

(DRAFT) Meeting Notes

Shellfish Aquaculture Regulatory Committee

November 10, 2008

9:00 a.m. – 3:30 p.m.

Ecology Headquarters Auditorium

Lacey, Washington

Members Present: Blain Reeves, Ward Willits, Dave Risvold, Yongwen Gao, Eric Hurlburt, Laura Hendricks, Nick Jambor, Cyrilla Cook, Diane Cooper, Bryan Harrison, Rich Childers, Krystal Kyer, Bruce Wishart, Sally Toteff,

Ecology Staff: Perry Lund, John Dohrmann, Jeanne Koenings, Tom Clingman, Jessica Moore

Interested Agency Staff: Rep. Patricia Lantz, Rep. Larry Seaquist, Adrienne Stuart (Leg. Asst.), Curt Gavigan (Senate Committee Services); Jessie DeLoach (DOH), Cathy Barker (DOH), David Fyfe (NWIFC)

Other Interested Parties: Bill Burrows (Harstine/Stretch Island), Allen Moore (Lee Shellfish), Paul Sparks (WA Council of Trout Unlimited); Peter Downey (PCSGA), Steve Blumfield (Seattle Shellfish)

Facilitator: Annie Szvetcz, 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 October meeting notes – no comments**
- **Quick Announcements**
 - Thank you from Perry for all the committee's work.
 - Diane: How does reconvening during rule-making and research overview work?
 - Perry: Oversight goal is Ecology's, Perry is happy to send out summaries to everyone as Ecology gets them—maybe quarterly.
 - Diane would like SARC solicited for comments as decisions are made or things are happening. Perry said there were logical points to involve SARC in upcoming steps.
 - Diane: Puget Sound Partnership recommended on Friday in their Action Agenda that SARC work be continued.
 - Wishart: We shouldn't place heavy emphasis on this.
 - (No one was sure about this recommendation. Item A-4.5.2, page 13 in Action Agenda. www.psp.wa.gov)
 - Dave: PSP has benchmarks for Puget Sound recovery—target of 10,000 acres of shellfish.
- **Discussion about Sea Grant work—how to keep committee involved.**
 - Perry thinks they are just collecting data now, not much to review, until research has been peer-reviewed. Sea Grant has reporting requirements to the Legislature.

Final Review of Committee Recommendations (John Dohrmann, Ecology)

See John's handout called "Consensus, Majority, Minority" which he discussed.

Options on Consensus: John presented all these options.

Rich: Favors second option, list of recommendations followed by list of issues that are still outstanding because there was not consensus on them.

Bruce: I have concerns about use of "most", not about how its presented in report, more about how. Ecology interprets it when they go to make guidance. Likes "many" as opposed to "most." Realizes diversity of group. Great to recognize where there is consensus. Need to stress regulatory tool, lots of voluntary information out there.

Diane: I agree with Bruce on the diversity of the group. Ecology has to live with the range that SARC has come up with and go through public process. Industry had hoped to...process painful and brutal, unsure we were going to get through it, commend Ecology for sticking with it. Hoped to come out of process with reduced conflict. Confident that Sea Grant will come out with good research. Still unclear how land use conflict will come out. Wherever Ecology can see that reduced land use conflict can be achieved, that will be important to industry. Would recommend showing the range of opinions to Legislature. Need to show the "center of gravity." Regulatory foundation needed. Need flexibility to adopt new science and new methods.

Nick: Reading list of consensus recommendations—be careful about defining "highly sensitive aquatic habitats," and "no net loss."

Dave: Show consensus first, and then range.

Eric: Would it be helpful to have summary of major issues of differing issue groups?

Bruce: There has been no consensus within reps from those groups—would be difficult to characterize.

Annie: I sense support for "Keep existing approach, change "most" to "many" to downplay a majority."

Perry: Do each of you want to write your own summary statement? Could be included in report.

John: I'll be sending out revised report and committee members could send in comments, plus a statement.

