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April 20, 2010

US Army Corps of Engineers  
Regulatory Branch  
PO Box 3755  
Seattle, WA 98124-3755  
Attn: Pamela Sanguinetti

WA Department of Ecology  
SEA Program  
PO Box 47600  
Olympia, WA 98504-7600  
Attn: SEA Program, Federal Permit Coordinator

Regarding:

Reference Number: NWS-2010-258  
Name: Seattle Shellfish, LLC  
2101 4th Avenue East, Suite 201  
Olympia, Wa 98506

Dear Ms. Sanguinetti:

The Sierra Club appreciates the opportunity to submit the following comments on Seattle Shellfish's geoduck nursery project in Spencer Cove (NWS-2010-258):

### **Background**

Spencer Cove is a relatively undeveloped area which is fed by upland wetlands and streams flowing into the southern area. These delta areas; lagoons; and saltwater wetlands are all part of an integrated ecosystem unique in many ways. The significance of various components is acknowledged by the Washington Department of Fish and Wildlife (WDFW) and the Department of Natural Resources (DNR).

WDFW notes on its Priority Habitats and Species Map (printed March 12, 2009) two priority habitats immediately adjacent to the proposed nursery structure: a saltwater wetland and lagoon fed by a type "F" stream (per DNR's Forest Practices Application Review System). Upland wetlands are seen both on WDFW's map as well as county maps. WDFW also notes Case Inlet to the east as being a documented Herring Holding Area. Finally, the shoreline is noted as being Potential Surf Smelt/Sand Lance Spawning Areas. In short, this area is made up of a very dynamic set of critical resources which are adjacent to the proposed nursery system.

In addition this project area is made up of dynamic energy sources found in its exposure to the wind and currents. Winter storms from the southwest generate substantial waves which pass up Case Inlet and along the eastern shore of Harstine Island. When they encounter the southerly tip of Spencer Cove, their action deposits significant sediment along the area WDFW has noted as being the salt water wetland. When summer winds from the north blow down Case Inlet into Spencer Cove the waves encounter deltas just north of the project area, moving additional sediment into the

area. Tidal flow both increases and decreases these waves. This balance of energies over the years has resulted in the very unique Priority Habitat areas adjacent to the project area.

Finally, Spencer Cove is a rural residential area with few homes, some used recreationally during the summer, others year round residents. Virtually all enjoy Spencer Cove for its benign nature.

For these reasons, the Sierra Club is very concerned about the proposed structure and the permanent adverse impacts it is likely to bring with it. It will transform Spencer Cove from a unique cove to just another industry "production" site. As explained in the following paragraphs, the 360' log boom, attached to 12 galvanized steel pilings by steel collars, with six 24'X40' rafts and moored boats will have a probable adverse impact to Spencer Cove.

## Comments

It should not be assumed that geoduck feedlot expansion and the need for additional seed is consistent with existing state and federal laws. There has been no science assessment or Environmental Impact Statement to date despite numerous requests. Major problems with intertidal geoduck feedlots include, but are not limited to:

- Substrate is modified and the natural character is completely changed in the most productive area of the Nearshore.
- Suitable sites preferred by industry are co-incident with forage fish spawning & rearing habitat.
- Essential vegetation is initially removed from the site and continues to be removed from the tubes and nets where it would ordinarily become attached to the natural marine debris in the area.
- Harvesting suppresses organisms that are essential to endangered salmon based on preliminary SeaGrant geoduck research recently released
- The approximately 40,000 non-marine grade PVC tubes utilized by industry are known to leech.
- Bivalves are known to consume fish eggs, shrimp and crab larvae.
- All native shellfish in the beaches are purged prior to planting or harvesting and virtually all aquatic native species except for salmon and whales are considered pests/predators and removed/destroyed at the discretion of this industry.
- The perceived increased economic benefit to the county or state by allowing intertidal geoduck aquaculture at the expense of the health of Puget Sound has not been substantiated. According to the information we have reviewed, few taxes are paid, little property tax is paid and few well-paying jobs are added. What the documentation does show is that the owner/operator is grossing over \$1,000,000 per acre based on the Taylor/Foss Pierce County hearings case and the Washington Shellfish Pierce County case while industry documents appear to show that over \$750,000 is netted per acre.

If alternatives for a seed source are a consideration, both the Lummi Tribe as well as Taylor Shellfish provides existing operations which have already been permitted and are approved.

Geoduck seed has been successfully grown on the uplands and public trust resources should not be used to enrich personal fortunes at the expense of our native species and the rights of citizens.

There is no need for the Spencer Cove structure.

