Willapa-Grays Harbor Oyster Growers Association
P.O. Box 3 Ocean Park, WA 98640

Thank you for the opportunity to submit public comments to the shellfish Aquaculture Regulatory Committee and to the Washington State Department of Ecology. I am writing on behalf of the Willapa/Grays Harbor Oyster Growers Association (WGHOGA) to express our support for the designation and protection of shellfish growing areas as resource lands of long-term commercial significance. I am the current President of WGHOGA, a manager for Coast Seafoods Company, and a second generation shellfish farmer from South Bend, Washington.

We understand that Dave Anderson from CTED came to the August 11, 2008 SARC meeting to discuss CTED's proposed changes to its guidance under the Growth Management Act ("GMA") to clarify that local governments can designate shellfish growing areas as agricultural lands of long-term commercial significance under GMA. I understand that some opponents of geoduck farming have expressed skepticism about that designation. I have prepared this letter to express WGHOGA's strong support for designating shellfish growing area as GMA aquaculture resource lands.

Shellfish farmers have been growing shellfish in Washington State in marine waters and tidelands for over 150 years. The first agricultural products exported from Washington State were oysters. Washington is now the largest domestic producer of farmed oysters, with a current annual production of approximately 88 million pounds of oysters, clams, mussels, and geoduck, at a farm-gate value of $97 million.

Historically, shellfish farmers enjoyed good water quality in their growing areas and positive relationships with their residential neighbors. However, as more people moved into the State's marine shoreline areas, and property values increased, shellfish growing areas experienced water quality downgrades. Oftentimes the new neighbors moving into shellfish growing areas are less accepting of shellfish farms than their predecessors. In addition, as historic shellfish farming areas have become polluted and culture practices have evolved to include new practices and species, shellfish farms have moved into new areas. These changes have led to an increase in conflicts between shellfish farms and some residential property owners in the vicinity of those farms. These conflicts affect all shellfish growers, not just geoduck growers, and are an issue of state-wide concern to the industry as a whole.

The use conflicts that shellfish farmers face are similar in some respects to the use conflicts that terrestrial farmers and foresters have experienced in recent decades as more people have moved into areas historically used for farming and forestry. One of the primary goals of the Growth Management Act is to protect the state's valuable resource lands against the threats posed by suburban residential sprawl. To that end, GMA requires that counties designate and protect long-term, commercially significant resource

lands. By designating shellfish growing areas as GMA resource lands of long-term, commercial significance, the right to continue farming shellfish would gain critical protection.

WGHOGA supports CTED's adoption of criteria for protecting commercially significant shellfish growing areas as agricultural lands under the GMA. We believe such criteria will help ensure that the State of Washingotn maintains a vibrant shellfish industry, and the clean water necessary for such an industry, long into the future.

To: John Dohrmann

From: Jules Michel

Date: September 28, 2008

RE: Conditioned Comments on SARC Guidelines

SARC has made great progress towards providing information to the Department of Ecology needed to create "appropriate guidelines" for counties to use in deciding how to regulate Geoduck farming. However, the impacts to the tideland ecosystems are real and the long term results are unknown.

As detailed in my February 8 memo, it was to better understand how the ecosystem of Puget Sound is impacted by geoduck farming and associated tideland activities, in order for the committee to provide input to the permit process and "appropriate guidelines for geoduck aquaculture operations." (Section 4 of HB2220). It was for this reason that HB2220 was passed and it is the charter of the committee to provide input to the Department of Ecology based on sound information with the goal of "no net loss" being prioritized.

At this point in time the objective information needed in order to fulfill the committee's goal does not exist. Fundamental baseline information on tideland acreage; various types of tidelands; the roles that these various tidelands play in the species dependent on them; and, in turn, other species dependent on those species does not exist. Without that information there is no place for "Best Management Practices" as there is no baseline information to determine whether BMP is achieving the goal of "no net loss." Further, it is premature to assume that current tideland impacts, whether intertidal or subtidal, resulting from Geoduck farming should continue as they do.

For this very fundamental reason I am conditioning comments made by saying it is premature for the committee to submit any final recommendations until the information needed is provided. SeaGrant has begun an objective study to determine impacts. Interagency coordination is beginning to set up an information base on tidelands. Focus is being brought to how many shellfish farms exist. But none of these are complete.

Until this is completed, the committee's advice to DOE should be to first complete these tasks,

then, based on that information, provide input. Until that input can be based on objective and sound information, DOE's advice to the counties should be to not allow new farms, and, in fact, after existing farm plots are harvested, consider whether a new planting cycle should be allowed.

As I have said, great progress is being made towards the creation of a regulatory environment which addresses the very real need for tideland ecosystem protection. The current suggestions for guidelines are a start, but should only be considered with the understanding that until objective information is obtained, the fundamental guideline to the counties should be to not allow additional farms to go in place, and consider suggesting that existing farms stop activity after their harvest.

ec Perry Lund, Candice Holcombe

Options for Intertidal and Subtidal Geoduck Aquaculture Guidelines

(Based on the PowerPoint presentation at the September 8, 2008 meeting of the Shellfish Aquaculture Regulatory Committee.)