Diane: Would recommend against Perry's suggestion. Everyone has had a lot of opportunity to present their opinions. Doesn't seem like good idea.

Bruce: Would only recommend it if there's a value to Ecology—doesn't see much advantage to it otherwise.

John: Do people want consensus recommendations listed first? And then repeated in flow of document?

Diane: Unsure of John's list really having consensus on...

PP Slide 4—Overall Principles:

John: Ecology not willing to put in definition of No Net Loss because it affects whole SMA.

Perry: No Net Loss goes beyond permit geography, but the Guidelines direct Ecology to address it in permits, so Ecology is in a dilemma.

Bryan: Concerned about definition of highly sensitive intertidal habitats and No Net Loss because he's worried about the details of how it's interpreted. Need guidance to local governments about what local governments should evaluate when evaluating permit issues in geoduck issues regarding no net loss.

Krystal: Consensus list of 15 items will be expanded with more detail by Ecology. Is this correct? (Perry: Yes, the list is starting point.)

Bruce: Urged Ecology to further define No Net Loss—real problem for local governments. All agree we need No Net Loss, but we're not going to get there today.

Diane: We need list of definitions, particularly No Net Loss, to reduce conflict. There shouldn't be different standards for different uses. They must be looked at as a whole—bulkheads, shellfish farming, etc.

John: Use p. 3 of Issues paper, paragraph about No Net Loss. Add a few sentences about how following recommendations agree with No Net Loss.

Bruce: Can SMA updates include more guidance for No Net Loss?

Tom Clingman: We're working on it, but it will still be general, more conceptual. Notes should reflect that rule-adopted guidelines should address definition of No Net Loss. Sensitive Intertidal Habitat is another phrase that should be amended, giving a better framework for decision-making.

Perry: We don't use sensitive intertidal habitat, need consistency in terminology and explanation of what terms we use.

Bruce: Can we agree to be consistent between existing guidelines and statute?

John: Consistency with DNR BMPs is editing error; should say "be informed by.

Eric: Ecology will pick and choose what recommendations will go in guidelines.

Blain: Should reverse first two sentences in Issue Statement.

John: PP Slide 6—shoreline designations

Bryan: Problem of defining highly sensitive intertidal – all would agree, but how would we define? First half of sentence doesn't fit structurally with second half. It's either going to be No Net Loss assessment or areas of banning it. You can't have it both ways. I can't resolve that in my mind.

John: There may be places so sensitive that locals could only achieve program-wide No Net Loss, that they couldn't even allow it to be proposed in certain areas. Adjacent land uses are an issue. Differing opinions about what needs to be protected.

Blain:– Didn't like either (sensitive intertidal habitat or No Net Loss). Seems like it should be allowed in areas...preservation conservation. Somewhere down the line have to get to that on the Puget Sound level (restoration) – we're working within that now on our habitat conservation plan.

John: What if I changed second sentence to say...in doing this, locals should consider ecological functions, adjacent land uses – take threshold out before we don't know how to phrase it – locals need to deal with this issue at time of shoreline designation, will vary by jurisdiction.

Laura: Blain, are you suggesting shellfish aquaculture should be used as restoration?

Blain: No, just saying it needs to be consistent with restoration efforts.

Laura: Would geoduck aquaculture be a way of restoration?

Blain: It could be.

Laura: Around the world, oyster aquaculture is the only restoration aquaculture. I have a big problem with us putting in any statement about using geoduck aquaculture as restoration – harvesting practices are the issue. I agree with No Net Loss, but must be consistent with use and other descriptions of it as well.

Blain: It should be allowed if it is consistent with goals of restoration (not saying it should be used as restoration).

Laura: But you're moving geoduck aquaculture into the restoration category.

Dave: I'm okay with the first sentence if you take second sentence way – temporal impact – other reasons than ecological to...

Bruce: We have existing laws (SMA – No Net Loss)

Perry: We have regulations, the law does not say No Net Loss.

