

## Meeting Notes

### Shellfish Aquaculture Regulatory Committee

September 8, 2008

9:15 a.m. – 2:00 p.m.

Ecology Headquarters Auditorium

Lacey, Washington

**Members Present:** Blain Reeves, Ward Willits, Dave Risvold, Yongwen Gao, Jeff Dickison, Eric Hurlburt, Nick Jambor, Cyrilla Cook, Diane Cooper, Bryan Harrison, Rich Childers, Nick Jambor, Krystal Kyer, Sally Toteff, Bob Sizemore

**Ecology Staff:** Perry Lund, Jeanne Koenings, Tom Clingman

**Interested Agency Staff:** Rep. Pat Lantz, Adrienne Stuart (Leg. Asst.), Jessie DeLoach (DOH), Cathy Barker (DOH), Jessica Moore (Ecology), Alex Callender (Ecology)

**Other Interested Parties:** Paul Sparks (WA Council of Trout Unlimited); Linda King (Dutcher's Cove), Gary King (Dutcher's Cover), Evan Adams (Shellfish Grower), Keith Stavrum (Independent Shellfish Growers)

**Facilitator:** Annie Szvetecz, Department of Ecology

**Note taker:** Candice Holcombe, Department of Ecology

## Introductions

### Committee Business

(Perry Lund, Ecology)

- **Review Agenda –**
  - **No comments - Approved by consensus.**
- **Comments and approval of August meeting summary**
  - Cyrilla: Page 5, 7<sup>th</sup> bullet: should say “in 2003 Guidelines” (not 2006 Guidelines);
  - Remove Dave Risvold from new member list.
  - Ward: page 10: intended to say areas with higher density would be more likely to object to geoduck operations. Where we are, the lots are 5-10 acres.
  - **Candice will make corrections. Approved, with noted changes.**
- **Quick Announcements**
  - Rep. Lantz, present at meeting, thanks the committee for their work on these tasks and commends them for their perseverance.
  - Comment from Diane: Regarding follow-up items, some have still not been done, but they're not showing up on the agenda. I just want to make sure that we keep those on the list of things to do. (Response: These should appear in the “status of old action items” section of meeting notes.)

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### Discussion of Potential Guidelines Outline – Part II (John Dohrmann, Ecology)

- Note: Some of the slides that we didn't get to last month have been revised, mainly to better organize. See revised presentation on website under September meeting materials.

- Review of current Ecology Guidelines on aquaculture, SARC's legislative assignment, Ecology's legislative assignment.
- Sally: In alternatives for public review, what does that look like?
- John: A SARC recommendations report, beyond that we're not sure yet, but the idea would be to have possible Guidelines language written, with alternatives within a SEPA document that would compare various alternatives and shortcomings, and specifics on mitigation.
- Perry: The SEPA process is the vehicle we plan to use, and it will be an addendum to the original EIS framework for the Guidelines.
- Diane: So SEPA will be done at the second bullet (referring to slide).
- Annie: And SEPA will track the rulemaking throughout.
- John: The draft document in the second bullet ends up being the \_\_\_\_ for the Guidelines.
- Diane: When will you do a small business economic analysis?
- John: That is part of the process, at 2<sup>nd</sup> and 3<sup>rd</sup> bullet.
- Rep Lantz: What is the date that all jurisdictions are supposed to have updated SMPs?
- Answer: All by 2014, but different jurisdictions have different deadlines. For a complete timetable, see RCW 90.58.080 (Here is the link to the Code Reviser's Page: <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58.080>.)
- John: The staggered schedule allows other agencies and organizations to be more engaged. It would be impossible for them to engage in every SMP update at once.
- Perry: Keep in mind the Guidelines address aquaculture already. That's the basis we're working from. I believe the Legislature anticipated part of that because it says we are to go back and update the Guidelines as research comes in, and the Legislature also established that jurisdictions are required to reevaluate their updated SMPs every 7 years. Some may be done with their local process before Ecology is done with rulemaking; which means they'll need to update their SMP within 7 years to make sure it's consistent with new Guidelines. There will be some misalignment in the early stages, but we expect them to all come together eventually.
- John: I would expect that the SARC recommendations will be made available to locals once they are ready, so they can consult those if they're currently updating.
- Perry: Report to Leg due December 1.
- John: We got a suggestion from Dave Risvold to consider flipping the paradigm to identify areas geoduck aquaculture is NOT allowed, rather than where it may be allowed.
- Cyrilla: Last time the idea of a special overlay, couldn't find any guidance from Ecology on how you would do that – kept going to Special Area Management Plan under CMZ. If you go down that road, we'll need much more guidance. Is there a book about how to do special area planning, or would it be more like overlay zoning?
- John: Yes, current 2003 Guidelines say locals may choose to do special area planning as part of their SMP, but not much more. It gives local jurisdictions the ability to be creative.
- Cyrilla: Maybe SARC should talk about how Ecology will review if there are no Guidelines saying how to do it. How will Ecology approve and how will citizens weigh in? Usually you see that for economic development, that may not work here.
- John: Last time I laid out the alternatives of having \_\_\_\_\_ or idea of having critical area design or special area planning, talked about getting other planners to weigh in on pros

and cons; may be local jurisdiction specific, may have some subdivision of aquatic environments (some for marinas, ports, etc.) and could extend that tool to use for geoduck aquaculture. But a jurisdiction using only one aquatic designation may opt to use another tool. May need to outline pros and cons of each tool and locals can choose the one that will work best for them