At the September 8th meeting, the Shellfish Aquaculture Regulatory Committee discussed the options outlined in the first 15 slides of the PowerPoint presentation. M**embers agreed to review and comment on the remainder of the presentation so the October meeting can focus on the issues with the most interest and the least agreement.**

To assist the members in commenting, this document has been converted from PowerPoint into Word format, with some added introductory information on the various options that would have been provided orally at the meeting. This document begins with Slide 9 of the presentation. None of the words from the slides have been changed, even though the Committee agreed to changes on slides through 15.

How to Comment

After each list set of "Guidelines options" below you will see a prompt in bold font and gray shading. For example:

> **"Do you think we should drop this issue, modify this issue, pick one of the listed options, or pick a new option?"**

These are the places we request your response. Committee members may choose to put their comments in this document but are, of course, free to provide comments in any form they wish.

Comments are due on Monday, September 29th

Please email comments to John Dohrmann jdoh461@ecy.wa.gov and cc: Candice Holcombe chol461@ecy.wa.gov.

SLIDE 9 shows how staff have organized the possible requirements for siting and operation of Geoduck Aquaculture projects and notes that siting was addressed at the August meeting.

Section II -- Requirements for Geoduck Aquaculture

- Siting (August SARC)
- Preparation of Seed
- Planting
- Predator exclusion devices
- Harvest
- Operations

SLIDE 10 lists the four issues Ecology staff have suggested under the heading of Preparation of Seed. This heading is intended to cover all of the steps related to the selection of seed and holding seed before planting.

Preparation of Seed

- Geoduck stock selection
- WDFW requirements for preventing disease and parasites
- Floating or Upland holding pools or facilities (holding seed before planting)
- Holding pools placed on the intertidal substrate

Slide 11 covers guidelines options for two issues. First, there is concern that the geoducks planted in an aquaculture operation will become mature and spawn before they are harvested. If they are genetically different from the local wild geoducks then offspring from the planted geoducks or cross-breeding of wild and cultured geoducks may reduce the ecological health of the wild populations. Further research is needed on this issue. It was noted at the meeting that WDFW doesn't have a program to approve the genetics of shellfish seed.

The second concern is that if cultured geoduck seed carry parasites or diseases, these may be released into the wild population. The Washington Department of Fish and Wildlife has authority to determine whether seed pose a threat from diseases or parasites but has no authority or program dealing with the genetics of geoduck stocks.

Preparation of Seed

- **A. Requirements for geoduck stock selection for planting—relationship to local populations**
    - Guideline options
        1. *General statement*
        2. *Defer to WDFW*
        3. *Criteria*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" General statement on importance of diversity with specifics deferred to WDFW, assuring "parental stock" comes from local area and includes substantial number of male/female, rotated out after 2 years.

- **B. Requirements for WDFW certification of Seed—diseases and parasites**
    - Guideline options
        4. *General statement*
        5. *Defer to WDFW*
        6. *Criteria*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" General statement on the importance of seed not carrying disease with inspection of hatcheries and seed the responsibility of WDFW.

Slide 12 addresses the use of wading pools or other facilities to hold geoduck seed between when they are received from the hatchery and when they are planted. Because placing plastic wading pools filled with sand on the intertidal substrate has different effects on the ecological functions of the intertidal than do upland or floating facilities, we separated the two options. During the meeting we learned from representatives of the industry that holding pools are only used at a limited number of nursery operations, not every geoduck aquaculture site.

Preparation of Seed

- **C. Floating or upland holding pools or facilities**
    - Guideline options
        7. *General statement*

8. *Requirements for mooring permits*
9. *Upland setback requirements*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?". Require upland activities not occur in ecologically sensitive areas (e.g., wetlands; nesting areas; forage fish spawning ground) and, if near require a buffer area. Require buffer area from adjacent property owner. Require any floating barges/facilities obtain permits if in place for more than one week.

- **D. Holding pools placed on the substrate**
  - Guidelines options
    10. *General statement*
    11. *Prohibition*
    12. *Duration limits*
    13. *Limits on area covered*
    14. *Aesthetic requirements*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Prohibit placement onto tideland substrate by requiring elevation of at least one foot to allow for water flow under pools. Do not allow in riverine areas (i.e., delta) of fish bearing streams or in areas of known forage fish spawning areas. Bar activities during spawning of forage fish.

Slide 13 lists the six issues related to planting geoducks. The first two deal with where on a parcel geoducks may be planted. The next two deal with how the site is prepared before planting. The final two address the density of planting and timing of planting.

Planting

- **Selecting** the area of the site to be planted
- A. Setbacks from sensitive habitat elements (kelp, eelgrass, other habitat features)
- B. Setbacks, location on property/site
- **Preparing** site for planting
- C. Pre-planting alterations to the site, rocks clearing, grading, etc.
- D. Pre-planting harvest of wild shellfish
- **Other**
- E. Planting density

- F. Timing of planting

Slide 14 addresses having setbacks or buffers between the property lines of the aquaculture site and either habitat features or adjacent land uses. The committee discussed using the term buffers instead of setbacks for these issues.