Bruce: Regulations are laws. I don't think anyone is proposing we change that (No Net Loss) – what do you mean by No Net Loss, can be achieved thru avoidance or mitigation. Seems like we're talking more about avoidance. Looking at critical areas (eelgrass, kelp areas off limits, some kind of buffer even). Not sure why we're debating this – I thought we had clear consensus around this – the details have to be left to the guidelines. Don't think it should be solely at the discretion of locals to make these decisions – the state has a strong interest in the outcome and protection of resources. Locals need that guidance and advice. Should not be creating a system that allows for a lot of local flexibility, can cause too many problems. State should be defining where this should happen.

Diane: In a practical sense, if locals designate an area and define intertidal sensitive habitat as such and say “but we don't want you to conflict with upland uses” as well, where do we go? We'll end up as we are in Pierce – where areas best for shellfish aquaculture do (not?) conflict with upland uses. We need to have places where we can be, and grow. This doesn't get at that. Second, the science is not in. We're making the assumption that geoduck aquaculture has a net ecological loss. There is no science that suggests that yet. I would oppose putting that in there in that context. Third, Bruce, I agree that the state needs to provide something to locals (guidance) and it needs to come at a program, not project, level. Local governments not having guidance, or doing it on year-to-year or project basis rather than at a program level [is a problem]. Yes, we need specific guidance for locals through public process, list of areas and habitat types – how else do you provide detailed guidance without a list of habitat types so we know what we need to avoid.

John: What it really says is figure out where your habitats are and then forbid geoduck harvest. What I mean is, if a local government is going through a proactive process to decide where it doesn't want to allow proposals for geoduck/shellfish aquaculture due to sensitive ecological function, adjacent land uses – the way I wrote this it's turned around – think about where to have it or not on a broad scale and be thinking about habitats and adjacent land use when locals do that. Dave arguing it's better to talk about it terms of where it's **not** allowed rather than where it **is** allowed. Let me rewrite this paragraph in the next draft, and you can review it. Bruce, the committee recommendations to Ecology for guidance on shoreline management – Ecology can choose not to approve a local program if it doesn't meet No Net Loss, etc. So the argument about state vs. local is kind of buried in the cycle.

Bruce: The Guidelines are the state's piece of this. It's useful for us to separate ecological issues and land-use conflicts – this sort of blends them together and they should be separate. For a grower, it makes sense, but it might be useful to make that distinction.

Eric: I agree, SEPA distinction between human and natural.

Laura: There is lots of science on nearshore habitat – nothing in SMA says you can put any species anywhere you want. If geoduck aquaculture doesn't fit in a county, maybe oyster or other shellfish aquaculture does. I understand geoduck aquaculture is a cash cow, doesn't mean the

state should give them the right to do that. The state has to take a position, and it should be on where it goes, how much, and what goes where – so many oysters and clams over 80% of shoreline for restoration, but geoduck limited because they compete with native species, beaches, etc.

John: There's an issue of having accurate information about what geoduck aquaculture already exists and where. Farm registration... Corps... need update on aquatic farm registration issue – one option is for the committee to recommend that Ecology take responsibility to try to get info to them on where existing Shellfish Aquaculture sites are. We can only do that if we can get info from Dept. of Health or Fish and Wildlife.

Rich: Revised registration form – problem with the form is it's for registering new farms . It's there and in place, but not addressing all the existing farms. Annual renewal process for all farms – mass mailing with printout from our database saying “here's what he have on our books for your farm right now (species, acres, tas code)” with room to make edits. There is a September 30 deadline to have that info back – they're entered everything they've received for July and August and are into September now – the process is almost complete and then the department will have database with all that information, including how many acres do you own or lease and how many are under cultivation for geoduck, manilla clams, oysters, etc. Will be just a bit longer before that database is complete.

Bryan: Current standard for SMP is the inventory – could include not just resources but also stresses on resources or aquaculture ____ the resource.

Bruce: It's a requirement for marine critical areas that project proponent do inventory and otherwise use existing data, and there has been a problem with that.

