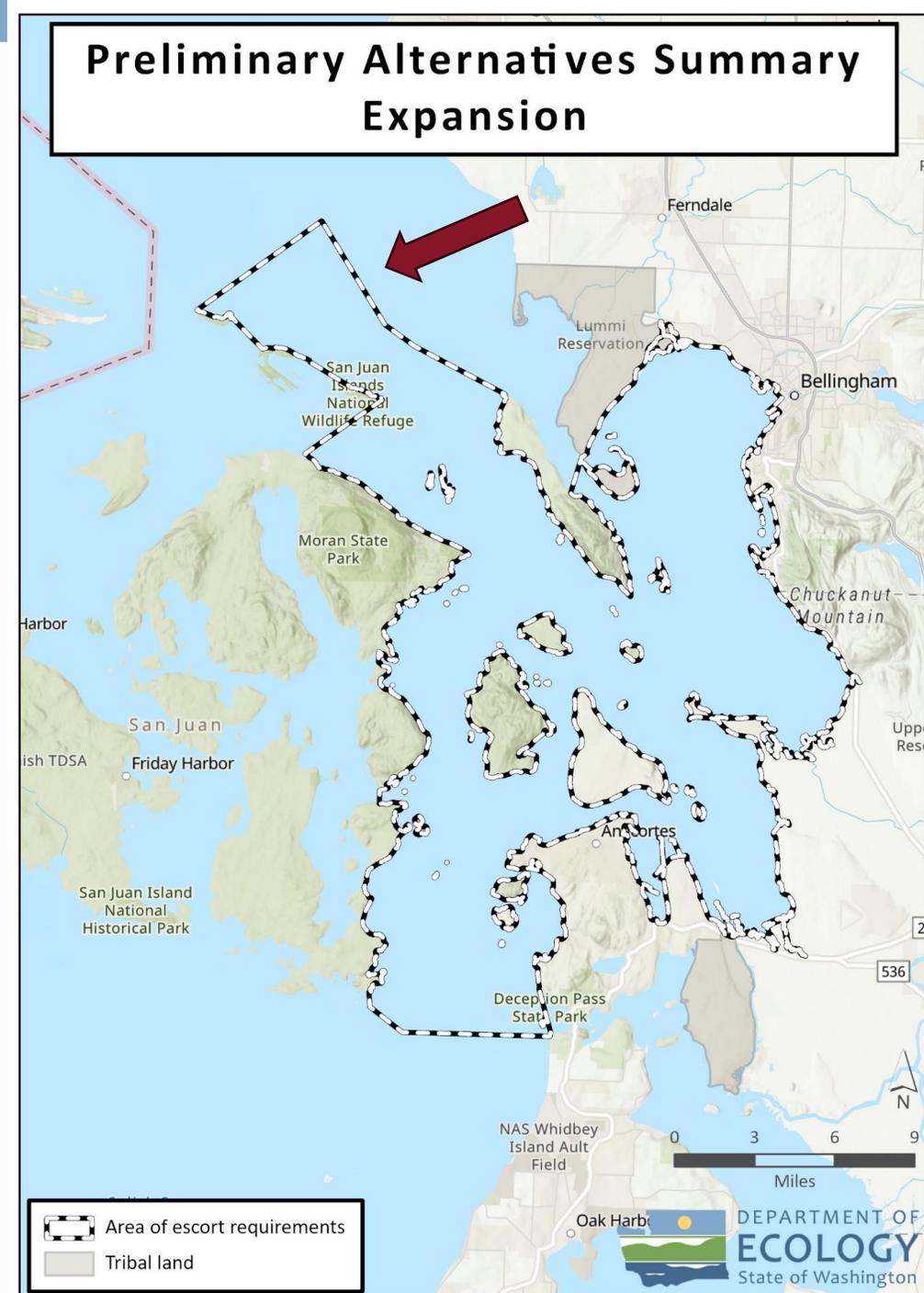
Functional and Operational Requirements (FOR) Only Alternative

- **Description:** Maintain 2020 requirement for Rosario and waters east (no change).
 - Add FOR
- **Rationale:**
 - Consensus support for FOR from OTSC and BPC