Planting

- **A. Setbacks from sensitive habitat elements (kelp, eelgrass, etc.)**
  - Note also addressed as a siting issue
  - Guidelines Options
    15. *General statement*
    16. *Specific distances from habitat types*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Require setbacks from aquatic vegetation and from riverine (delta) areas of known fish bearing streams.

B. Setbacks, location on property/site

- Guideline options
    17. *General statement*
    18. *Generic setbacks*
    19. *Setbacks based on adjacent use*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Require specific setbacks from adjacent property owners unless aquaculture activity is currently in place or being permitted to go in place.

Slide 15 has two issues related to how the site is prepared before planting of geoducks. The first issue is the degree to which the site can be excavated or re-graded and rocks or logs removed. The second issue is whether the grower should be encouraged or required to harvest shellfish from the site before planting. The committee agreed that the second issue should refer to "Respecting Tribal shellfish rights."

Planting

- **C. Limitations on pre-planting alterations to the site, rock clearing, grading, etc.**
  - Guidelines options
    20. *General statement*
    21. *Specific limits on depth of excavation*
    22. *Specific limits on types of equipment.*
    23. *Require that rocks with algae or holdfasts be moved to the side of tubes*
    24. *Minimize removal of rocks*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" No alterations to the natural tideland allowed - tubes placed between obstacles unless they are of a non-permanent type (e.g., waterlogged timber may be moved; rocks may not). No tractors allowed in tideland areas unless within a pre-existing easement.

- **D. Requirement for pre-planting harvest (Consider Tribal shellfish rights)**
  - Guideline options
    25. *General Statement*
    26. *Require agreements with appropriate tribes*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Require proof of tribal notification and decision, but leave tribal decisions to them.

Slide 16 presents the issues of how many geoducks should be planted per square foot and whether there should be standards for when planting occurs. The more densely tubes and geoducks are planted, the more concentrated are environmental effects, including phytoplankton uptake, release of feces and pseudofeces and the ability of wild animals to use the habitat between tubes

Since planting involves fairly intense on-site activity, it could be scheduled to avoid times when forage fish or juvenile salmon are especially active at the site. Note that the general issue of whether workers should be on aquaculture sites at night or on holidays or weekends is address as an operational issue. This slide focuses on the possibility of ecological effects.

Planting

- **E. Standards for planting density (covers tube density)**

- Guidelines options
    27. *General statement*
    28. *Generic density limit*
    29. *Basis for site-specific limit?*
    30. *Different for subtidal?*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Limit density based on carrying capacity, determined by objective party such as SeaGrant. Subtidal densities should be based on sample densities taken from tracts within one mile.

- **F. Timing of planting to minimize fish and wildlife effects**
    - Guidelines options
        31. *General statement*
        32. *In identified forage fish spawning areas, avoid planting during periods of spawning and incubation*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" No planting activities near forage fish spawning areas during spawning periods nor near riverine delta areas during periods of migration upstream/downstream of salmon/cutthroat or other such species. If it's determined that such activities inhibit spawning activities do not allow.

Slide 17 introduces the topic of predator exclusion devices and lists the two issues addressed in the next two slides. Excluding natural predators of geoducks while they are small is a key element that makes geoduck aquaculture viable. Tubes and nets are currently used but new methods may be developed. The slide notes that litter and debris issues associated with these devices are addressed in the operations section. The use of pesticides was mentioned at the September Committee meeting. This is addressed in the operations section as "N. Pollution Prevention."

Predator Exclusion Devices

- Tubes, Nets, Tunnels, Future Designs
- A. Aesthetics
- B. Coverage and Duration

Note: Debris is covered under Operations.

Slide 18 addresses the visual aesthetics of predator exclusion devices. Guidelines options were taken from the notes of past Committee meetings.

Predator Exclusion Devices

- **A. Aesthetics of materials used on site**
  - Guidelines options
    33. *General statement*
    34. *Because planting tubes are least visible if they are not white, require tubes to be a muted color (not white).*
    35. *Require growers to use the best available tubes and nets that minimize visual impacts. Require a permit condition that specifies how growers will demonstrate this.*
    36. *Place tubes in straight rows or rectangular blocks*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **Do not allow tubes.**

Slide 19 addresses the ecological effects of predator exclusion devices. Guidelines options were taken from the notes of past Committee meetings.

Predator Exclusion Devices

- **B. Restrictions on predator exclusion devices coverage and duration**
  - Guidelines options
    37. *General statement*
    38. *Growers should remove tubes and nets as soon as they are no longer needed for predator exclusion. Specify how long tubes can be in the ground.*
    39. *Standards should be established for net sizes. Possible recommendation: Require permit conditions related to net sizes. (note bird interactions)*
    40. *Limit portion (percent) of the site covered at any time.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **Set standards for net placement, length of time in place, timing, and area, based on nesting of nearby species and local ecosystem.**

Slide 20 presents options related to the harvesting of the mature geoducks. Current practice is to use water jets to soften the sediments and allow the geoducks to be removed. This is done at low tide so divers are not required. Ideas for guidelines were taken from DNR documents as well as past Committee meetings. At the September meeting buffers were suggested as an option to limit silt reaching neighboring properties.