John: All the work done on nearshore, etc. should be available – survey required for applicant (suggestion, option?)

Bruce: I came into this discussion thinking this (cumulative impacts?) was something that needed real attention – we will probably never have enough data to make perfect decisions. But you need to do the best you can.

Annie: And some of that information will come from the 404 process.

Bruce: It's good that all this is happening, but maybe it's a process that involves adaptive management over time.

Laura: Cathy Barker (DOH) showed a slide that showed all the dots of shellfish aquaculture – just on that document alone, I'm seeing whole shorelines blackened with dots. Why can't we get a list of sites? If you take that with what DOH already has, it shouldn't be hard for a county to look at both of those, and it should be enough to make some decisions. Over time, information should improve. Improvise in short term and make it more logistically feasible in long-term.

Diane: Cumulative impacts need to be addressed in the EIS. When you do that, you can solicit that information from DFW to see what's out there, it's a reasonable expectation and that's where you take care of that. We're always assuming that cumulative impacts _____, we need to look at the whole shoreline area, all uses there, and deal with it in a more holistic way. We're focused on geoduck, but need to look more broadly to address No Net Loss and cumulative impacts.

Blain: If we don't use this opportunity to compile this list right now, it could be put on back burner. We need to develop spatial layers for everything and this is an opportunity to do that. DNR could certainly use this information for resolving land-use conflicts. I would like to see Ecology recommend that this spatial layer be available to all state agencies.

Perry: Kathy Taylor (Ecology, Coastal Atlas). The suggested budget for our coastal atlas is so small for next year that it's not looking feasible right now. We have tried to solicit (funding?) to improve that situation. Budgets are going to be tough, no question. Some of these things we're talking about, including data management, the reality is that our computer systems don't communicate with each other, and it will require some money from the Legislature to adapt the databases. I agree we need this data layer so it's publically available, but it won't happen with current funding. If the committee would like to recommend this, they would have to recommend funding as well.

Bruce: However we can do it with current resources, but providing this data won't solve cumulative impacts problem. Ecology has to propose some means of doing this if you're serious about dealing with cumulative impacts. It's too big of a discussion for us to have right now, but important. Depends on scale and also the way you review plans – how much can we sustain for Puget Sound or for a county...there needs to be consideration of this.

Annie: What I'm hearing is that Ecology needs to consider cumulative impacts in formulating guidelines, and locals need to look at that as well.

Eric: Problem of definitions – even “cumulative impacts” acreage, scope, etc.

Diane: I think it needs to be dealt with in EIS, on the SMP level. Also, on assumption of impacts – we don't know this – Sea Grant is still working on the research. I don't know that we can or should deal with that today.

John: What I'm hearing is that when locals are doing their designations, besides looking at ecological and land-use issue, they also need to look at long-term effects.

Bruce: Long-term cumulative impacts are ecological impacts. If you give them this data and recommend that they do something, nothing will happen. It's up to Ecology to decide. Cumulative impacts are a statewide or region-wide issue. For that reason, we shouldn't let locals address it on their own – they won't do it. It either needs to be dealt with in guidelines or admit we're not going to deal with it.

John: The way we deal with it is to say that locals deal with it, and Ecology will review and approve it (or not).

Bruce: You can't expect locals to grapple with this on their own – you need to give them the framework.

Annie: Do the recommendations reflect your concerns?

Bruce: You're saying you will give locals data and let them deal with cumulative impacts. I don't think they can do that. It's a regional issue. Ecology needs to lay out the framework, and then the analysis can be done at the local level – but just data without guidance won't be enough

Diane: Ecology needs to take all SMPs and deal with at higher level statewide and take those SMPs and deal with broader cumulative impacts.

Laura: EIS –clarify, what are you talking about? Who's going to do the independent peer review? I don't want to defer all of this to an EIS – who is doing it and how will it happen? Cumulative impacts: it's ecological and it's ____ (phytoplankton, native species) – we don't know that and no one has looked at it yet. Somebody has to – should be a joint effort between counties and state.