- Cyrilla: I sent John a draft table of the pros and cons of each of the approaches John laid out for purposes of getting other planners to weigh in. I do think the special area planning model is a good one, but it is not often used in Washington.
- John: My impression is that it has to do with Washington already having SMA before other states. Today we'll move into possible operations components and possible approval process and application process, then some misc issues.
- Section II – Requirements for geoduck aquaculture
  - Siting (August SARC)
  - Prep of seed
  - Planting
  - Predator Exclusion
  - Harvest
  - Operations
  - The 4 highlighted are unique to geoduck aquaculture (to some extent)
  - Many operational issues are not at all unique to geoduck aquaculture. For example, noise.
- Yongwen: Geoduck harvest (e.g., timing, schedule) depends on market. For example, if geoduck product aims to Asia market like many companies currently do, the harvest policy will be different from that to local market.
- Diane: Our animals go straight to production storage – no inventory to speak of on the beach. We have to remove from beach immediately. They're not held in bags on beach like clams and oysters. Geoduck cannot close their shells and survive for some time.
- Diane: I think in the last meeting we talked about how guidelines were going to look – detailed technical appendix, or general guidelines allowing jurisdictions to get into the detail. I'm confused on where we are with this.
- John: There have been all these ideas floated over the last couple of years about restriction/standards to be applied to geoduck aquaculture (DNR BMPs, this committee, etc.). I've sort of roped everything in, and we're still working on it. How detailed does SARC want to make its recommendation to Ecology on how specific Ecology's guidelines should be? Currently the guidelines contain a range in level of detail. Could also be a less formal guidance book to go with the guidelines, with more general language in the guidelines themselves.
- Blain: How do you see this process proceeding – are you asking us to make a recommendation on these topics right now, or send in comments, etc?
- Perry: Either way, if you have ideas today, give them to us. Or you can submit them in writing. We see getting through the discussion – next month we will try to submit something that looks like a general compilation of everything we've come up with – Draft Guidelines – the following month we'll try to get agreement that that's how the group wants to carry forward. We can expect a range or variety of recommendations on certain topics and that's okay. If you have anything to tell us today about what you want, we'll make note of it. Or you can send them to us in the next few weeks

- John: One option is to say some of these topics do not belong in the guidelines.
- Yongwen: The language “geoduck stock selection” means we have more stocks, which is not supported by current scientific research. Instead, genetic studies indicate there is a unique geoduck stock in Puget Sound, with some genetic difference in samples from Freshwater Bay area (western Port Angeles). If this is the case, how can we select stocks? Similar concerns apply to geoduck seed selection. If I plan to culture geoducks in Neah Bay, I would like to have seeds from the broodstock of Freshwater Bay. For seed hatcheries, however, often they have to consider the economic value or potential customers to purchase their seeds. Therefore, I suggested having a general statement about genetic issues because we know little about geoduck stock and structure at present.
- Blain: I think it makes sense for us to focus on “is this the right outline” – given this outline. Then in next meetings, we can talk about whether these details are what you want to put with the outline, rather to jump straight into details. We should agree on an outline before we get down into the details.
- Cyrilla: The guidelines need to ensure that local governments meet the intent of the SMA – meaning No Net Loss. Taking that further, the guidelines and EIS needs to look a range of recommendations from SARC – range of level of detail needs to be analyzed in the EIS. If Guidelines only provide low level of details, will that get what we want in terms of SMA and no net loss, versus more details? We need to get there sometime. We don’t have consensus on level of detail needed. The EIS should be the tool that determines whether more or less detail is most effective in meeting the requirements of the SMA.
- John: For this discussion, what recommendations should look like, on another slide in this presentation I’ve reflected several key statements that committee has seems to have some agreement on.
- Cyrilla: You haven’t asked for consensus from us on anything. Range of ideas shows up in notes, but no one is seeing what we have consensus on.
- Blain: Having seen the DFW presentation, I feel comfortable that they have genetics and disease covered. Not sure how that’s reflected in the process. There probably won’t be consensus on that.
- Eric: At least on this question you have a state agency responsible for managing this area. Also, we have the Sea Grant studies going. How are we addressing that? Some kind of interim guideline, e.g., use geoduck stock from the area being planted to avoid genetics risk until research on that is in?
- Perry: The Legislature acknowledged that process – we are directed to update guidelines in response to Sea Grant research and other research. That’s where we talk about differences between guidelines and guidance. Guidance might get into the technical detail of what to take into account in making decisions. Guidance is easier to change as we see fit. Guidelines require rulemaking – the process is much more involved. We need to be careful that things we put in the guidelines are things we want to stay there for a while
- Dave: I like the expansive nature of the guidelines being provided. I need some specificity on scientific information we can use to make those decisions. That’s the minimum we need.
- Diane: Allow for innovation and local jurisdiction freedom with detailed guidance documents. Guidelines can specify that technical guidance document will be updated with new research, allows adaptive management. Can also have something in the rule that

addressed adaptive management. That will allow locals to move forward, allow industry to innovate. Locals don't have expertise to deal with many of the technical issues.