Specific comments relating to the County SEPA findings include the following:

1. The log boom as constructed will re-direct the wave and tidal energy into the Lagoon and Salt Water Wetland. Erosion from this re-directed energy will have an adverse impact on the wetland which was not considered. In addition, the potential for shoreline erosion of Surf Smelt and Sand Lance habitat will be impacted.
2. The raft structures extend 70" (6') below waterline. These underwater structures are a barrier which will re-direct tidal energies, both onto the shoreline as well as increase flow underneath the structures, scouring the sand beneath them.
3. The structures are described as being at the -7 to -13 (MLLW) tidal levels (p.8 Environ<sup>1</sup>). If there is a minus tide greater than -1 this will begin placing the structures onto the sediments of Spencer Cove, scouring the sediments (the 6' structure below the rafts). When elevated above the sediments the increase energy from accelerated tidal flow due to the blocking will also disrupt the sediments. Finally, wave action will also create hydraulic pressures beneath the structures preventing growth to take hold.
4. Related to point 3, the structures beneath the rafts will also act as a block to any migrating species of fish, whether Pacific Herring or Salmon.
5. Also related to point 3, it is noted the rafts/log booms will be 15' from the oyster tract boundary. Recorded surveys from the area either excluded this portion of the tidelands (Manke) or noted upland area monuments as being in a slide area and not where they should be and did not include the tideland boundary (Harstine Island Association and Toebbe Clam Farm). As Taylor Shellfish has noted many times, oyster tract boundaries are notoriously inaccurate. Flexibility to move the structure waterward or into deeper water cannot be known without an accurate survey.
6. As described, the log booms will be attached to the galvanized steel pilings with metal collars. No damping material is noted which will result in the resonating of tubes as the logs rise and fall in the waves. These sounds will adversely impact both the residential area as well as wildlife above and below the water.
7. Environ<sup>2</sup> describes the blocking of light from these structures as having little impact. This structure is 360' of a double log boom with six 24'by40' rafts/underwater extensions. This area covered takes up far more surface area than any dock and adds to it the underwater structures which will also block light. How enough light is able to pass through the structures as presented is impossible to determine. The galvanized steel tubes will only add to the blocking of light, redirecting little into the shade. While the percentage of space this structure takes up in relation to Spencer Cove overall is small, and even smaller if you want to compare it to all of Puget Sound, the fact is this structure blocks a substantial amount of light which will have an adverse impact on this subtidal area.
8. Environ<sup>3</sup> describes the separation of seed from sediment as using local water and a pump with a screen to catch the geoduck. How this will not result in a discharge of sediments into Spencer Cove is not detailed. We do not see any reference to impacts on water quality and Ecology's certification under the Clean Water Act.
9. It is stated this structure will have little impact on navigation. Recreational users will always seek calm waters. In any south wind Spencer Cove presents a prime location for calm waters. This structure will be an impact on anyone who has sought out these calm waters

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<sup>1</sup> ENVIRON International Corp., *Informal ESA Consultation for Impacts to Aquatic and Terrestrial Listed Species and Designated/Proposed Critical Habitat from a Proposed Floating Geoduck Seed Nursery System in Mason County*, Washington, Project No. 3023902A, March 3, 2010.

<sup>2</sup> *ibid.*

<sup>3</sup> *ibid.*

and will result in the restriction of recreation and navigation, both citizen rights under the Public Trust Doctrine.

10. The associated activities with this structure include mooring of boats. There is nothing to prevent this from becoming a small marina for Seattle Shellfish to use for its fleet of boats and barges.
11. The Environ report<sup>4</sup> on page 16 lacks an accurate description of what is present, noting that it will be provided as Appendix D. This was not included in the public notice information and is presumably still not submitted. Its significance in making decisions cannot be understated. Without knowing what the subtidal habitat is, how can a decision of what impacts will occur be made?

While we also appreciate that the swimming pools which had degraded Spencer Cove's sediments have been removed, we feel this project is not consistent with several state laws. One of the major objectives of the Shoreline Master Program update is to preserve and restore the natural character of Puget Sound. The continued expansion in the intertidal/Nearshore areas coupled with the recent attempts to also establish industrial operations in the subtidal are not consistent with the stated "no net loss" goals. At this time, the impacts of this project have not been adequately assessed and there is no mention of the cumulative impacts of additional expansion which is a SEPA requirement. We have attached a map produced for the Army Corp of Engineers that shows the aggressive expansion of industrial aquaculture in this county. It is also unclear why The Department of Natural Resources did not provide comments as it appears that this project is subject to their review. A scientific assessment should be required prior to further industrial aquaculture activities being approved, including this project.

In the permit application, it is stated that "The project area is an existing commercial shellfish operation. Seed rafts moored to buoys have previously been used seasonally within the project area." We have searched and find no permits that allow such rafts to be moored in Spencer Cove. We do not believe that any non-permitted activities should be allowed to be used in any way to "grandfather" this activity.

This project should require a consultation with NMFS and USF&W pursuant to Section 7 of the Endangered Species Act as this area is an excellent example of a cove with relatively undisturbed fish habitat.

We request a public hearing as this is a significant structure in a small cove that will alter the use of the public waters by visitors and adjacent citizens. This project utilizes a considerable amount of the water column in this area. Please feel free to contact us with any comments or questions.

Sincerely,

Laura Hendricks, Chair  
Shorelines and Aquaculture Sub-committee  
Sierra Club, Cascade Chapter  
(253) 509-4987

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<sup>4</sup> *ibid.*