Blain: So do I understand that no spatial data layer is going to be created? It's ridiculous that after a year and half we don't have this info.

Laura: There are only five growers with 90% of geoduck farms – Taylor is the largest. How hard can it be?

Rich: We are working on it, we will only release information when it is complete. When I hear "layer", I think of GIS, and I would like to see that in the mix. We are saying, "here is the info we have for your farms, please clarify any expansion" and that's all being entered into a database. They are almost done.

Laura: So how long until we have it?

Rich: Three weeks perhaps.

Laura: Then can we send an addendum to the Legislature.

Annie: So would you be able to distill the list of just geoduck farmers from that data. Once it's on the system, you can sort it out how you want.

ACTION ITEM: Rich will send the complete info to Ecology when he has it in hand.

John: The reason this is taking so long is that Legislature set up the system and asked Fish & Wildlife to gather this info, but I don't think they meant that Ecology should do a separate inquiry.

Blain: I take back what I said about the GIS layer. All I want is the database, that's enough.

Diane: We've responded and given the information. I've seen the implication we're hiding something. We're not. We're providing the information, but it's not so simple— the complexities must be reconciled and they are legitimate. No one is required to provide the information to you directly, Laura, we are providing it to the agencies.

John: There was a recent court case clarifying that SMPs are the way locals protect Critical Areas in the shoreline zone. The way I wrote this, it sound like a GMA designation would count.

Bruce: The point is that once an SMP is updated, ___ project specific siting... (see slide). Critical Area Ordinance and GMA designations will no longer apply.

John: Project level siting (on slide 7). There is a comment calling for thresholds. I don't know how to do that right now, which is why I didn't suggest any. Not sure there was consensus about baseline habitat survey. or how detailed and comprehensive it needs to be, so I didn't go there. Should I change the language, make this not a consensus recommendation for now?

Annie: Shall we remind people where this came from?

John: Two months ago, I pushed us through a siting discussion – it's the habitat list...discussed that Grays Harbor ecosystem is different than Puget Sound, South Sound is different from other areas. One list for pass/fail on siting is not going to work for all areas. Need ___ local adaptive management as science comes in.

Nick: Does Ecology have a definition for salmon habitat?

Perry: All of Puget Sound is defined as salmon habitat.

John: The question is how much damage can be done, if any.

Bruce: Need to specify critical salmon habitat.

Dave: We've already recommended we meet No Net Loss and in some areas it may not be allowed at all – do we need to do this? It may be getting redundant. First bullet point sort of reiterated number 1 and 2.

John: My recommendation to the committee early on was that broad designations will be really broad (?). Still need to think about it one site at a time, but what do you need to think about for No Net Loss? I don't know.

Diane: I agree with Dave. Grand statements of No Net Loss and habitat protection – we're getting redundant and are not clarifying or focusing it, just getting redundant. A survey may be necessary. Locals can determine what that survey needs to entail, then they make a decision based on that.

Eric: We are mixing up the temporal aspect - it's a permanent vs. short-term thing (harvest, for example, operations thing – may just need to not harvest when juveniles are travelling down the beach.)

Bruce: I think there is some degree of consensus around some of these things. I would suggest being more explicit - we are suggesting people stay out of eelgrass beds, not “managing around” eelgrass beds. Let's be a little tighter about whether we're managing or restricting. When would you say you have enough data – if there has been a good recent inventory, may not need to repeat that. Most of these shoreline inventories don't have good data and won't know until you do baseline site surveys - everything is predicated on that. If you don't identify critical habitat, it doesn't matter what the rest of your restrictions are.

Krystal: I agree with what ___ said about the first three bullets and how they all seem to be related. If we're going to include this we need to be more specific, not just say salmon habitat. I feel strongly baseline site surveys are needed, not just programmatic. Environments change over time, and we need current info. Ecology should say specifically what is required in the survey.
Larua: We need to make sure we're using the same language in the same places - critical sensitive vs. salmon habitat – want to make sure eelgrass, kelp, gracilaria (?), etc. need to be considered – language is inconsistent right now.