- Bob: Regarding Point B (diseases and parasites): there are mandates, WAC and statutes, so I would not object to taking that off the list and making some reference, and note that whatever activity that occurs needs to happen consistently We don't have a specific mandate to regulate based on genetics – we don't have any specific WACs to regulate genetics. The genetics issue is in flux right now. I don't know that I agree it should be a single stock throughout Washington or Pacific coast. We don't have the resolution to say there's a specific stock need to look at \_\_\_ transport to make decisions on how we're going manage in terms of stock. Larval transport.... The genetic end is in \_\_\_\_\_ process, may need status report on that.
- Bryan: I'm reluctant to endorse guidelines that are going to result in locals making genetic---perhaps recommendations outside of guidelines could tell them to develop based on what we know now-... this agency should be empowered to deal with \_\_\_\_\_?
- Sally: On an earlier comment Bryan made: It seems like in the next three meetings, we could look at the outline. Another important part of what we can do is to look at what's in outline. I still hear a level of detail disagreement. I'm fearful that before we even look at outline, this specificity issue will hold us up.
- John: Some parts of guidelines may be more or less specific – should consider this in developing local programs.
- Annie: Parking lot: What I heard is you're expecting us to have an opportunity to seek consensus on some of the details.
- Blain: Or a place to put a recommendation vs. discussion. We've had lots of discussion, but not a lot of recommendations.
- Annie: Seeking consensus on some of these details will be futile, given the diverse viewpoints in this group. Some might emerge, but we at least need to capture and reflect the range of viewpoints on these topics.
- Yongwen: Guideline operations defer to WDFW...very rough guidelines.
- Diane: This is a good example of what we want to see in guidelines– I don't know how we're going to put something like this in the guidelines – WDFW is not going to, there's no science on it yet. It will end in quagmire. We're supposed to be helping to relieve that problem. Local jurisdictions are required to go to agency of expertise when they need help. They'll be coming to you whether you have the science or not. Just need to give locals info on where to go for the science, but that science needs to be responsive to \_\_\_\_\_. I'd say in a technical document we can describe what we know about genetic stocks, and update with new science. Could say in Guidelines that local governments should use the technical guidance that Ecology has provided and have a statement on adaptive management.
- Perry: This issue was not included in SARC task in the legislation – only in research. We don't have the science in hand right now. This was not identified as a guidelines topic.
- Rep Lantz: Something I heard that was succinct from Cyrilla: It looks like you've established a goal and to get there, you've got to address these issues: no net loss, reduction or management of conflict of uses. There must be at least interim adaptive management. Just using no net loss and recognition of the conflict of uses has the overall vision that's driving you.

- Eric: I get concerned about SMA being used to manage everything that happens in the marine environment. DFW has responsibility for all the critters out there and has expertise to deal with it. What about simply saying that must follow all rules and regulations from DFW on the issue?
- John: Corps – Hydraulic Projects. There is pressure to use SMA, and a desire to protect ecological function through no net loss in the face of not having the hydraulics approval that this would need.
- Jeff: I agree with Eric, I don't know what the guidelines would say...that counties have to hire geneticists? But don't assume that since the science of this genetics issue is not as well understood as it could be or will be in near future, that that will solve your problem. For example, we have been studying salmon genetics for decades. There are numerous scientists paying close attention to that issue concerning salmon and they do not all agree. Certain details can be agreed upon – but there are differing opinions on implications. This may fall under regulatory oversight and does not belong in this discussion.
- Diane: I agree. No net loss is paramount in the guidelines and SMA, but it also directs us to promote water-dependent and balance those uses. We do not want to be run out of the state –we want to find some solutions.
- John: To summarize where I think we are on these two: this issue needs to appear in recommendations with possibility that guidelines may say it's something locals jurisdictions may choose to pay attention to as science evolves, but\_\_\_\_\_. Diseases and parasite may not appear in guidelines – could just say that DFW handles this issue through their permits.
- Diane: Regarding kiddie pools: We are trying to get rid away from tubes. We are trying to let baby geoduck mature further before planting to avoid tube use. So we are using nursery systems on a commercial level. The larger we can grow the seed, the less predator exclusion stuff we need in the environment. There are several different kinds of research going, in some areas we can just use nets if we first let them grow in the pools. We're trying to find a nursery system for geoduck. You mention the floating and upland system separate from the intertidal system. We've had floating systems for decades – simply a floating structure that holds seed. Geoduck need different floating facilities from clams or oyster. They need sand. So we'd have a floating bin that contains sand. Taylor is going to be looking at a floating facility. From our perspective, floating systems interferes with navigation and would need a substantial development permit. In intertidal zone, we've tried the kiddie pools filled with clean sand we bring in from upland source – fill pool with sand, place in the substrate, cover with nets, use that seed throughout summer. Can also use them to overwinter seed. Hatchery production of any seed at this point is tenuous – getting hit by viruses coming from Hood Canal in our case. Having a good supply of geoduck seed, we want to keep it. And even better is to keep it overwinter and use the following spring. Taylor has one location in Mason County –Seattle Shellfish has one (Spencer Cove). Other smaller growers are using some homebuilt solutions. They range from 4 feet to 5 feet in diameter. 1000 pools would be approximately a quarter acre.
- John: Are they overtopped by tides so food supply is replenished with each tide cycle?
- Diane: Yes, they're in the mid- to lower intertidal zone.
- John: Do have to consider the effect of these pools sitting on substrate for months and years.