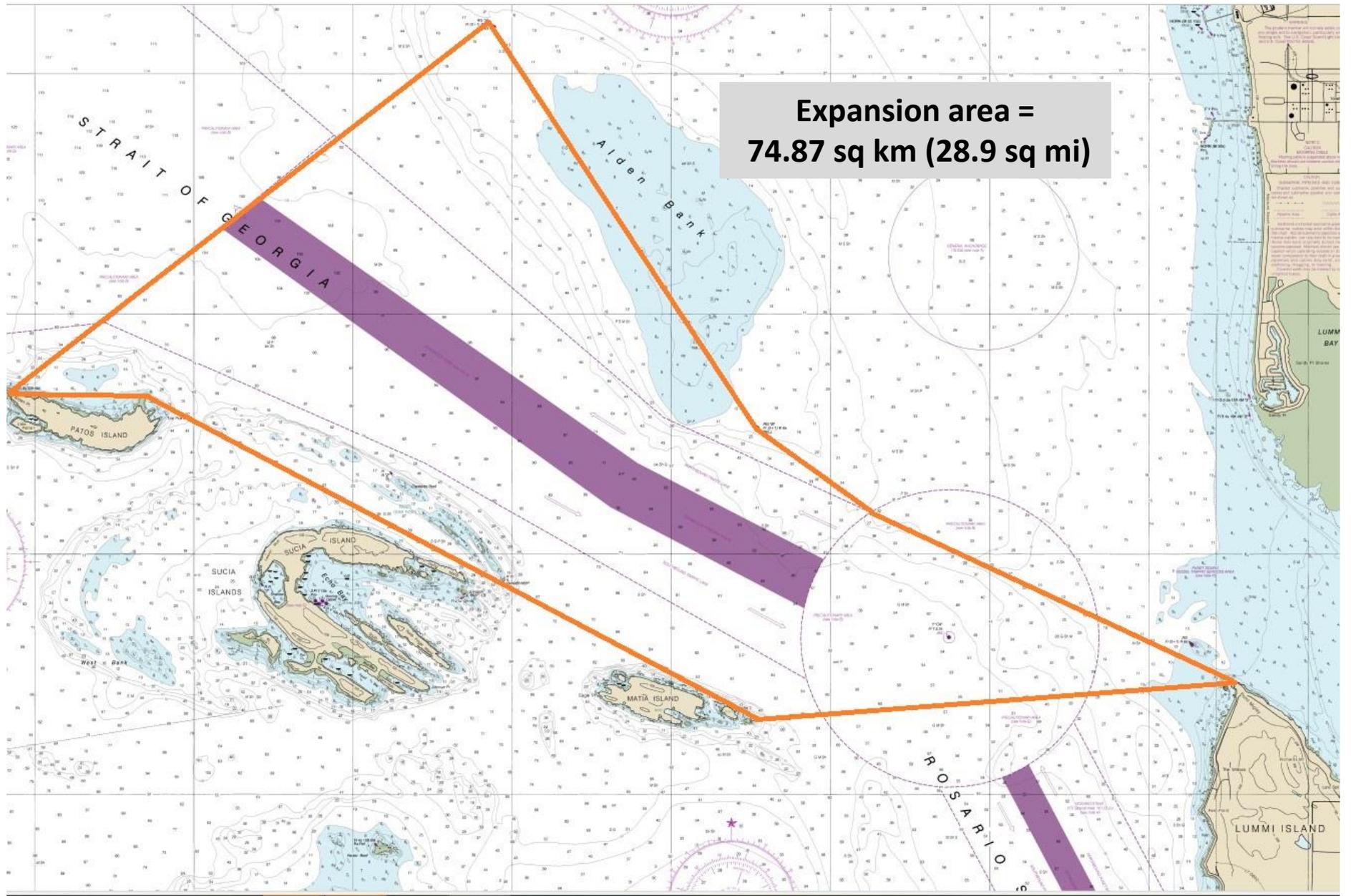


✓ Expansion Alternative

- **Description:** Expand 2020 escort requirements to Strait of Georgia South Zone and corner of Strait of Georgia Zone.
 - Includes FOR
- **Rationale:**
 - Model showed high escort efficiency
 - OTSC Pilot representative agreed that characteristics of this zone make it a good candidate for escort requirement
 - Adjacent to current escort area (straightforward to implement)