John: Proposal: Because this is related to some of the discussion on designations, I can see rewriting this one to say that local jurisdiction's consideration of site-specific approval should use...decision will look at ecological function using (whatever words used in other part) but sort of flip this to say that instead of restricted sites you consider ecological functions...

Perry: One of our challenges is going to be making whatever we do on geoduck aquaculture be consistent with existing guidelines. We define priority shoreline habitat (list of attributes – same things we've been talking about for months). We might need to add some more specificity, we can make it consistent and more specific and directly applicable to geoduck aquaculture. So Nick, it's kind of an answer to your question – John and I will sit down and look at places where we've already answered some of these in our guidelines and figure out where we need to specifically improve of geoduck guidelines.

Dave: Suggest survey will “typically” be required. For those cases when it's really not called for.

John: Could say some members recommend that a survey always be required, others...can reflect diversity of views.

Diane: You should just do what you want to do. You know the range of opinions. I don't know how much more work you need to do to parse it out for the Legislature. The report with reflect that range. We could dissect this forever...

John: Moving to the next slide (#8), the issue of certification is in DOH hands. Could add that site needs to be eligible for certification at time of harvest.

Diane: I can't imagine why someone would go in and plant without looking onto whether its certifiable.

Perry: Designations can change over time.

Diane: We do go into areas that haven't been certified yet but we've done our water quality research in advance.

John: Need to relate both sides of this – reference to both growers and residential perspective (conflicts of interest).

Bryan: Pesticide use came under discussion late in the process, not a shoreline use. It's in a non-shoreline regulatory framework.

Ward: On siltation to adjacent property owners, is there any scientific evidence?

John: I'm not going to argue with any member's point of view – I won't treat it as a consensus point.

Bryan: Although only one person spoke to the appropriateness of addressing the use of pesticides, I saw heads nodding and believe it reflects the opinion of more than just one person.

Whether to include in report: Bryan needs his view clarified that this is not the right venue under which to address pesticide use, and may need to change language to reflect that several members feel it should not be addressed under geoduck aquaculture.

John: If we have consensus on this today, I will take it out.

Laura: You should at least note that this issue is addressed elsewhere in law, and indicate where, so people know that we have discussed it.

Other Recommendations (slide 10): Committee did not make this recommendation

Adaptive Management: add language?

Blain: I feel strongly that an adaptive management framework needs to be codified in the guidelines. Not sure how you're going to do that – SMPs in general, or geoduck aquaculture specifically?

Dave: I'm okay with that phrase (reference to adaptive management) at the bottom of page 12.

Krystal: We should have some kind of consensus statement on adaptive management – I don't believe anyone is opposed to adaptive management.

Diane: The point of contention was whether it can be applied/required within an existing permit.

John (?): Will include general support statement.

Laura: Must have enforcement and monitoring as well, not adaptive management alone.

Krystal: Numbers 5 and 9 seem like two side of the same coin.

John : It appears twice because one was siting (should site be approved) one was operational (site preparation.)

Change “harvest” to “culture” in #9.

Position statements (slide 13).

Next step: slide 15.

Laura: Question about position statement (clarification: it’s a comment received, not language for committee report)

Committee will do final review Nov 17-24 of recommendations report to be attached to legislative report.

Update on Corps Permitting Process - Jessica Moore (Ecology)

Corps still dealing with Endangered Species Consultation with the Services, should be finalized by end of year, will kick them into reviewing all information submitted by growers on Nationwide Permit 48. It will come to my desk for review. Still working with a handful of growers to get information from them. Once Corps makes their final decision, we can move forward on our review. Corps will be issuing a decision based on NWP48 information received. Most likely they will verify permits. Verification of Nationwide Permit some maybe not. Here at Ecology, we have to include water quality and CZM determination as well.