- Diane: Our research is showing little impact – they are creating habitat. Yes, there’s going to be an effect. We need to decide – will we allow activities in shoreline that have effects? SMA allows effects to occur (residential, bulkheads, docks). This is part of our operation. We’re (Taylor and Seattle Shellfish) in the process of doing biological assessments of kiddie pools. First impression may be that it’s a big impact, but that’s not necessarily the case. We’re responding to shoreline appropriate concerns by doing this biological assessment.
- Laura: Can we go back to the first photo showing Spencer Cove? You can’t see it very well, but in the bottom there’s a red bulldozer. This is the third picture we’ve received of a bulldozer. We understand that bulkheads are an issue – and they are decreasing now. But these uses are increasing while we’re trying to save Puget Sound. We’re trying to fill the insatiable appetites of the Asians for geoduck. Guidelines need to include this, because this is truly industrializing our shorelines. If we’re looking to limit upland development, how can we not limit what we’re seeing directly in these tidelands. And industry doing their own assessments is fine, but\_\_\_\_\_. Seems like innovation brings new materials. If this is innovation, what next? Is this innovation to make money, or to preserve our habitat?
- Cyrilla: Is the size of the net enough to keep juvenile salmon from getting in?
- Diane: Yes, its very small - ¼ inch stretch net.
- John: The difference between upland holding pools and intertidal pools is you have to pump water. With intertidal pools, you get into impacts on substrate. Is there a progression here to special order pools with 4-foot tidewalls and soon geoduck will be able to grow up in the pool? If they are floating, there would be possible navigation issues. For intertidal, guidelines could have a general statement that locals can solve this by themselves: possible prohibition, duration limits, limits on area covered, aesthetic requirements (i.e., colors or graphics). These are possible options. We could take it off the plate, and let it be a range of choices.
- Perry: Question about how these kiddie pools operate: Are these put in intact, no holes in bottom, or anything like that?
- Diane: No, we want to contain both sand and seed and want to protect seed from predators. Talking about range of duration, geographic limits, and such, let’s see what the biological assessment says. Would look at setting the pools up on something so there’s a flow and ebb under them, or agree to a percentage coverage limit.
- Perry: Are these being moved around with the fill in them on shore, then being dragged out?
- DC: We fill them upland and bring them down to intertidal zone.
- Perry: Are they dragged across?
- Diane: We (Taylor) lift. Seattle Shellfish may, I’m not certain. Once the sand is no longer viable for seed, we take it back upland and refill the pool. We don’t take sand from the intertidal area.
- Perry: From photos we’ve seen, it looks like some things are being dragged around in the intertidal zone. That would be an example of – if they’re allowed to remain in place, we have standard BMPs for pipeline crossing in wetlands, for example. We know it happens, recognize the impacts, and require mitigation. Ideas could be big balloon tires so you’re not impacting surface, or temporary matting...

- Diane: It is at a commercial level at this point so we need to and are willing to look at these issues. We will follow what the science says. I think the first impression of impacts from pools sitting may or may not be borne out according to science. Let's find out about the impact and mitigate for it, rather than making grand statements about the activity itself. We've developed this over the course a couple of years, and we are evaluating it...
- Dave: I appreciate the attempts to try to address some of the major concerns of aquaculture. Tubes are more of visual footprint, pools are an actual footprint, in that it denies use of that sand for many processes. Seems like a step farther away from NNL. I may be wrong, maybe in some places this is better. I'm not suggesting outright prohibition, but a pool sitting on the intertidal zone just can't be good.
- Diane: This is just a nursery, in specific areas, not on intertidal geoduck farming area.
- Eric: We've got shellfish hatcheries and other facilities already being permitting with shoreline permits. We may not need to come up with separate rules just because they're geoduck. Even with pools, we're spending a lot of time on what-if scenarios. We don't have time to cover these. I'm concerned we're not going to get through this presentation.
- Laura: The slide being the heart of the matter (?). Common sense: if you keep filling the intertidal zone with these, they're a major concern. I can't imagine what they would say if shoreline property owners were to put swimming pools 5 feet from shoreline. We would be regulated immediately. These two places are critical pocket estuaries, the most critical areas of Puget Sound. Native species depend on these areas. Regarding science, there's no science on bulkhead impacts, we just know they're bad. You can look at it and know it does some damage.
- Annie: Eric are you saying not to address it even general terms?
- Eric: If you already have a permitting mechanism (for upland nursery, etc.) you don't need to duplicate it.
- Krystal: I have a question about pools on intertidal area. Do you have an estimate of how many nets and tubes you'd otherwise be using and how much area would be covered?
- Diane: No, it's going to take some time to figure out the best way to grow them. We do know that the larger the seed, the better the survival. We hope we can reduce what we use out there for predators by reducing...?
- Perry: So it's a trade-off of tubes for pools? It doesn't sound like one will replace the other, but if so, how big would you have to grow seed to put it into ground without tubes?
- Diane: Right now we've got seed we're working with up to a half-inch. It takes through the summer to get to that size.
- John: And you could conceivably overwinter them in these pools? (Response?)
- Diane: It would be cost-prohibitive to use large tanks on beach to grow them in – and it's not necessary. Nursery pools are good for us economically, and we hope it replace at least some of the tubes.
- John: This may be limited numbers to hatchery growing sites...some number of geoduck growing operations where...part of operation because they're just the planting/growing areas.
- Diane: Yes, we're not using kiddie pools at grow-out sites.
- Perry: Almost every SMP out there, if not every one, says you only do things if you have to do them, and when you do them, only to the extent that you have to do them. If you're putting pools out there and they are in the intertidal zone to get fresh water once a day,

why can't they be up further on the shoreline and have that same water pumped over them? Maybe they don't *need* to be out there. You would need to demonstrate that activity is dependent on water, and if not, must do it upland. We'd like to see a demonstration of necessity to have it there in intertidal. It's like a gray area between a hatchery and natural grow-out – which side of that line should it logically be on?