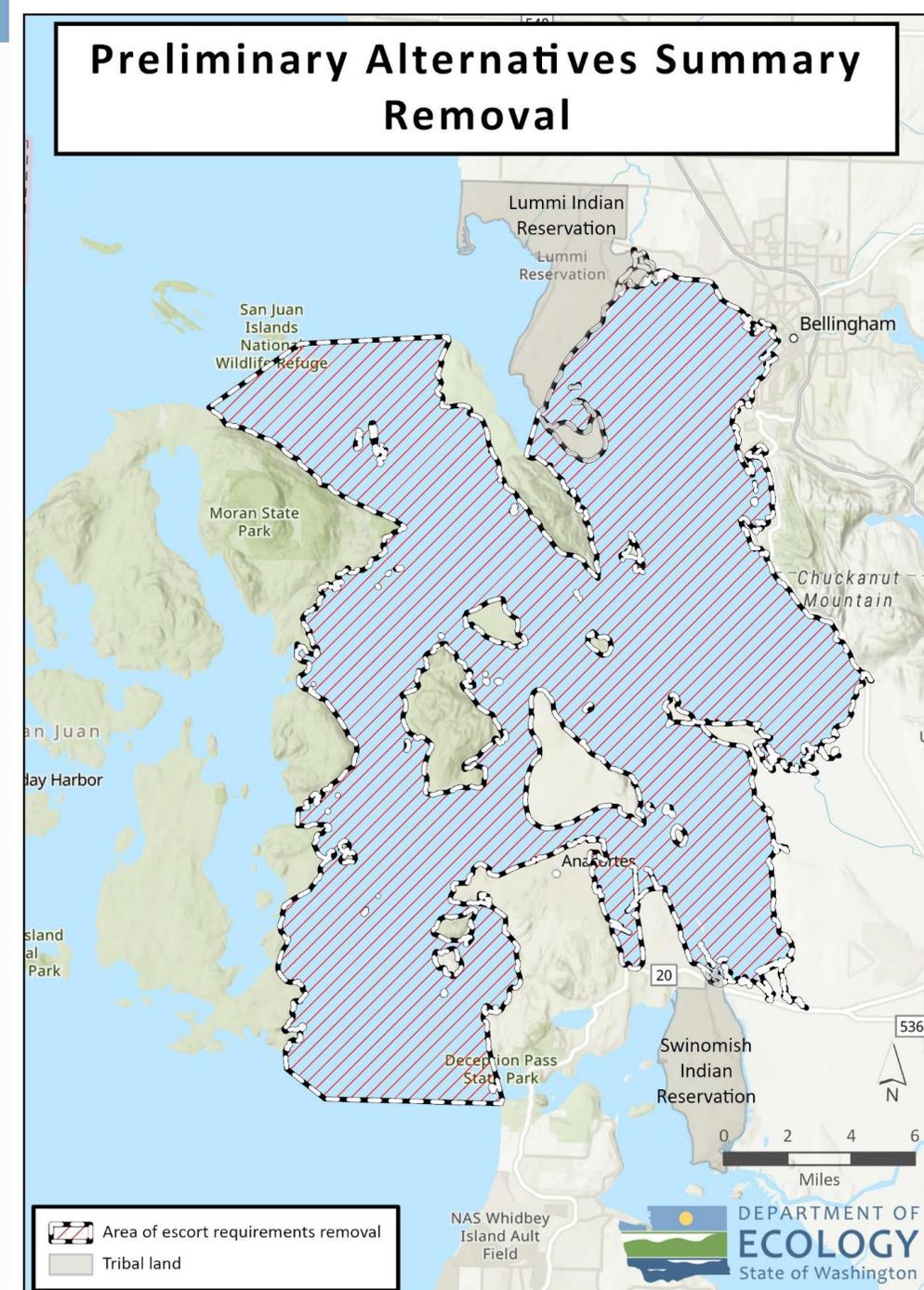


A chartlet showing potential expansion into Strait of Georgia South

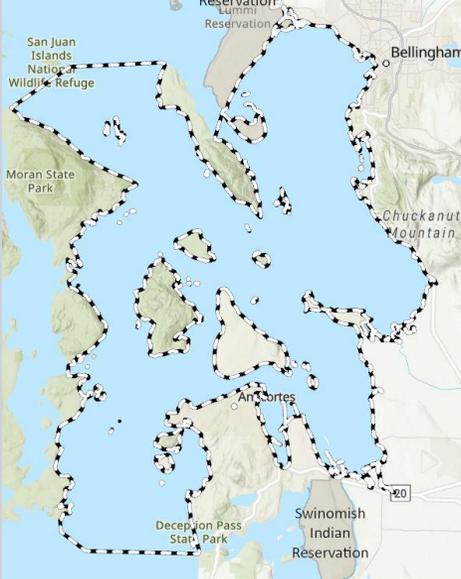
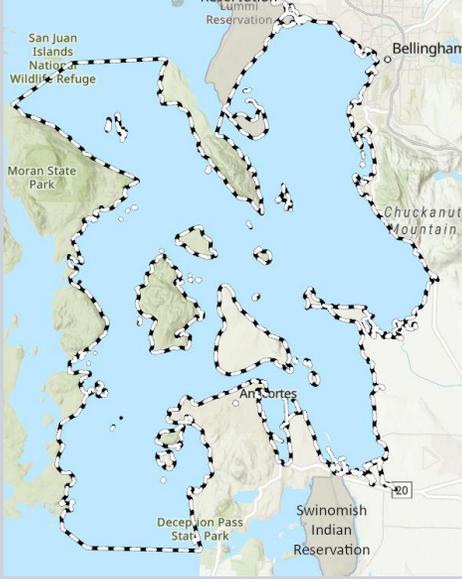
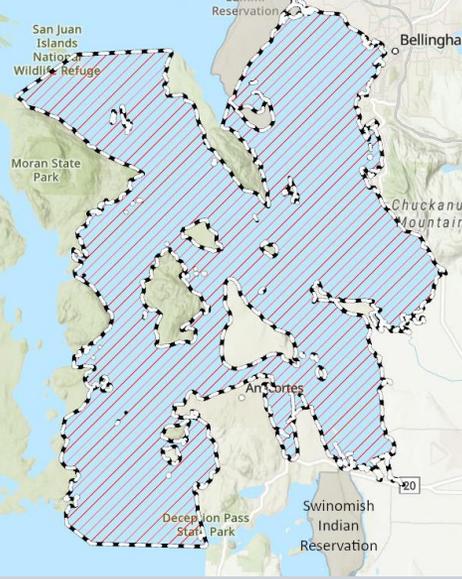


✓ Removal Alternative

- **Description:** Remove 2020 escort requirements for Rosario Strait and connected waters east.
- **Rationale:**
 - ESHB 1578 explicitly allows for removal
 - Will help understand impacts of the 2020 rule
 - May reduce underwater noise, vessel traffic, etc.