Harvest

- **A. Aesthetic and environmental effect of water jets (future methods?)**
  - Guidelines Options
    41. *General Statement*
    42. *Standards for water pump design, operation, intakes, pressure*
    43. *Turbidity management during harvest*
    44. *Limit on frequency of harvest (X years?)*
    45. *Limits on noise, if there are no general noise restrictions*
    46. *In identified forage fish spawning areas, avoid harvest during periods of spawning and incubation.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Should defer decisions until SeaGrant study is completed for new locations. Noise restrictions should take into account sound travelling across water carries further. No harvesting during spawning of forage fish and migration of salmon.

Slides 21 and 22 list the issues that have been collected under the heading of Operations because they apply throughout the life of the aquaculture option. A number of them are not unique to geoduck aquaculture or even shellfish aquaculture and the guidelines may suggest that local jurisdictions address them through general provisions rather than in a geoduck aquaculture program.

Operations

A. Notifications to tribes
B. Notifications to adjacent property owners
C. Property marking
D. Public access
E. Access to site
F. Staging of materials and equipment, parking
G. Vessel access and mooring
H. Lights

I. Noise

- J. Hours of operation
- K. Debris and litter
- L. Site management
- M. Spill prevention
- N. Other pollution prevention
- O. Equipment maintenance
- P. Recordkeeping, reporting
- Q. Monitoring and adaptive management

Slide 23 addresses when a geoduck aquaculture operation should provide notifications to Tribal Governments. Notifications during the project approval process are listed later.

Operations

- **A. Notifying Tribes of operations**
  - Guidelines Options
    47. *General statement*
    48. *Growers should provide notice to appropriate tribal governments before taking actions of interest to the tribes.*
    49. *Specific list of actions needing notice to Tribes*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **Tribal decision.**

Slide 24 deals with when a geoduck aquaculture operation should notify nearby property owners of operations. Again, notice during the local jurisdiction's approval process is addressed as part of the approval system. The guidelines options were pulled from past Committee meetings. The question marks in option 4 are a request for clarification of how "nearby" might be defined. This is also an issue where a local government may have existing standards requiring notice to neighbors before construction or other practices that could be applied to aquaculture.

Operations

- **B. Notifying Shoreline Owners of operations**
  - Guidelines Options
    50. *General statement*
    51. *Growers should provide advance notification to adjacent shoreline owners within a defined radius to explain when operations are going to occur and what noise can be*

expected.

52. *Explain duration of the work, and where to call with complaints*
53. *Notify nearby shoreline properties five days before harvest (within 300', three parcels either side, ???) or for planting or harvest.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Notification in advance to property owners that harvesting will occur.

Slide 25 lists options related to marking the boundaries of geoduck aquaculture sites. The issue of an accurate survey of property lines is addressed later as part of an approval process. Options were taken from past Committee meetings. Options 2 and 3 are not very clear and clarifications would be appreciated by members who might support those options.

Operations

- **C. Site boundary marking or identification**
  - Guidelines options
    54. *General statement*
    55. *Use casenite (??) markers*
    56. *Flexibility when property owners(?) and grower agree*
    57. *Identify hazard area for boaters*
    58. *Decide if markers are for life of project or not*
    59. *Use durable materials, avoid rebar*
    60. *Consider aesthetic issues and wildlife safety*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Permanent markers used to show where operation will occur. Upland point of reference should be put in place if tideland markers are at risk of not being found after years have passed. Item 3 not a good idea due to property owners changing and new property owners.

Slide 26 reflects the issue of whether public access should be allowed on public or private tidelands used for geoduck aquaculture.

Operations

- **D. Allowing public use/access of growing sites**

- Guidelines options
    61. *General statement*
    62. *Growers should be encouraged to allow public access to private tidelands.*
    63. *Growers leasing state aquatic tidelands should allow public access.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Public Trust Doctrine requires access on oyster tracts and public land.

Slide 27 addresses water and land access to a geoduck aquaculture site. Options were taken from past Committee meetings.

Operations

- **Requirements for worker and equipment access to work on site**
- Guidelines Options
    64. *General statement*
    65. *Paths to geoduck growing tracts that cross private land need specific standards to avoid trespass, added noise and litter, or damage to property.*
    66. *Growers who abuse or damage private roads should be responsible for repairs and the road owners should feel free to deny future use of their road.*
    67. *Access across private lands or using private roads only with prior approval by the owner.*
    68. *Limit operations to avoid harm to established eelgrass beds or known forage fish spawning areas.*
    69. *Vessel operations should avoid propeller wash striking eelgrass or other attached vegetation.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" If access is from upland properties, after notification and approval of adjacent property owners, an easement document should be filed with the county. Upland access should only be allowed in a narrow corridor and not during spawning of forage fish. If access is from the water, boats must not use adjacent private property without permission. If water access requires state lands, a lease for that use must be obtained.