- Diane: I don't know that it could be done upland. I think you could build one upland, but I would challenge that idea by the amount of water we'd have to pump up and send back out. You're still in shoreline jurisdiction. No matter where we are, there's going to be an effect. We need to mitigate, but we need to be able to do it. It may be cost-prohibitive to do upland. Keeping flow and ebb over these pools will take pumping systems we don't have yet. Technologically, we can't meet their biological needs upland at this point.
- Cyrilla: Siting requirements for kiddie pools: We've been mostly talking about geoduck farming operations that are primarily accessed from the water, I thought I heard that very rarely do you access from the upland. Is the kiddie pool a farming operation that must be brought down by bulldozers from the uplands and moved by bulldozers? It seems like this is now an upland use, and we now have to address upland access impacts of the bulldozers, similar to construction activity. Kiddie pools may create a land use access and impacts issue that needs to be addressed.
- Diane: Need to tow upland, need to have access and BMPs for accessing. Can't imagine we'd have a nursery system in a neighborhood, for instance.
- Eric: It seems a different activity from geoduck farming. Sounds like an isolated activity. Nurseries providing seed for all geoduck aquaculture in South Sound (?). it doesn't tie in with core issue of new geoduck farms going into intertidal areas.
- John: It's more like an accessory to hatcheries – it doesn't apply to each farm.
- Nick: It seems like the group goes from 0-100%. We don't even talk about what's in the middle. Growers need some kind of hatchery system – other say we should have no impacts. Aquaculture is a preferred use in aquatic environment. Can we try to come to common ground? Can we limit the industry to two areas, understand there are impacts involved there, perhaps mitigate off-site? That's typically how you'd work through these things, but the committee is just spinning in big circles.
- John: Difficulty of saying only two sites allowed in Puget Sound...each \_\_ would have their own programs. Counties wouldn't know which the two were.
- Nick: A farmer could say upfront how much nursery space they need for their operations.
- Annie: A nursery seems like it's still aquaculture, and geoduck, so why wouldn't it fit within purview of this section of the guidelines?
- John: We should be warning counties about this so they can deal with it.
- Eric: Yes, I believe this needs to be permitted, and existing regulations would probably take care of it. We're getting all these accessory issues out there and aren't making progress on the core issues.
- Dave: Whatcom refers to this in their SMP as experimental aquaculture activities. They say you need to take conservative approach with periodic monitoring, etc. They recognize there are going to be new approaches with these activities, and just say it needs to be monitored for impacts. It may not need to be specific to nurseries. You could make general recommendations on emerging technologies. Not to prohibit, but to proceed with great caution. Also allows for termination of project at any time, if shown to have adverse environmental impact that cannot be adequately mitigated.

- Sally: I agree it needs to be covered. But what we say about it...
- Laura: Anything to do with geoduck aquaculture needs to be included. Citizens are looking to us to cover all aspects. New issues will continue to pop up and Guidelines need to address them. I've had a call from someone who thought they were in a residential area (Spencer Cove) and it's turning into an industrial operation. Mason County didn't know what to do. The industry wouldn't stop. We need resolution on this somehow.
- Diane: The Guidelines clearly allow us to address emerging technology; we need that rather than outright probation. We can't solve problems without innovation. It has to be allowed, and there are many options, but it must be allowed in a conservative approach.
- Sensitive Habitats (e.g. eelgrass): general statements or specific distances?
- Sally: In earlier conversations, we acknowledged that in local jurisdiction there would be certain studies required to determine appropriate setbacks at the site level.
- Cyrilla: Most BAS says eelgrass and forage fish spawning areas are critical areas and require habitat management plans. I want to make sure we're not precluding locals from applying the laws already on books. Could it be an exemption letter under SMP? Let's think about building on what local governments already have.
- Dave: Using Pierce County example: It begs the question of what if there is no sensitive habitat – should there still be guidance for siting in those areas? If there is eelgrass, etc. our code doesn't say how far away they have to stay. Some guidance would be helpful. Otherwise we get a letter from a consultant saying 10 feet is enough. We would have to argue that point. If this document could reflect that - a specific foot distance is probably not appropriate, but some kind of reference we can point to would be helpful.
- Krystal: I'm tending to agree with Dave and Cyrilla. And I want a clear definition of sensitive areas/elements. If current maps don't tell you there are sensitive areas, that's why we need some baseline studies, so we know what's there on the ground. I don't think 10 feet is sufficient for setbacks. We need to take into account how fast eelgrass, etc. can grow and give them room to grow.
- Laura: Can we not use the words "all marine vegetation"? That's what the Nearshore Partnership says they want to protect. And how are sensitive elements determined?
- John: We usually differentiate between plants fixed to the site and free floating, drifting vegetation or diatoms living on sand.
- Laura: A lot of marine vegetation is necessary to salmon – how can we say it's not important?
- Perry: "Rooted, submerged aquatic vegetation" – didn't we agree that gets at the point, rather than a list of specific species?
- Laura: When permits for docks and piers mention marine vegetation, what are they talking about? Standards should be consistent.
- Eric: We're trying to look at other uses that are similar with standards and be consistent across the board. If there are existing activities – setbacks, etc. Does one rhizome of eelgrass constitute an eelgrass bed? At what level do you have something ecologically significant?
- Nick: In Willapa we have so much eelgrass, that if you tell us we can't farm in eelgrass, we will not be farming. Other question: On sandy beach with tubes, eelgrass comes in because you've stabilized the beach. You've gained something, but now do we have to take the tubes out?