Current Proposed Alternatives

	No Action (Status Quo)	FOR Only	Expansion	Removal
Geography	<p>No change from 2020</p> 	<p>No change from 2020</p> 	<p>Keep 2020 + expand to SoG/SoG S.</p> 	<p>Remove reqs. w/in 2020 boundary</p> 
FOR?	<p>No change from 2020.</p>	<p>ADD pre-escort conference, minimum horsepower, propulsion specifications</p>	<p>ADD pre-escort conference, minimum horsepower, propulsion specifications</p>	<p>No requirements for small vessels/ATBs/barges. Requirements remain unchanged for large vessels</p>



Questions or Discussion



Methodology: Tribal Resources

Related Scoping Comments

- Importance of consulting with Tribes.
- Consider impacts to treaty fishing and vessel interaction with Tribal fishers.
 - Tug activities and tug wakes have been identified as impacts
- Need to understand spatial and temporal distribution of additional vessel traffic in order to understand impacts.



Related Methodology Comments

- Concerns about cumulative vessel traffic.
- Tribes would like to see drafts of each section to see what potential impacts may be.
- Access and gear loss are important impact categories as fishermen have seen increases in tug escorts and ATBs. The primary reason for gear loss is interaction with target vessels (at anchorages and in transit as well).



Related Methodology Comments Cont.

- EJ considerations that might not be captured in the WA Env. Health Disparities map:
 - Impacts to anchorages associated with two refineries in the area.
 - Impacts of train derailment and pipeline spills.
- Tribal requests:
 - To look at additional underway hours for specific areas.
 - More information about where the tugs would be based and/or traveling to and from.
 - Comparison of the reduction in risk from different types of measures (expanding tug escorts vs. including pilots everywhere, etc.).



Scope: Tribal Natural and Cultural Resources

- Impacts to exercise of treaty fishing and harvest rights:
 - Access
 - Availability of fishery species
 - Gear loss/interference
 - Physical safety of fishers
- Impacts to tribal cultural resources:
 - Archaeological: coastal, submerged sites (if appropriate)
 - Places and/or species with cultural significance
 - Cultural practices and/or lifeways
- Impacts to Traditional Cultural Properties (incl. TCP eligible)
- Impacts to Tribal Sovereignty

Information and Sources

- Review of existing published statements and literature
 - Previous EISs
 - Records from recent forums with Tribal Government participation: PAWSA, SRKW Task Force, Shared Waters Forum, etc.
 - Published statements by individual Tribes and/or inter-tribal organizations
- Tribal fisheries and fishing resources
- Review of DAHP resources for the geographic area of the alternatives (information can be redacted from the DEIS).
- Additional information shared with Ecology by individual Tribes (e.g. ethnographic studies, fisheries information, etc.
- Ongoing requests for input/review from Tribes, opportunities for review



Research Questions

- What are Tribal resources of interest/concern in the study area?
- How and where does current vessel traffic impact Tribal resources and interests (e.g., restricted access, availability of fishery species, gear loss, physical safety)?
- What aspects of vessel traffic are key causes of these impacts (e.g., congestion, wakes, speed, noise, emissions, discharges)?

Research Questions Cont.

- How would the proposed changes in tug escort requirements affect vessel traffic and its impacts to Tribal resources and interests? Can these impacts be reduced or mitigated?
- Any other questions identified through the Tribal outreach process.

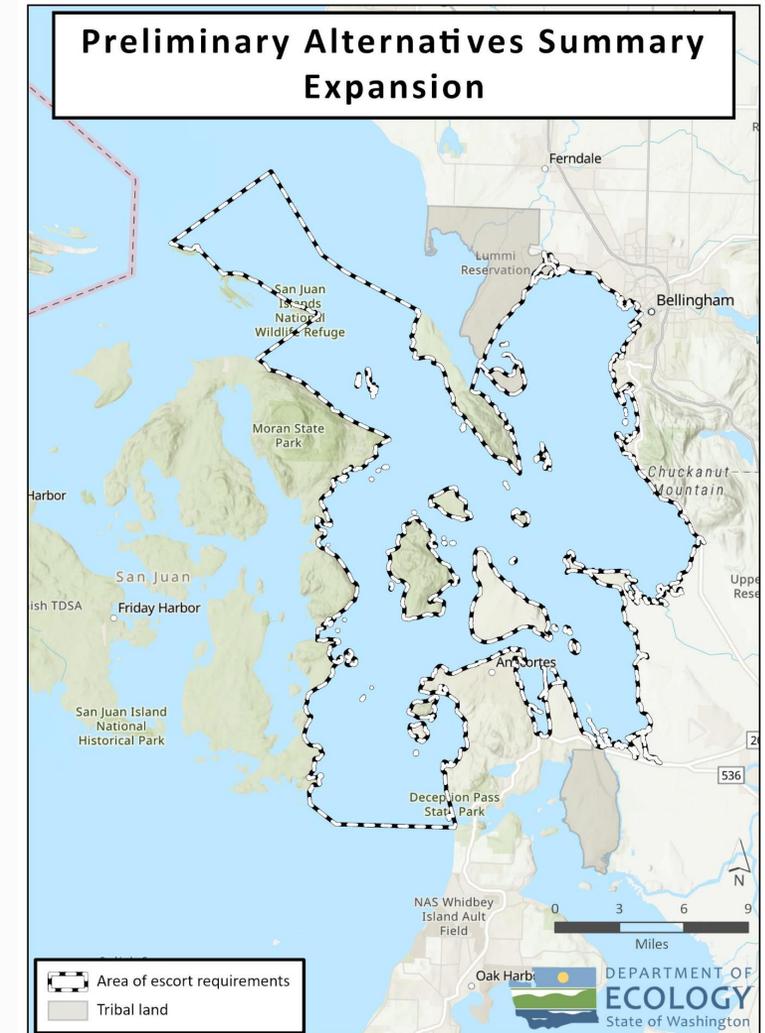


Questions or Discussion



EIS Study Area (Tribal Resources)

