

**TO: RBAW Board**

**FROM: Doug Levy –1/7/2021**

**RE: Report from State Lobbyist -- DECEMBER 2020**

A Lakebay Marina application, and preparations for the upcoming 2021 (nearly-all-virtual) Session were on our RBAW plate for December 2020. Following is my December report on these and other items. I will note that at Thursday's Board Meeting, I would like to further discuss the **No Discharge Zone** and **House Bill 1018** and **Invasive Species Council** items flagged below.

**Coming soon: An unprecedented Session of the Washington State Legislature:** Let me start the substantive portion of this monthly report by letting you all know that on Monday, Jan. 11, the Washington State Legislature will convene a 105-day Regular Session. In a few ways, it will be normal – the Legislature must adopt balanced two-year Operating, Capital, and Transportation Budgets, and the state faces a series of daunting challenges with respect to its finances, the economy, affordable housing and homelessness, and the state's transportation system. In one major way, however, this will be a Session like none other: Due to the lingering significant impacts of the COVID-19 pandemic, the 2021 Session will be nearly all "virtual." Lobbyists like myself are barred from being on the Capitol Campus in person, and only a select group of Members and staff will be there. The Legislature will use technologies such as Zoom and Microsoft Team to run public hearings, conduct Caucus meetings and Floor votes, and do constituent meetings. How this grand experiment will turn out is anyone's guess, but here we go!

**Lakebay Marina:** We spent several hours in December working with staff at the Department of Natural Resources (DNR) to update and refine the presentation for a \$1.88 million acquisition and planning grant being pursued by DNR under the Boating Facilities Program (BFP). RBAW, through our Marine Parks Conservancy, is partnering with DNR on this application for BFP funds, which would be administered through the state's Recreation and Conservation Office (RCO) if we are successful. As previously noted, the BFP grant application is for completing the purchase of Lakebay and for planning to cover improvements, permitting, and other needed actions post-purchase. Our President Bob Wise will join DNR staff mid-month (Exact Date/Time TBD) to present the Lakebay project application to an evaluation committee. As for our chances of funding, we feel positive but do not have absolute guarantees. It is anticipated that the BFP, a cash-based account, will have about \$14.95 million in available 2021-23 biennium funding. Of that, half the funds, or \$7.48 million, would be reserved for boating facilities project applications submitted by state agencies. We have learned that the state agency applications total up to nearly \$9 million 'chasing' that \$7.48 million. We will learn in the third week of February how we fared. Fingers crossed!

**"No Discharge Zone" (NDZ) Established for the entirety of Puget Sound:** In December, we received from the American Waterway Operators (AWO) an update on its lawsuit contesting several parts of the NDZ designation for Puget Sound. A federal judge ruled in AWO's favor on three issues related to the determination of sufficient pump out capacity to accommodate the NDZ. The ruling was a mixed one and does not vacate the rule but does remand several matters to the U.S. Environmental Protection Agency (EPA) for further consideration vis-à-vis cost, treatment, and 'sufficiency' issues related to pump out capacity. One question is whether we at RBAW may wish to offer additional supporting information on the pump out question. There is more pump out capacity for recreational vessels in Puget Sound

than for commercial vessels, but at the same time, AWO noted that *“AWO will be coordinating responses from our own members but I think all impacted vessel operators should strongly consider submitting additional information to EPA.”* I have heard from Past President Wayne Gilham and Treasurer Loyd Walker on this but upon consultation with President Bob Wise, I wanted to facilitate a more robust discussion at our Thursday, Jan. 7 Board Meeting.

**Legislation to extend the life of the Invasive Species Council by 10 years – let me know if we are OK with RBAW weighing in with support:** We have been asked by RCO to support a bill it is promoting in the 2021 Session – one that would extend the life of the Invasive Species Council by 10 years, from 2022 to 2032. I have attached a copy of the bill draft along with my Monthly Report. My sense is that this is legislation we would want to register support for – but I would like to double-check this at our Thursday Board meeting. Here is the purpose statement in statute of what the Invasive Species Council – administered by the RCO -- is and what it is designed to do: *“The council is a joint effort between local, tribal, state, and federal governments, as well as the private sector and nongovernmental interests. The purpose of the council is to foster cooperation, communication, and coordinated approaches that support local, state, and regional initiatives for the prevention and control of invasive species.”*

**Boater Education/Mandatory Wearing of Personal Flotation Devices (PFDs):** I have alerted the RBAW Board and Membership that in 2021, we may be seeing *some* type of legislation related to boating safety, Boater Education Cards, and potential mandatory-wear provisions regarding Personal Flotation Devices (PFDs). It appears that the main bill on this topic will be **House Bill 1018 (HB 1018)**, which has already been pre-filed by State Reps. John Lovick (D-Mill Creek/44<sup>th</sup> Dist.) and Cindy Ryu (D-Shoreline/32<sup>nd</sup> Dist.). Here is a link to **HB 1018: [1018.pdf \(wa.gov\)](#)**. The main thrust of this bill is to extend to “human-powered boats or vessels” (*defined in the bill as “canoes, kayaks, rafts, and stand-up paddleboards”*) requirements in state law regarding minimum age for operation (or being accompanied by others for supervision) and possession of a Boater Education Card. I have recommended we at RBAW simply take a neutral stance on this bill. Both Past President Wayne Gilham and Secretary Linda Newland have provided good feedback regarding some ‘unintended consequence’ impacts. I am asking that we discuss this bill a bit more at Thursday’s Board meeting.