- Annie: Do you see an option other than general statement vs. specific distance?
- John: Here's where DNR's BMP document considers having both minimum density for buffer, and says if eelgrass spreads into planted area, try not to kill all of it when turning over the operation. In Puget Sound, we feel the historic acreage of eelgrass has declined and we are concerned about losing more. Willapa Bay has Spartina. Maybe tie into the Farm Plan for site. I don't think there's any argument that sea lettuce is declining – it's increasing due to eutrophication and it's now a nuisance, we're trying to reduce it.
- Blain: Just limiting it to eelgrass is problematic – graciliari \_\_\_\_; all those things call for a need to survey for critical fish habitat or some terms that capture what might be important in a specific area, but we should allow the county to adapt for their area.
- Diane: Our science shows that with shellfish aquaculture, you get eelgrass beds moving into our areas. You stabilize the ground and clear the water, and other biological occurrences that allow eelgrass to thrive in shellfish beds. It is different than docks and other structures that shade and impact. Should not be regulated the same. Would strongly advocate that we get away from statements with laundry list ending in "etc." Need to be specific on what it is we're protecting.
- Cyrilla: A baseline survey benefits everyone. It's reassurance you're staying out of critical areas. It also gives industry something to document what was there at outset, and what maybe have come in as a result of their activity. Can refer to standards (without specifying standards) being consistent with habitat goals in that area, and not one size fits all). Puget Sound is very different from Willapa Bay.
- John: I'm hesitant to suggest we have a species or habitat list. I hope that local jurisdictions in updating SMPs are getting sense of what part of their shorelines is more at risk, more critical, historically degraded. There might be a clearer focus at local level of what habitats they want to work on. It'll vary by area.
- Dave: Same thing. The purpose is to benefit local jurisdictions. Guidelines can just acknowledge there are regulated features/habitat and leave it to locals.
- Laura: Yes, the coast is a different environment. Pierce county shares habitat with Kitsap and other counties. Since we're all sharing, at least our Guidelines have to have some way that counties have to be responsible on fish habitat. This is more than sensitive habitats, it's fish habitat we're talking about, right?
- No. It's critical Areas.
- Eric: This is a natural place for some guidance.
- New topic: Setbacks; location on property/site
- John: DNR BMPS – setbacks from parcel boundaries..?
- Cyrilla: Reminder that we talked about environment designation and linking Aquatic designation allowing aquaculture with upland one. So, discussion of setback might depend on whether a local government has chosen to regulate aquaculture through their environment designation. If upland and aquatic designations are set up to not conflict with each other from the outset, setbacks may not be necessary.
- Ward: I disagree with having any setbacks along boundaries of property. You're allowed to log and clear land right up to property line – this shouldn't be any difference. We shouldn't put a restriction on this particular industry that we don't have on others.
- Diane: If it's private property to private property I don't know that setbacks would be appropriate. Locals can deal with those private conflicts if they arise. If it's public land to private land (example, Totten Inlet with ambiguous boundaries) maybe a survey to

determine public lands is appropriate. Should separate survey requirements and setbacks for those two scenarios.

- Krystal: Pierce Co interim regulations have a 10-foot setback between \_\_\_\_ and aquaculture operations. Also, talking with Save Our Shorelines members, people are concerned about public access – this is another issue. If a boat get stranded, need enough room to bring it up.
- Laura: Our organization feels you need setbacks on private property just as with upland. If a neighbor doesn't want setback because they're doing aquaculture, they can request a variance. Public Lands: need setbacks because there are other areas where industry is encroaching on public lands. It's not fair for citizens to have to go get a survey – that should be the industry's responsibility. If they had to have a survey posted, no one would be upset. Otherwise you're putting neighbors in a position of having to survey their own property to prove boundaries and make sure industry's not harvesting geoduck on it. Property owners should not have to pay for the surveys.
- The survey issue is up here in another place. You're saying a setback is needed in addition to survey?
- Yes.
- Diane: Why have a setback? To protect from this or that? That hasn't been answered. Upland, building setbacks are for structural considerations – not the case with geoduck farming. Property owners have a right to know why they can't produce on their land.
- Ward: I disagree with Laura – a property owner can clear land right up to the property line or easement. There is no restriction, and it should not be in geoduck Guidelines.
- Laura: Silt is out number one concern. Building requires silt fences to keep silt from flowing onto other property. People don't want their clams and sand dollars smothered. They also don't want people walking on their property if they're working right up to boundary line.
- Blain: All of these need to connect back to the ecological function you're trying to protect. I have trouble with the level of specificity for geoduck aquaculture. Prohibiting for aquaculture, I support a general statement,
- Dave: It acceptable if we call it a buffer, it's not really a setback. Consensus: **Agreed.**
- Sally: Siltation and trespass do need to be addressed in the Guidelines, but probably not at this place.
- Bryan: I agree with the buffer issue. A setback isn't helpful in this context. We need to relate a buffer for impact to what exactly...? If you're thorough in A, you don't need B. If you \_\_ and have adequate buffers to protect \_\_\_\_, B can go away...?
- Maybe B can be moved somewhere else (Laura agreed, as long as it appears somewhere)
- C. Site Prep: Do we need to restrict alteration of substrate before planting?
- Dave: Yes. Aquaculture is self-limiting to some extent, there are only so many places it's suitable. At a certain point, a level of alteration indicates it's not a place suitable for aquaculture. When machines start showing up, this may be an indication of that.
- Cyrilla: I agree with Dave. And I see a continuum once you start bringing out a bulldozer and start grading, there's a more intense level of environmental impacts, so then you need more review and mitigation. Either capture it with a limitation or with a different kind of permit review and scrutiny. Not a rubber stamp on those projects. More hoops to mitigate.