- Tribal Resources area aligns with EIS Study Area, plus immediately adjacent terrestrial areas
- Includes:
 - Rulemaking alternative boundaries
 - All escort tug commute routes to and from the alternative boundaries



Sub-Elements to be Analyzed

- The following features of Tribal Resources will be analyzed in the affected environment, potential impacts, and mitigation measures discussions:
 - Tribal Cultural Resources
 - Tribal Treaty Fishing
 - Others as identified by Tribes through outreach

Regulatory Context

Federal

- *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), “Boldt Decision”
- *Washington v. Washington State, Commercial Passenger Fishing Vessel Association*, 443 U.S. 658 (1979)
- *United States v. Washington*, 873 F. Supp. 1422, 1441 (W.D. Wash. 1994), “The Rafeedie Decision”
- Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights (40 CFR 131)

Tribal

- Coordinated Tribal Water Quality Program
- Tribal water quality standards
- Tribal air quality standards

Treaties

- Treaty of Point No Point, 1855
- Treaty of Point Elliott, 1855
- Treaty of Olympia, 1856
- Treaty of Neah Bay, 1855
- Medicine Creek Treaty, 1854

State

- [Revised Code of Washington 27.53](#) Archaeological Sites and Resources
- [Revised Code of Washington 27.44](#) Indian Graves and Records
- [Centennial Accord](#) Between the Federally Recognized Indian Tribes in Washington State and the State of Washington (GOIA 1989) and its [implementation plan](#) (GOIA 1999)

Methodology For Analysis

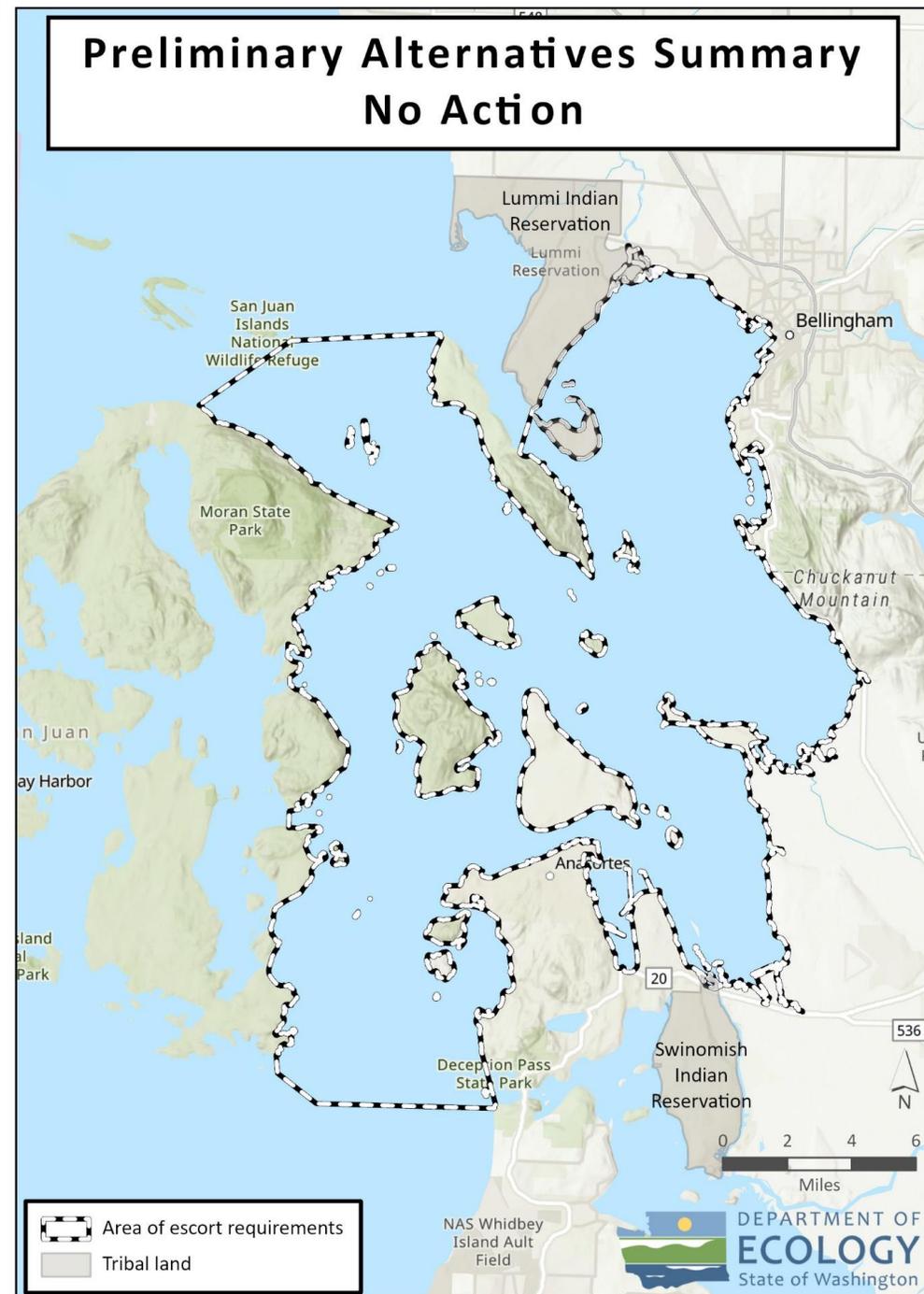
Methodology for analyzing **existing** tribal resources:

- Gather data from available references.
- Identify Tribal resources of concern through coordination and outreach with Tribal staff.
- Identify areas of interest for the impact analysis based on the above two bullets.