Slide 28 presents two more issues related to access to the aquaculture site. One is parking and staging materials on land and the other deals with vessels. Options come from past Committee meetings.

Operations

- **F. Limits on landside parking and on-shore staging areas, require that they be above OHW**
  - Guidelines Options
    70. *General statement*
    71. *Growers should have to use designated staging and parking areas to minimize the footprint of impact.*
    72. *Staging and Parking should be located above OHW.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Any staging areas must be above OHW; not hinder access nor deprive property owners of parking; and not be allowed without permission/notification of adjacent owners.

- **G. Limits on barge and vessel mooring—number, location, duration.**
  - Guidelines options
    73. *General statement*
    74. *Geoduck vessels should have defined limits for how long they can be moored at a site.*
    75. *No mooring in less than 18' mllw over submerged vegetation*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Any vessels associated with activities cannot be anchored on state or private tidelands without permission. Barges cannot be anchored for more than three days in any consecutive 30 day period. Any commercial vessel/barge must be marked with navigation lights.

Slide 29 has options to address effects from lights used during night operations.

Operations

- **H. Restrictions on lights**
  - Guidelines Options
    76. *General statement*
    77. *Standards should be established for flood lights, head lamps, and other lighting used for geoduck operations.*
    78. *Growers should use light shields, head lamps, and lighting devices that can be directed downward to minimize impacts.*

79. *Local jurisdiction should have a general program limiting impacts from lights in residential areas.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Night time harvesting activity should not be allowed. Dive harvesting during the day, when low tides are at night, is a viable alternative.

Slide 30 lists options for addressing noise and effects on neighbors.

Operations

- **I. Restrictions on noise**
  - Guidelines Options
    80. *General statement*
    81. *Noise standards should be established for geoduck operations, with emphasis on equipment and workers. Standards might include locational standards.*
    82. *Committee should look at noise situations that are comparable, and see what we can learn from those situations.*
    83. *State noise standards offer a starting point for discussing noise standards for geoduck operations. Standards may vary depending on whether the area is residential, commercial, or another zone. The current residential noise standard is 55 dBA at 200 yards.*
    84. *Growers should monitor their noise levels and report noise levels.*
    85. *Local jurisdiction should have a general program limiting impacts from lights in residential areas.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" No night time harvesting activity. Noise standards need to be expanded as any noise travels a much further distance over water. Growers should provide noise monitoring equipment to adjacent property owners if requested.

Slide 31 considers restrictions for when work occurs at a geoduck aquaculture site.

Operations

- **J. Limits on work on-site (time of day, frequency, weekends)**
  - Guidelines Options
    86. *General statement*

87. *Growers should sit down with adjacent shoreline property owners and seek solutions that meet the growers' desire to harvest at certain times and the shoreline homeowners' desire to limit disruptive aquaculture operations.*
88. *On a case-by-case basis, permits could limit hours of operation.*
89. *Criteria should be identified that would trigger a limit operational hours. Evaluation criteria might link to noise levels, light levels, debris volumes, distance from residences, and public access.*
90. *In identified forage fish spawning areas, avoid on-site operations during periods of spawning and incubation*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" No night time harvesting activities. Day time harvesting should be limited to weekday hours between 8AM and 8PM unless all property owners within a certain distance (at least 1,000') agree to weekend or earlier hour operation.

Slide 32 lists options related to debris and litter management.

Operations

- **K. Requirements for debris management, including patrolling adjacent shorelines.**
  - Guidelines Options
    91. *General statement*
    92. *Growers should be required to use and maintain equipment and devices so that they do not break free and drift or move away from the site to become litter.*
    93. *Growers should label, brand, or mark their tubes and nets so debris problems can be solved at the source.*
    94. *Establish a standard for reducing, managing, and penalizing net, tube, and fastener litter and debris.*
    95. *Because rubber bands in the environment are a concern, require alternatives to rubber bands or require growers to use attachments that do not easily break and become litter.*
    96. *Growers should recover all litter or debris.*
    97. *Standards should not prevent innovation and better ways to eliminate and reduce litter or debris. Standards should describe the required "performance" or outcome (some call this a "performance standard").*
    98. *Local governments should be a "clearinghouse" for litter reporting that includes alerts to growers of the specific location of litter that has been seen.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **A performance bond should be required. All equipment should be permanently marked to determine ownership.**

Slide 33 lists options related to maintaining the geoduck aquaculture site and training workers.

Operations

- **L. Requirements for site maintenance, worker training**
  - Guidelines Options
    - *99. General statement*
    - *100. Bundle materials for later pick-up and to prevent small items from leaving site.*
    - *101. Have a sanitation BMP appropriate to the scale of the operation.*
    - *102. Remove unneeded materials from the beach as soon as possible.*
    - *103. Train workers about importance of taking care of the nearshore environment while working.*
    - *104. Other employee training requirements.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **No storage of items for longer than 24 hours; no storage within shoreline buffer areas; require sanitation and garbage disposal facilities; no dogs; education of expectations required.**

Slide 34 addresses pollution from geoduck aquaculture options, including preventing spills of fuel and oil and preventing other types of pollution. Use of pesticides is addressed here under water pollution.