- Diane: I don't know where this is coming from. I don't know who is going out and excavating a site. You're right that it's a different activity, different level of activity. We're just putting tubes and nets out there, not excavating. If there's a big log or a big rock, we'll probably move it. There is a level of alteration, but not at the level submitted. We're not out there dredging entire beaches
- Laura: I'll send Perry a photo of the dragging operation in Totten Inlet. It's a barge with crane with metal bucket that sat for three hours and scraped off tidelands – we have witness testimony. DFW said it's not their jurisdiction, Thurston County went and asked Taylor, Jason said they've been doing that activity for 40 years and that it's vested under the SMA. I think we need limitations on the scraping of tidelands – a total exclusion – for any reason. Need exclusion of tractors and gators and such – driving along scraping does just as much damage. Or we need to stop telling citizens to walk softly. We should say “no scraping or dragging tidelands for any reason.”
- Nick: That would shut down the shellfish industry as it's been done for 100 years in Willapa Bay.
- Laura: It wasn't harvesting – it was dragging the beach.
- Eric: Maybe “grading” is a more appropriate word (changing contours, elevation, etc.).
- Krystal: I see a lot to do with inanimate objects – what about the living organisms that are there? What happens to them? They're picked and moved to adjacent sites – like moon snails, sea stars, sand dollars, etc.
- Bryan: Let's not lose sight of the fact that there are usual and customary aquaculture practices that do change the substrate. People do put rocks on mud to grow plant – usually small and are in much larger system. You may have an unintended consequence by banning certain activities. It's imperative that it be done in some areas, or you don't have an industry at all. We need to have some boundaries around this.
- John: We don't have consensus on this – a general range, but not agreement.
- Laura: We're talking about expansion – I'm not trying to put anyone out of business. That's not harvesting, that's scraping tidelands for three hours over a mile. If you continue that in new areas...we're not concerned about what you're doing currently.
- Diane: When you want to talk about industry practices. There are local rules and regulations, but Laura doesn't seem to understand the industry the history or the science. And we have sat through many claims about what we do and how. We need to hear her concerns, but I won't continue to argue with someone who does not understand the issues.
- Laura: This is about citizens watching the tidelands in front of their homes being scraped of all vegetations. Maybe we need to look at how many areas they are allowed to do this in. We're concerned about expansion into new areas with new techniques.
- Perry: Your job is to make recommendations to Ecology for Guidelines for geoduck aquaculture.
- Diane: This did not have to do with geoduck.
- Laura: They planted tubes two weeks later. We saw this, in Thurston County. We have multiple witnesses.
- Diane: They were pulling off old oyster shell. This was recent – just a couple of weeks ago, and it was on Taylor land to replant. This area of Totten Inlet has had a variety of shellfish and a variety of methods. We do not go out and excavate with heavy equipment any beach we find. I can't speak for Willapa – they do mechanical harvesting.

- Perry: If this is something that would typically be done...
- Diane: If we were turning an oyster plot into a geoduck plot, we would probably do this to remove old oyster shells.
- Nick: This is typical practice in Willapa. It's been going on for 5 or 6 generations.
- Laura: There were no oyster shells on this plot. It was bare except for vegetation. I have pictures of underwater – it was dragged.
- Nick: If we're going to use "heavy-equipment" language, it needs to be very specific, so it's not misinterpreted and too limiting in the future.
- John: It's one thing to clear the surface of sediment to plant tubes, as opposed to digging deeply into beach and it running through a sieve to change grain-size. But I do believe it's common practice to remove things (rocks, shell) at the surface that are in the way.
- Dave: The site must be suitable in its fundamentally unaltered state. That's how I picture it. It acknowledges excessive alteration is not appropriate – moving some rocks and shells should not be an issue. But I see Nick's concerns that different practices are customary in Willapa, and we don't want to cause unintended effects on that.
- Cyrilla: Baseline survey, eelgrass, herring, not allowed to clear without thinking about mitigation. However if you're already doing aquaculture and didn't have eelgrass before and now it's there now, we're not implying that. May need to be limited to Puget Sound where we have lots of limiting factors for salmon that Willapa may not have.
- Krystal: Forage fish spawning – if you were clearing forage fish areas, would need to be consideration of the timing of clearing. Either not during spawning at all, or avoiding.
- Eric: I thought we had agreement on this one. A site should not need a lot of modification – it should be ready to farm as is, basically.
- Diane: We need substrate. If it's rock on top, it's probably rock beneath and won't be able to grow geoduck. We want sandy substrate, so there's not going to be wide-scale clearing or changing of beach – it just doesn't happen. Laura contends and what the picture shows is oyster mechanical harvesting. If we change a bed from oyster bed to geoduck, we need to clear the oyster shells to plant geoduck, but that is very rare.
- Pre-planting harvest (consider tribal shellfish rights): Should local shoreline jurisdiction have any position on this issue?
- Eric: No. If it's a private beach, geoduck belong to that property owner (minus tribal portion). That's a private decision outside the scope of shorelines.
- Cyrilla: Is a county liable? Do tribes get a percentage on private lands – and would the county be liable if they didn't provide notice.
- Diane: I think this issue needs to be removed – it's outside of the SMA and Guidelines. We already fall under court orders for shellfish beds.
- John: We can revisit this under "notice" issues.
- Perry: Is this something that goes without saying – we cannot change it.  
Yongwen: Respecting tribal shellfish rights is requested by Treaty Rights and federal court orders, as tribes are co-managers on shellfish fisheries and management. The issue should be clearly stated. A recent example with Makah Tribe is that the tribe wants to do feasibility test on geoduck aquaculture within the reservation, but DNR claims it was state land.
- Annie: So it fits more in the land ownership topic than here?

- Jeff: One thing I would advise is that it's not as simple as you're trying to cast it. It's a novel thought to look to local government to enforce treaty rights. I don't see any particular need for it. You could argue there's always going to be someone who comes along who doesn't know ground rules – it doesn't happen with existing industry. I don't think it's relevant here. We have arrangements with private property owners to do ongoing harvest. We are not here to try to have our issues dealt with through the state process. We recognize that publicly owned tidelands differ from private tidelands in how shellfish rights are applied.