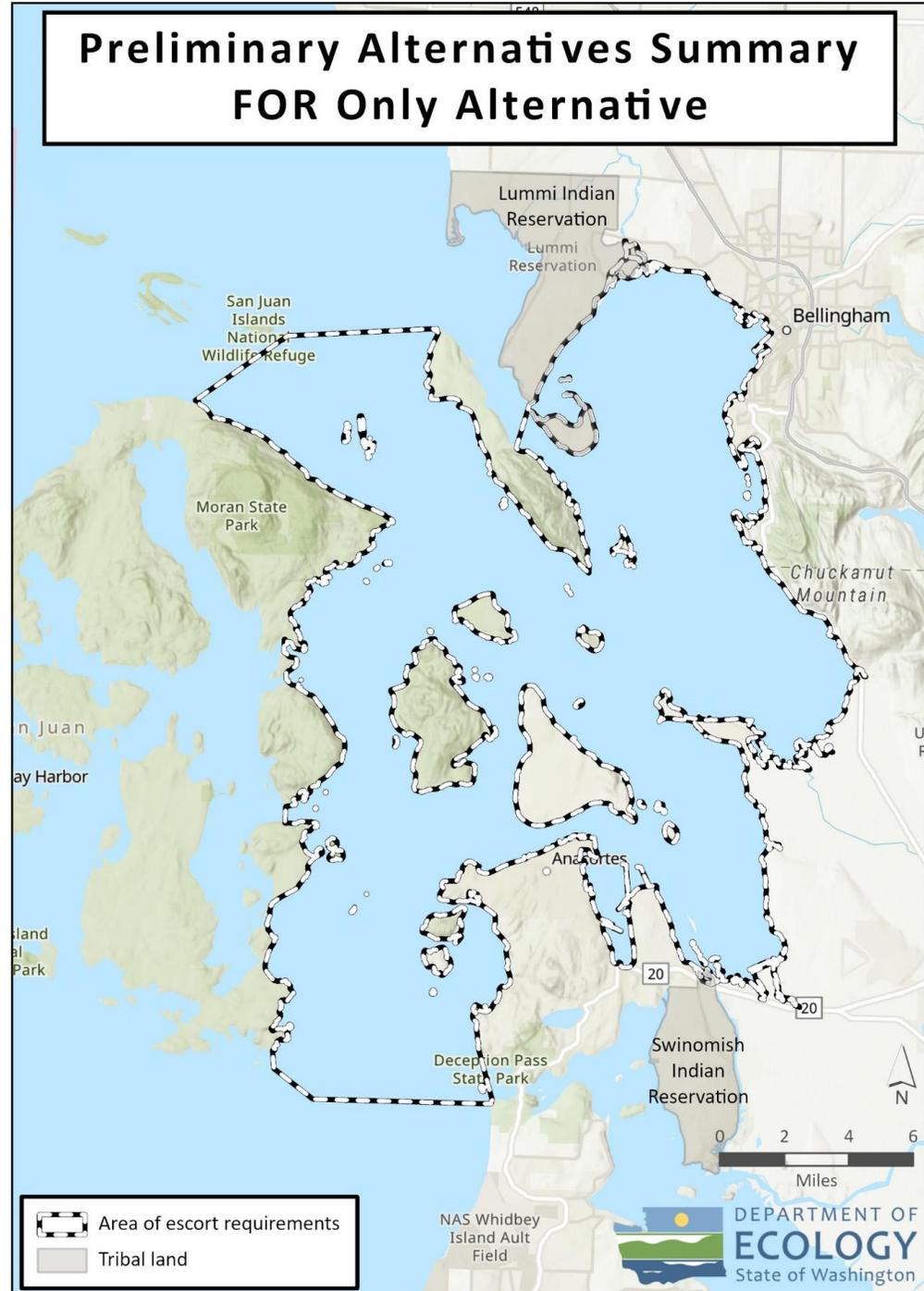
Methodology: No Action

- Describe **current** tug escort interactions with tribal resources.
 - Identify known incidents/interactions.
 - Describe types interactions with tugs that can cause adverse impacts.
- Review vessel traffic analysis outputs and overlay with the identified areas of interest. Describe proximity to tribal resources of concern.
- Describe understanding of existing oil spill risks to tribal and cultural resources.
 - Coordination between Ecology and DAHP as needed