Operations

- **M. Spill prevention and response requirements**
  - Guidelines options
    - *105. General statement*
    - *106. Require spill prevention and response plan*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **Performance bond to address spills; no fuel stored on barges or pump stations;**

require spill/response plan which includes a central number and guaranteed response time after notification.

- **N. Air, water and sediment pollution**
  - Guidelines options
    - *107. General language*
    - *108. Specific requirements*
    - *109. Prohibition of spraying of pesticides and herbicides*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **No pesticides. Any engines must be maintained and certified annually to prevent smoke and noise; harvesting should not occur during heavy wave periods.**

Slide 35 deals with equipment maintenance. Some aspects might be covered under a spill prevention plan under issue M above.

Operations

- **O. Equipment maintenance**
  - Guidelines options
    - *110. General statement*
    - *111. Specific requirements to maintain equipment to prevent air or water pollution or excessive noise.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" **Requires annual maintenance and certification of any engine used in this activity.**

Slide 36 lists options for local jurisdictions to require geoduck aquaculture operations to keep records and make reports to the local jurisdiction.

Operations

- **P. Required recordkeeping and reporting**
  - Guidelines Options

112. *General Statement*
113. *Specific requirements*
    - *Planting events*
    - *Placing and removing predator exclusion devices*
    - *Harvesting*
    - *Site inspections, debris collection*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Include quantities of tubes/nets and geoducks planted and harvested.

Slide 37 lists options related to monitoring, performance measures and adaptive management.

Operations

- **Q. Monitoring, Performance Measures, Adaptive Management**
  - Guidelines Options
    114. *General Statement*
    115. *Specific performance measures, monitoring and process for taking corrective actions.*

"Do you think we should drop this issue, modify this issue, pick one of the listed options or pick a new option?" Adaptive management cannot occur without a known baseline. To date that information does not exist. Such things as total tideland acreage; how much is in production; interplay between small farm level ecosystem with Puget Sound as a whole have not been completed; and how scaling up from small to large sites will effect the overall ecosystem are not know. Until a well documented baseline of information is developed adaptive management should not be a consideration. After that time, monitoring by appropriate agencies can determine if there is a "no net loss" standard being met.

Slide 38 introduces the third major topic related to how local shoreline programs address geoduck aquaculture application and approval processes. The bullets on the slide attempt to list the characteristics you might want in an application and approval process. Some options are presented in

later slides. Note that the questions posed to the Committee for these slides are different than in the prior topic.

Section III--Required approvals and application process

- Elements of a local site-specific approval process:
  - Document local/state approval of a geoduck aquaculture operation under SMA
  - Provide for public and adjacent landowner notice
  - Allow for enforcement of local SMP requirements
  - Allow adaptive management
  - Ensure compliance with other required approvals
  - Provide for bonding

"Do you think these are the appropriate elements of a local application and approval process? Should elements be added or taken off this list?" Without a baseline set of information adaptive management cannot be allowed. Enforcement is a critical element and needs funding in order to assure violations are not repeated. The unique nature of Puget Sound must be addressed by Ecology as the Army Corps permitting process only looks at things on a national scale.

Slide 39 lists options for notification requirements during the application process.

Approval Process Notifications

- SARC discussed notification options:

116. *If no shoreline permit is required, then notification of exemption.*
117. *Initial responsibility for notification should be on local government.*
118. *Ongoing work/operations have different notification needs.*
119. *Fact sheet should list activities and timelines.*
120. *Clarify who initial notification should go to:*
    a. *Adjacent property owners*
    b. *Property owners within 300 feet*
121. *Record aquaculture permit so future landowners are aware*

"Is this list appropriate? Is something missing or are some of the number items unnecessary? Is more detail needed?" Notification must occur. Responsibility of notification should be the operator/government working together. Major phases each should require notification (pre-planting; planting; removal; harvesting). Property owner notification should be expanded beyond

300 feet to 1,000 feet as tidal influences expand the area of impact, as does sound carrying over water.

Slide 40 lists information that could be required during the application for local approval. These requirements may be in addition to the normal process for the local approval process.

Application

- Site information—ownership, boundaries, physical and biological characterization, surrounding uses, historic public access, etc.
- "Farm Plan", including information on seed, predator exclusion, access, planting and harvest cycle, types and duration of predator exclusion devices, etc.

"Do these statements cover the information appropriate to the application process? Is some of this unnecessary or is important information missing?" A survey of boundaries should be required, based on an upland point of reference which adjacent land owners agree to.

Slide 41 lists the approval options discussed in the following slides.

Approval Options

A. Shoreline Substantial Development Permit
B. Conditional Use Permit
C. Exemption statement
D. Enforcement on a complaint basis
E. Document other approvals
F. Posting a Bond

Slide 42 looks at the option of using a Shoreline Substantial Development Permit (SDP) as the local approval process. The slide notes that the Attorney General Opinion addressing this issue says that a SDP may not always be required.