### **Summary of today's meeting and next meeting previews:**

- Diane: I could caucus with industry and provide written comments on each of your slides. Would others do the same?
- Perry: That's what we requested at last meeting. We must stay on this November timeline. Ecology has legislative obligations to meet. This stuff we're talking about is helpful. Even the stream of consciousness discussion is helpful – I'm absorbing it all – it will all be taken into account as we're writing the new Guidelines.
- Dave: Are we obligated to meet just once a month, or could we meet more often?
- Sally: We still have a lot of talking to do, even if we all go back and comment on the presentation independently. We may need some more discipline imposed upon us.
- Diane: We're happy to meet again. Right, Nick? (Yep.) I just ask that we all do our homework and come prepared to talk about them. We go through a lot of "back to square one" stuff at each meeting.
- Jeff: I'd like to inform committee members, since I was not here at last meeting when you discussed the subject of zoning or special area management, that I have some concerns. I don't think it's a good idea. General nature of my concern: Tribes haven't been supportive of things like marine protected areas, because they tend to impose restrictions. Even if they don't apply to tribes, they can give the community the impression that there are tribal restrictions, and that puts pressure on tribes. Also, meeting more often is a bad idea. These meetings are not particularly productive – they are a waste of time. There is maybe a half hour of good exchange in a whole day of effort. I'd be more inclined to be more aggressive of what Diane and Perry suggest and provide comments directly.
- Cyrilla: We could provide comments on each slide and Ecology could compile them. At the next meeting, we would only talk about places where there are major disagreements.
- Perry: Our objective is to get this done. If we can get your comments, we can be more succinct and productive. It's probably going to be next to impossible to get this room or any other appropriate room on short notice unless we go off site. We could try to find a time when the room is available and set it then – but we cannot work around everyone's schedules. Two options: 1) We could try to meet again to finish this conversation (with written comments from members), or 2) we could just focus on written comments from everyone and keep the current meeting schedule.
- Krystal: How soon do you need comments so you have time to compile?
- October 3<sup>rd</sup> (10 days before next meeting.) We'll focus on the slides we haven't covered, but we want your comments on everything we've covered. Next meeting will start from Slide 16.

- Perry: Could we could stay until 3:00 next time? Yes.
- Eric: Could we start at 9:00 instead of 9:15? Yes.
- Sally: We could break at 3:00 for public comment and then continue on until we finish.
- Do we need to have public comments at next meeting?
- Perry: We'll continue to have public comments at the end of the meeting.

#### **Action items:**

- Staff will send committee members a response template for comments on John's presentation.
- Members will respond with comments by October 3<sup>rd</sup>.
- John will compile all comments and discussion at October meeting will focus on areas of most disagreement.

#### **Adjourn: 2:10**

#### **Public Comments:**

**Evan Adams (Shellfish Farmer):** Bear in mind what you're coming up with here will impact a lot of people. I'm curious where this information will come from – DOH database, DFW database? How many people will be affected by this process? Small landowners unless you restrict overcomplication and all-inclusive permit process....? Database..3000 parcels of land DFW calls \_\_\_ culture farm. Started requesting information for this a year ago and don't have forms ready yet. Will take them a while to \_\_ their database. Are you pulling in the DOH database? We should know the answers to this when we embark on a projects like this. And that scares me as a citizen. Effort should be to improve the process, not be a detriment. With the acronym you go by, I suggest you replace it with Shellfish Advisory Guideline Committee. **(Eric Hurlburt response:** DFW and DOH and ECY are working together to coordinate these databases.)

**Paul Sparks (Washington Council of Trout Unlimited):** The stumbling block in this process is that the legislation that privileges shellfish aquaculture in the nearshore assumes a kind of shellfish operation that hasn't existed for 20-30 years: family-owned, small scale, equivalent of agriculture. We have shifted to industrial aquaculture, and two set of assumptions are clashing all the time. This state needs an aquaculture policy that is clear. Before passing the decision-making off to counties, I urge you to think about the fact that we're dealing with ecosystems. Species don't stay in one jurisdiction. Their survival depends on an ability on our part to ensure the viability of resources across the spectrum of space and time. Puget Sound Partnership is underlining ecosystem management, as are other groups. Someone has to put the new paradigm in place. Next point: Perry you're doing a great job. There's not been much consensus. The problem is Ecology is the guarantor of the environmental integrity of what goes on. That means that it won't always work to approach it from the angle of "what's good for consensus", but "what's good for the resources".

**Keith Stavrum (Independent Shellfish Growers of WA State and Moby Dick Hotel) :** If we expand anything with geoduck, no pesticides should be used for expansion or any leased

government land. Why are we using Taylor's suggested guidelines? They should be presented from someone other than a committee member to represent Taylor, and presented from other shellfish companies or landowners or the public. It seems to independent shellfish farmers and Moby Dick that this is an unfair and biased process. Moby Dick is involved in a pesticide drift case with lots of science to support no use of pesticides. Major companies have led people to believe there's no harm. Information from the industry needs to be checked by independent sources. No one asked me how I would do things, I do not sit on committee. If you did, I would respond... what we're talking about here should concern expansion. People have been doing things for years in the shellfish industry. Setbacks and pesticides will not work for silt – dredging good example. If you have to alter tidelands to plant something, it doesn't belong there. In Willapa Bay it's one of the many techniques used – we live with it, but residents don't use it for swimming, etc. I saw no shells on this picture with the tractor– I saw grass. No geoduck should be around established shellfish reserves. And there should be no changing shellfish reserves in any way for geoduck. Any comments that are used should be posted so everyone can see them. Independent shellfish farmers should look at comments that come from committee on the Guidelines. If I can read what you're suggesting, we'd like to comment too. Please make this public before next meeting.