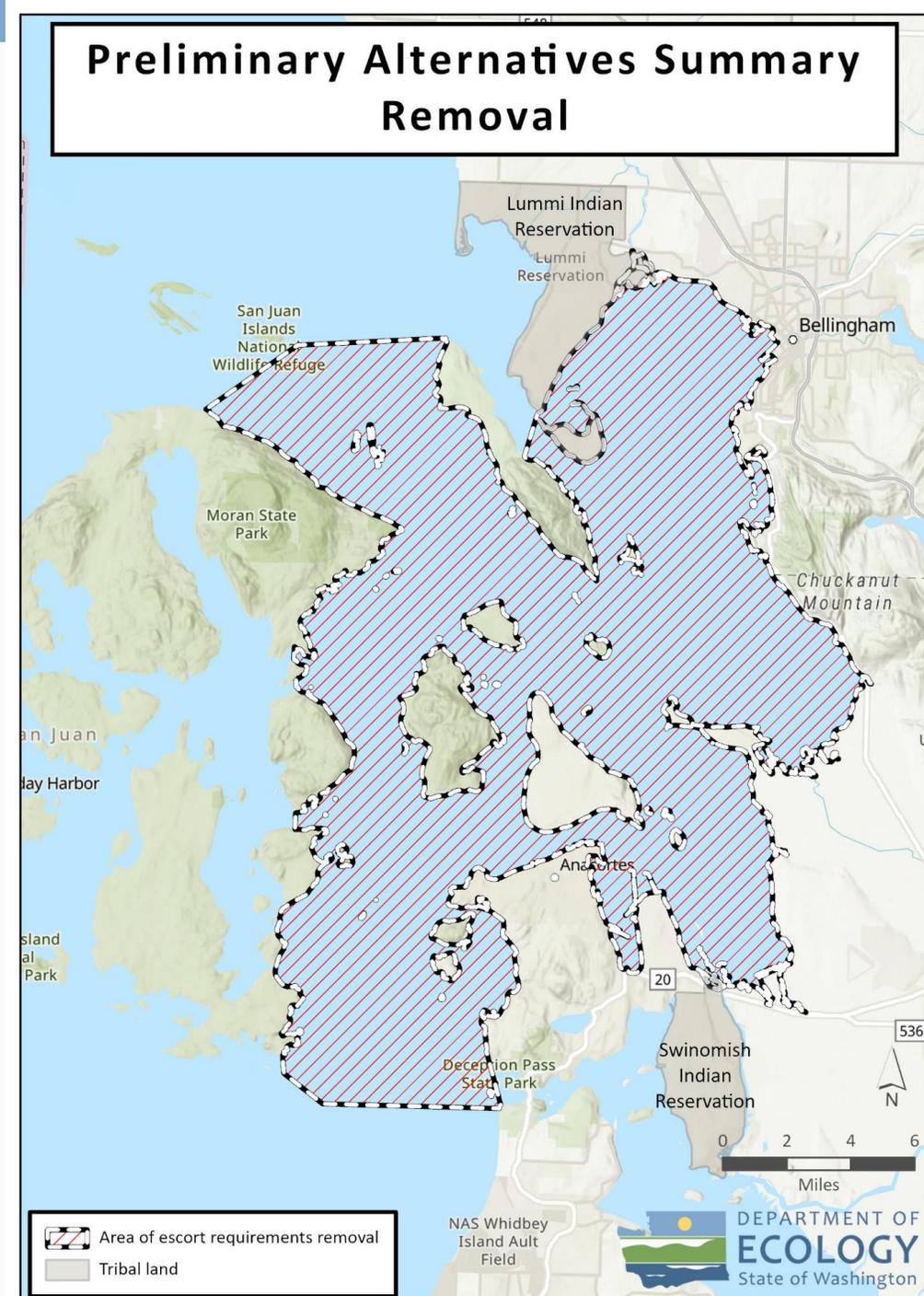
Methodology: FOR Only

- Discuss whether the more stringent propulsion and horsepower specifications have any implications for tribal resources during tug escort operation.