Approval Options

- **A. Shoreline Substantial Development Permit**
  - Guidelines Options

122. *Call for SDPs in all cases*
123. *Case-by-case factors that trigger a SDP*

- Note that the AGO says it depends on site-specific conditions.

"When should Substantial Development Permits be required?" **Permit requirement for all case. AG point is only an opinion and not binding.**

Slide 43 considers the option of requiring conditional use permits for geoduck aquaculture. Under the Shoreline Management Act, conditional use permits must be approved by Ecology. The slide notes that the current Ecology guidelines say that development in critical saltwater habitat should be treated as a conditional use.

Approval Options

B. Conditional Use Permit

- Local jurisdictions are required to have a conditional use permit program
- Uses that are not subject to a substantial development permit may be required to get conditional use approvals in some environments or critical areas.

124. *Development in designated critical saltwater habitat is a conditional use—but Geoduck Aquaculture isn't always development*

"When should conditional use permits be required for geoduck aquaculture?" **Ecology should be involved any time a geoduck farm is proposed. If it takes a conditional use permit then it should be a requirement.**

Slide 44 considers the option of having local jurisdictions review and approve geoduck aquaculture operations by determining they are exempt from a Shoreline Substantial Development Permit. Uses of the shoreline have to be consistent with the requirements of the local shoreline master program regardless of whether a Substantial Development Permit is required. Some jurisdictions have procedures to issue an approval that a use is consistent with the local master program.

Approval Options

- **C. Approval as Exempt**
  - Guidelines Options

125. *Local jurisdiction issues a finding that a substantial development permit is not required and the use is consistent with the SMP provided the requirements in the*

SMP are followed.

126. *Local jurisdiction issues a finding that a permit is not required provided a list of site-specific requirements are met. Could include a specific duration for the approval.*

"Should this approach be used for geoduck aquaculture and, if so, how detailed should the approval be?" No, it should not be used. There is too much of a probability that local programs will not address the larger societal needs of protecting Puget Sound as a whole. All geoduck operations should require a permit.

Slide 45 addresses the situation where the local jurisdiction would not approve a geoduck aquaculture operation when it is established but would require the operation to comply with provisions of the local shoreline master program if the jurisdiction receives a complaint. This is how uses that don't require a SDP (or fail to apply for one) are often addressed now.

Approval Options

- **D. Enforcement on a compliant basis**
  - Guidelines Options

    127. *If a complaint is filed, the local jurisdiction contacts the grower to ensure that the Shoreline Master Program requirements are followed.*

"Should this approach be used for geoduck aquaculture?" Any time an existing geoduck operation begins a new planting phase a permitting process should be required. All new operations should require a permit. The permitting decision should not be based on someone filing a complaint against an existing operation.

Slide 46 is not a separate local approval process but addresses whether the local jurisdiction should require a geoduck aquaculture operation to obtain other legally required approvals and whether the grower should provide documentation to the local jurisdiction.

Approval Options

- **Require documentation of other approvals**
- Guideline options

    128. *General statement*

129. *Require grower to document and maintain certification by Health for shellfish sanitation*
130. *Require grower to document having a valid Corps permit*

"Should local jurisdictions require that growers have other required approvals and, if so, what documentation should be required? Are there other approvals that should be added to this list?"
The local permitting process should require proof/documentation that all other permitting requirements have been met..

Slide 47 covers the issue of whether local jurisdictions should require growers to post bonds.

Approval Options

- **Require the posting of a Bond**
- Guidelines Options
    131. *Legally define when and how bond is called.*
    132. *Define activities that would be covered under a bond.*
    133.
    134. *Note that State lands have specific leasing section that references bonds.*

"When should bonds be required?" **Absolutely.**

Slide 48 lists some other ways Ecology could amend the existing guidelines to better address geoduck aquaculture. Number 1, definitions, is something Ecology will need to address in the rule process. Number 2 was discussed by the Committee at prior meetings. The current guidelines don't call for local jurisdictions to make periodic reports. Item 3 is just another way to put conditions relating to predator exclusion devices and growing pools into the state guidelines. The existing section on shoreline modifications has detailed advice on things like docks and bulkheads.

IV--Other Guidelines Issues

- Ecology could consider other changes to the existing guidelines for local shoreline master programs related to geoduck aquaculture:
    135. *Definitions of terms related to aquaculture*
    136. *Requirements for local jurisdictions to maintain information on geoduck*

aquaculture, provide reports to the public covering locations, acreages, monitoring results, litter statistics, ??

137. *Adding predator exclusion devices and holding pools to the Shoreline Modifications section of the guidelines.*

"What recommendations should the Committee give to Ecology on these issues?" "Aquaculture activities" is too broad a definition and needs to be refined and clarified. The interpretation of an activity is too subjective (e.g., is channeling a stream bed to move fresh water from an operation an "allowable activity?" is placing cement barriers in the tideland an allowable activity? is a centralized sorting operation of oysters from other areas an "aquaculture activity"?). The state should gather information on locations, acreages, etc. from county information, but this information needs to be gathered in a systematic and consistent manner not open to subjective interpreation.