Sally: Corps received numerous applications from growers, and they are reviewing them all together, and then they will issue individual permit decisions???(clarify this question.)

Laura H: Just for existing aquaculture. How do you define existing?

Jessica: That’s defined within Nationwide Permit. There are several criteria for that.

Blain: So do you expect another decision report on this from the Corps? What do we still lack?

Jessica: Final report from service will be issued to Corps – there will be decision document for all Nationwide Permits they issue (?)

Perry: Reminder of name of Casey Ehorn’s replacement. Pam Sanguinetti.

Jessica: Please feel free to call or email me if you have any other questions.

Perry: We expect the final decision from the Corps by December.

Blain: In the interim, on applications for expansion, what do I do? Do I talk to the Corps about this, or you?

Jessica: Definitely start with the Pam Sanguinetti. She has been very responsive.

Update on Committee Report to Legislature (Perry Lund, Ecology)

First priority will be getting the report to the Legislature by December 1. We will likely get some recommendations from OFM before it goes to the Legislature. Then we will begin the rule adoption process. (see his spreadsheet for schedule) We're going to try to get two process running simultaneously, they are somewhat related. The problem is the funding we got from the Legislature runs out in June. All of the carry-through money is going to Sea Grant research at this time. Unless we can find some other money, we need to finish our work by June 2009. Public process and SEPA review process/EIS are time consuming.

ACTION ITEM: ADD CURRENT EIS TO WEBSITE

Discussion of SEPA/Rule-Making Process (Perry Lund, Ecology)

Perry: We want to get SEPA process going at the same time we file the CR101. Annie will lead the SEPA effort (supplemental EIS) and will probably attach this effort to the EIS for our existing guidelines.

John: When Ecology adopts something by rule, it must go through SEPA process. We need a supplemental environmental impact review to adopt new guidelines.

Laura: How can you do this without science? What will it be based on?

Answer: Best available science.

Annie: Basically a document to show that you have considered these environmental issues.

Laura: Will the EIS be peer-viewed for scientific merit?

John: ----review--- (explanation?)

Annie: Through the public participation process, other agencies with technical expertise can be brought in.

Clarification: This is a programmatic EIS, not a project one. They are broader, a decision whether on balance there are environmental impacts to adopting these guidelines.

Laura: Is this something that is required for rulemaking?

Annie: No, you have to go thru SEPA, but EIS is not required.

Laura: We have yet to have had anyone come from Ecology or Fish and wildlife to talk about the impacts of geoduck farming – but now you have enough knowledge to make determinations on environmental impacts? It's a real concern that people we don't know will be writing and determining these things.

Dave: This isn't about whether geoduck aquaculture has an impact, it's the impact of this guidelines amendment.

Perry: A lot of this paperwork and procedure is just about getting the rule-making process kicked off. The SEPA part is where we will formally engage with the public. I have pictured three places where the committee will get back together for input (in person or virtually): 1) first cut at supplemental EIS.

Annie: The concept of SEPA on non-project is to have a joint track for public process on SEPA and rule adoption. Suggest scoping notice at CR101 and you don't need a long time for that – get comments on scoping notice as you're going out on 101.

Blain: But is this the only [guidelines amendment in progress, will they be combined]?

Tom: The only reason we might combine it with other amendments is that we can only amend the guidelines once a year (and we haven't made any amendment to the new guidelines up to now). So if other people have amendments they need to make, they will have to be bought in quickly. We don't know yet, but it won't affect this group, only perhaps the timeline.

Goal for draft guidelines = early spring – we need time for public comment and responsiveness summary. Maximum of 180 days, minimum of 48 days, after filing 102 (draft).

Perry: Would like to start the internal process for CR101 four weeks ahead of time.

Sally: So part of the translation of why this is important is that there's a whole lot of work coming and there will be certain key points where we might come back together.