Methodology: Removal

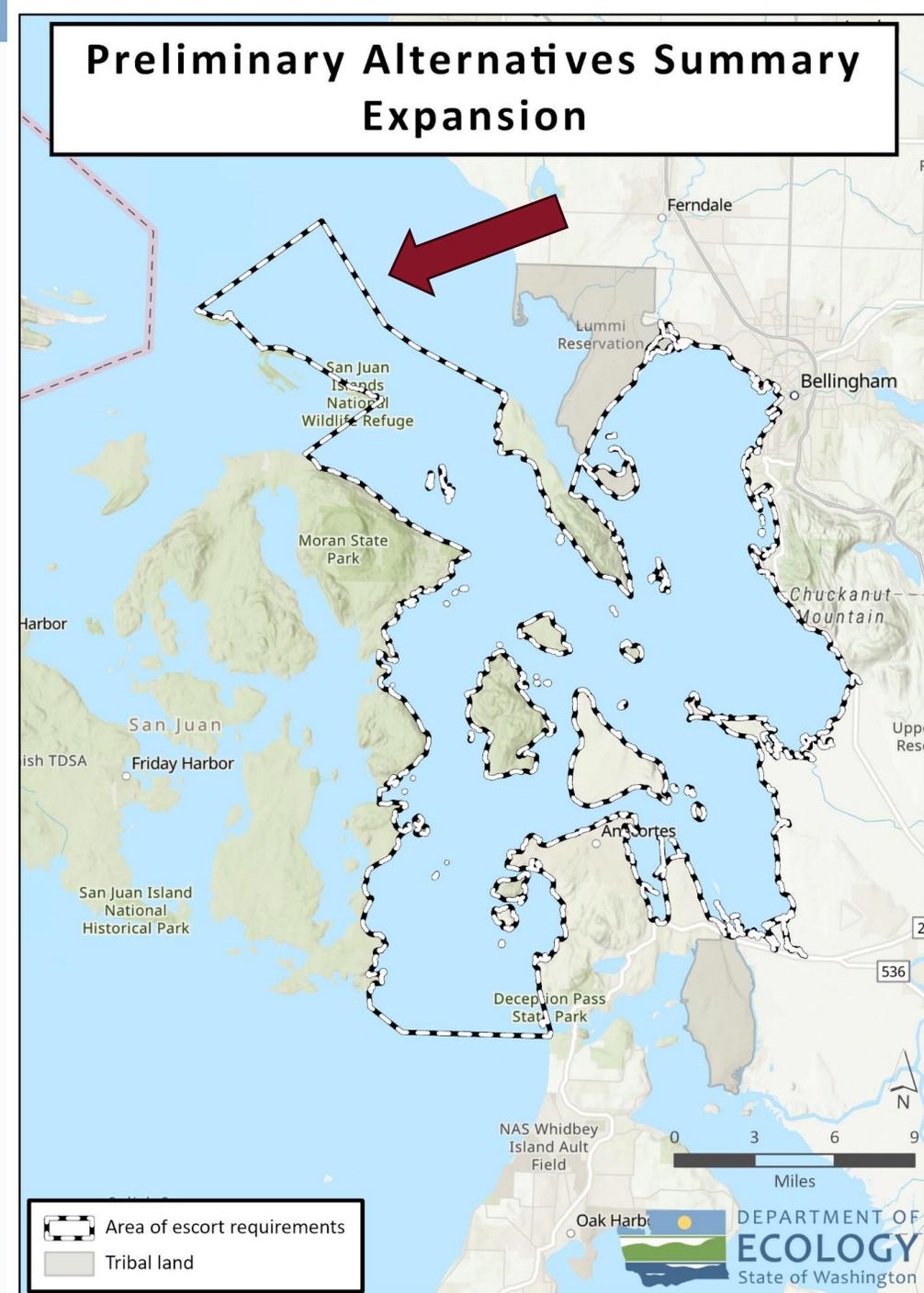
- Discuss reduction in tug operations (commuting, escorting, idling, anchoring) and whether this would reduce existing impacts to tribal resources.
- Describe risk to tribal resources from increased oil spill risks by identifying causal pathways for oil spills to reach tribal resources and estimating relative level of impact.
- Ecology and DAHP will coordinate to analyze impacts to DAHP identified resources.



Methodology: Expansion

(Includes Functional and Operational Requirements)

- Discuss changes in tug operations and whether these changes would cause new impacts to Tribal resources in areas of interest and in the expansion area.
- Discuss potential decrease in grounding risk, associated water quality impacts from spills, and the adverse impacts an oil spill would have on Tribal resources.





Questions or Discussion

Impact Indicators

Indicator	Proposed Threshold
Aquatics Species and Habitat	Adverse impacts to wildlife or habitats of cultural significance to Tribes.
Water Quality	Reasonable likelihood of disruption of Tribal activities that are dependent on water quality.
Treaty Fishing	Changes to the quality and operation of Tribal fishing areas including, but not limited to, boat launches, other access points, interaction with other fishing activity, disruption of treaty fishing, safety elements, gear loss, etc.
Coastal Cultural Resources	Adverse impacts to cultural resources (e.g., coastal sites) due to oil spills, wakes, etc.



Approach for Identifying Mitigation

- Mitigation measures, where appropriate, would be developed in coordination with the agencies and Tribes. They could be captured in the rule language and/or recommended as voluntary mitigation measures.
- Ecology will coordinate with Tribes and/or DAHP to discuss potential mitigation.



Questions or Discussion



Input on Methodology



Your Input

What information would be most helpful for YOU in determining how the impacts of this rule would affect your Tribe?

What impacts are you concerned about related to vessel traffic and oil pollution?

What kinds of information is it appropriate for Ecology to consider in developing this section?

How do you want to be involved in the development of this section?

What should be considered in making a significance determination?

What potential mitigation measures would you like to see recommended?

Provide informal feedback:
[Tug Escort Rule Informal Comment
Period \(commentinput.com\)](https://commentinput.com)

Upcoming Workshops

- **Workshop #9:**
 - **Tribal Governments Meeting A:** September 3, 2024 (10:00 AM – Noon)
 - **Tribal Governments Meeting B:** September 10, 2024 (10:00 AM – Noon)
- **Workshop #10:**
 - **Stakeholders:** November 5, 2024 (10:00 AM – Noon), HYBRID
 - **Tribal Governments:** November 13, 2024 (1:00 – 3:00 PM)
 - **OTSC:** November 14, 2024 (10:00 – Noon)
- **Deep Dive on Underwater Noise:** November 7, 2024 (10:00 AM – Noon)





Final Questions or Comments?

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