Other Comments: The passive aquaculture activities of the past have given way to a far different form of aquaculture. These current and evolving activities pose just as great, if not a greater, threat to Puget Sound's tideland ecosystems as upland development. It is critical that the Department of Ecology accept responsibility for assuring that a permitting process be developed by the local jurisdictions which provides a clear and consistent means through which this protection will occur.

The Army Corps is too large of an organization who reacts too slowly. DOH requirements do not consider site specific impacts from aquaculture, only whether the water passing by meets standards. WDFW, through the AG opinion is not allowed to permit the activities. Most counties to date have been unwilling to develop regulations covering tidelands. Until this changes, only DOE has any meaningful means to assure that the finite tidelands of Puget Sound will be protected at a meaningful level.

This is a meaningful and critical process which I am grateful to participate in, not only for myself, but for my children and theirs.

Pacific Coast
SHELLFISH GROWERS ASSOCIATION
Partners with Mother Nature

sustainably farmed
oysters, clams, mussels, scallops

September 29, 2008

Candice Holcombe
Department of Ecology
PO Box 47600
Olympia, WA 98504.

Dear Ms. Holcombe,

On behalf of the Pacific Coast Shellfish Growers Association ("PCSGA"), I would like to express my appreciation for the efforts of the Shellfish Aquaculture Regulatory Committee and the Washington State Department of Ecology over the past fifteen months to carry out the tasks set forth in SHB 2220.

PCSGA is a trade association that represents shellfish growers, including geoduck growers, throughout Washington State and the entire west coast. PCSGA's members, and shellfish growers generally, have been represented on SARC through two committee members: Diane Cooper of Taylor Shellfish Farms, Inc. is a grower representative for Puget Sound, and Nick Jambor of Ekone Oyster Co. is a grower representative for Washington's coast, including Willapa Bay and Grays Harbor. Ms. Cooper and Mr. Jambor have been keeping us apprised of SARC's activities and requesting input from PCSGA and its members as appropriate throughout the process. Through them, we are aware of the substantial time and energy spent by SARC participants to ensure that the objectives of SHB 2220 are carried out as intended.

We understand that SARC is currently developing recommendations to Ecology for new Shoreline Master Program guidelines for geoduck aquaculture siting and operations. This letter responds to Ecology's request for input on guidelines from members of the public, as well as from SARC members, on those guidelines.

As Ecology's guidelines recognize, the Washington State Legislature has declared aquaculture to be an activity of statewide interest and a preferred use of the shoreline. Properly managed, shellfish aquaculture can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Like other forms of farming, the technology associated with aquaculture, including particularly geoduck aquaculture, is subject to adaptations as new and improved technologies are developed. Local shoreline master programs should therefore recognize the necessity for some latitude in the development of this use. PCSGA supports additional guidelines that are consistent with this existing regulatory imperative.

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PCSGA further supports Ecology guidelines that promote a policy of no net loss of ecological functions. Shellfish growers are committed to ecologically sound farming practices and have served as stewards of the marine waters of Washington State for over a century. Their livelihoods depend on clean water and a healthy marine ecosystem. For this reason, PCSGA supports ongoing research that continues to provide growers with information and tools to best ensure that no net loss of ecological function is achieved. PCSGA has developed environmental codes of practice for geoduck farmers that are based on all the relevant science available on the benefits and effects of shellfish farming. We are currently developing a third-party certification system to provide further assurance that best practices are employed.

PCSGA requests that Ecology develop guidelines that are general enough to afford local governments discretion to tailor their regulations to local needs and circumstances, while ensuring consistency with the Shoreline Management Act. Local conditions, needs, and circumstances vary among jurisdictions, and among geoduck farms. Local governments have different priorities and visions for the shoreline areas they regulate, and have been granted the authority to set those priorities and visions within the statutory parameters in the Shoreline Management Act. General directives from Ecology will provide local governments with the guidance they need while maintaining local discretion to enact more specific use regulations tailored to local conditions.

It is our experience that each geoduck farmer faces their own unique set of challenges and conditions related to siting and farming practices, including proximity to adjacent land uses, water quality, tidal conditions, wind and wave action specific to each bay, ownership structure, and the presence or absence of eelgrass or other submerged aquatic vegetation. Ecology's guidelines should take these issues into account by allowing some amount of local flexibility.

It is imperative that Ecology's guidelines also contain sufficient latitude to allow local governments to respond to and foster the development and evolution of geoduck aquaculture, and to allow the industry to innovate, expand, and grow and respond to new technology and scientific information. Geoduck growers are continuing to develop growing methods to address new issues as they arise. As an Association, and as individual growers, we are continually striving to improve and develop geoduck aquaculture practices and techniques.

Thank you for the opportunity to submit these comments.

Sincerely,

Robin Downey

Robin Downey
Executive Director