Perry: The schedule may be fairly fluid, I would like to engage the committee: 1) early SEPA stage; 2) early draft rule development (CR202); and 3) in public comment phase, we are required to have four public hearings, then give you an additional chance after the public hearings, then we can come back and inform you what we've heard from the public and make some suggestions for moving forward and hear from you on responding to that.

Summary:

- 1) Early SEPA
- 2) Early Rule Draft
- 3) Final Public Comment

Annie: Do you want come together before you actually see draft guidelines? (probably late January/early February)

Bruce: Seems like are still some big questions (BMPs, for example). Could you have options on the table?

Perry: That's one of the things we want to use SEPA for.

Bruce: Before you put words into draft rule form, it's more difficult to make conceptual changes. You might offer a menu of options for different things for discussion.

John: I could draw up a several outlines that represent options – one more detailed, or more general, and an early SEPA comparison of those.

Perry: When you want to reengage as a group with this?

Diane: I think it would be great if we as a group could...but I think Ecology could probably know how each of us feels about each topic. I think we've done our work.

John: How we've phrased these things so far is very different from what guidelines language would look like. I'd like to give you a chance to react to that.

Perry: What we're talking about is getting feedback from you twice before we submit draft language.

John: Legislature calls for the committee to act as advisory to Ecology in adopting the new rules. It's our intent to come to you for review before we release anything to the public.

Sally: We need to be clear in our expectations of what our "advisory" role means – to what degree can we influence what Ecology will do at that point? Members should understand that.

Bruce: We should offer suggestion on options for conceptual stuff before the language is written.

Perry: That is exactly when we will be looking at that kind of input from you. HB2220 requires us to initiate rule-making within six months of submitting report to Legislature.

Discussion of funding/budget issues.

ACTION ITEM: Perry will get together with other agencies to get ready for the report.

Draft Outline: Comments on Legislative Report

Diane: would be good to include brief summary of the type of information we received in the course of our deliberations (field trip, guest speakers, etc.). Maybe include under the related task.

Action items:

- Rich Childers of DFW will send the complete farm survey data to Ecology when he has it in hand (Should be in December?)
- Add current EIS (from Guidelines?) to website.
- Perry will get together with other agencies to get ready for the report.
- Committee will do final review Nov 17-24 of recommendations report to be attached to legislative report.

Public Comments:

Bill Burrows (Harstine/Stretch Island) Thank you to everyone involved for all the time and effort you have put into this process.

Peter Downey (Shellfish Industry): Thank you to all committee members for sticking with this daunting task. To Ecology, keep the rule in perspective compared to all other uses and when writing your rule, make sure it's within that perspective and compared to existing regulations (not just piled on top of existing regulations). Look at current and potential size of 350 farms currently operating (which is minute compared to all shellfish aquaculture – even three times that much would be minute. And there not many places you can do geoduck aquaculture. Preserve local government flexibility in regulations. Recognize that these are small farms and farmers (even Taylor, compared to large commercial agriculture). My geoduck farm is 15 contiguous acres, and it's the largest in the world. Don't prevent entry into the market or make it overly complex. Some farmers are relatively astute on regulations, but don't make it so complex that people can't figure it out. Remember shellfish aquaculture is both a water-dependent and preferred use under SMA. You could be doing more damage to the environment by excluding shellfish farmers who watch out for water quality.

Steve Blumfield: First I'd like to thank all the members of the committee for sitting through a long and sometimes painful process. This speaks to the passions, needs, and desires of all parties. A great philosopher once said "Truth is a set of opinions fated to be agreed upon by all those who pursue inquiry far enough." That was part of your task, to sort through this mountain of facts, speculations, personal truths, inferences, and untruths to come up with a real opinion of truth. I'm sure there are members that don't necessarily agree with what comes of these truths, but that is still part of the process. Just what is best for the health of Puget Sound? Hopefully as you propose these rules, "This truth" that you seek has become apparent and clear and these rules will be placed in line and supporting these truths.

Thank you, Send off.

MEETING ADJOURNED.