**Department of Natural Resources legislative ‘asks’ for 2021 related to Derelict Vessel Removals:** RBAW is supporting legislative and budget requests by DNR related to the Derelict Vessel Removal Program. The two key portions of the DNR request are: 1) \$5+ million in 2021-23 Capital Budget funds to address a backlog of vessels needing to be removed off state waters; and 2) authorizing legislation and funding – enacted by the 2020 Legislature but subsequently vetoed by Governor Inslee to free up emergency COVID-19 funding – to work on a pilot project to evaluate ways to recycle vessels and vessel parts. RBAW supports these items, but we have asked for a much fuller effort on how to financially sustain the DVRP in coming years. We will be meeting further with DNR on this issue in January.

**Andrews Bay Issue – Several Clubs Combine on a Letter to City Councilmember Tammy Morales:** I have shared in prior monthly reports that some citizens in the Seward Park neighborhood seek to ban all boaters from Andrews Bay (*near Seward Park and across from Mercer Island in the South Seattle area of Lake Washington*). That request was triggered by concerns over excessive noise and rowdiness by some boaters. We intervened, along with our colleagues at NMTA, to pursue a more thoughtful series of corrective actions that could be taken to regulate misbehavior by a handful and keep Andrews Bay open to the vast number of boaters who respect and enjoy this jewel of an area. I want to thank VP of Administration Andrea Pierantozzi, Board Member Jill Larson and many of our Yacht Club Delegates for

coordinating a letter from nine area clubs to Seattle City Councilmember Tammy Morales, further reinforcing the theme of a) being salutations-oriented; and b) *not* closing Andrews Bay off entirely to boaters. Click [HERE](#) for a copy of the letter.

**Efforts with National Marine Fisheries Service (NMFS) on federal permitting for marina upgrades – federal/ESA lobbying firm brought on board:** In December, we joined our colleagues with the Northwest Marine Trade association (NMTA), the Tacoma-based firm of Marine Floats, Ports, and others in working with the Thompson Consulting Group and its principal, Tim Thompson, to assist us on this issue. We seek Tim’s help in breaking through a multi-year logjam with the Northwest Marine Fisheries Service (NMFS) on some 39 marina upgrade projects throughout Puget Sound that remain on hold. Tim Thompson has been actively meeting with Congressional offices, NMFS and Army Corps of Engineers higher-ups, and others to see how we might be able to achieve a breakthrough and make progress. Stay tuned for updates as we learn more about where we stand.

**Supporting the Pacific Whale Watch Association with concern over Washington Department of Fish and Wildlife (WDFW) rules/restrictions on commercial whale watching – legislation likely in 2021:** I let our folks know that in November, RBAW and NMTA combined on a letter that reinforced concerns already expressed by the Pacific Whale Watch Association with respect to proposed WDFW rules on commercial whale watching. We expressed concern that the rules attempt to use Washington Administrative Codes (WACs) to go beyond well-thought-out and carefully negotiated provisions of **Second Substitute Senate Bill 5577 (2SSB 5577)** enacted by the 2019 Legislature. We also raised concerns that the rules fail to account for the ‘sentinel’ role that whale-watching vessels play in ensuring the safety of Southern Resident Killer Whales (Orcas). All that said, WDFW did ultimately enact a rule that puts significant restriction on commercial whale-watching vessels with respect to Southern Resident Killer Whales. We anticipate seeing a 2021 bill that would make some adjustments to the rulemaking.

**A “luxury tax” on yachts and airplanes to help fund transportation?** In early December we learned that some State Senators have assembled an “Evergreen package” of ideas to fund \$12+ billion worth of transportation system improvements in part through the establishment of a ‘luxury tax’ on yachts and airplanes. Beyond that, we lack details and information. Both RBAW and NMTA are seeking a meeting with State Senator Rebecca Saldana (D-Seattle/37<sup>th</sup> Dist.) to learn more. Our instincts tell us such a tax could be very problematic for the recreational boating sector, but Job #1 is to understand better what is being proposed and how it works. We will report back as we learn more.

**Clean Vessel Act Pump-Out Grants:** Washington State Parks has now published and circulated a grant application notice for Clean Vessel Act funding that is availability to assist those who provide pump out services. We will learn soon how many entities have applied and what we can do to assist on this front.