PEOPLE FOR PUGET SOUND

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Ms. Cedar Bouta
Shorelines Program
Department of Ecology
Lacey, WA

November 22, 2010

Re: Update to Shoreline Guidelines on Geoduck Aquaculture

Dear Cedar:

Thank you for the opportunity to comment on the draft version of the Proposed Changes to Chapter 173-26, Geoduck Aquaculture. To begin with, we would like to stress the importance of these rules. Nearshore geoduck aquaculture is a growing practice along Puget Sound shorelines. While most growers are responsible and seek to limit damaging practices, there is potential, particularly when cumulative impacts are accessed, for this activity to cause great harm. Best management practices are not well defined and local jurisdictions are inconsistent in their oversight of this activity. Site preparation activities, such as grading of shorelines with heavy equipment, along with intrusive harvest practices have the potential to do great harm. This is why the state legislature adopted and the Governor signed HB 2220 in 2007, which directs Ecology to update the Shoreline Guidelines in this area.

Having said all that, we believe that, with reasonable restrictions in place, nearshore geoduck aquaculture can be conducted in a manner that protects the ecosystem and helps the local economy. While this rule contains many compromises, we feel that you have struck that balance to a large extent. There are a number of areas of the draft rule, however, which require revision. We have a number of suggested changes that we offer in this letter to help strengthen and clarify the language.

Shoreline Use: Aquaculture [173-26-241(3)(b)]

To begin with, we wish to indicate our strong support for 173-26-241(3)(b)(ii)(B) which requires that growers obtain a Shorelines Conditional Use Permit and, further, identifies best management practices which, where "reasonable and appropriate," should be utilized on-site. The list of management practices contains activities which were discussed, in many cases, at length in the SARC stakeholder process. While environmental interests had argued for more prescriptive standards (e.g.-defined minimum buffer widths), this subsection gives some direction to local governments when adopted CUP's to consider limiting potentially very damaging activities. It was the clear intent of the legislature that such standards be adopted (see HB 2220, section 5). While the draft language represents the minimum necessary to meet the requirements of the statute, it will signify an important step forward from our standpoint.

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While the permit requirement does indicate the need for a baseline survey, which we believe to be essential to permit, it does not require specific, on-going monitoring. Unlike most shoreline development, aquaculture is an on-going activity, not a one-time event. On-going compliance monitoring, in particular, is critical from our standpoint. We urge you to require in (B)(II) on-going monitoring, at minimum, to occur during site preparation, harvest, and other activities which have the potential to cause great harm if permit conditions are not fully complied with.

We also support language regarding siting of operations in (3)(b)(ii)(A) which states that such operations should be sited where modification of the site, including rock removal and grading, is not necessary. As noted above this activity can be extremely damaging. This language combined with CUP BMP language will, hopefully, begin to curb more destructive practices of this sort.

Reservation of Ecologically Significant Areas [173-26-201(d)(i) and 173-26-211(5)(c)]

It is well understood and agreed to that planners, in developing a Shoreline Master Program, must withdraw ecologically significant shoreline areas before designating these areas for other uses. Our first concern with the proposed change in subsection 201(d)(i) is that you seem to indicate that ecologically significant shorelines are limited to those with intact upland areas. Clearly this is not the case. There are many examples of ecologically significant areas (e.g.-herring spawning beds) that are adjacent to degraded upland areas. Having said that we do not deny that natural shorelines with intact uplands are scarce and very significant---we do think that they deserve to be reserved for ecological purposes. We simply ask that, in addition to these areas, you indicate that areas with "critical ecological features" also be set aside. This approach will help create consistency with rule requirements on Critical Areas [173-26-221(2)]. Currently the relationship between these sections is not well defined.

Secondly, the proposed language in 201(d)(i) which states "and tidelands not reserved for water-dependent use or development" suggests that planners would reserve areas for development prior to reserving areas for ecological use. We urge that you delete this language.

Similarly, we urge you to make sure, in Section 173-26-211(5)(c)(ii)(G) and (H), the proper sequence that planners should undertake in reserving these areas. In reserving Aquatic Areas for various uses, it should be clear that planners undertake reservation of ecologically significant areas under (G) before reserving lands for other uses. Subsection (H) jumbles together preferred uses, including ecological factors, making the section even more confusing.

Critical Saltwater Habitats [173-26-221(2)(c)(iii)]

We support clarification that "critical saltwater habitat" should include only "naturally occurring beds of native shellfish species." The intent of the underlying language, to protect native species and ecologically significant areas, is clear. Without this change, it seems possible that this section might be interpreted as being in conflict with requirements discussed above. Regardless of how you proceed on this issue, we again urge you to do everything possible to maintain consistency between this section and sections which require removal of lands for ecological reasons and the need to impose new restrictions on shellfish aquaculture to avoid ecological harm.

Thank you for the opportunity to comment on the proposed draft rule. As always, we stand ready to work with the Department and other stakeholders as we move forward on this issue.

Yours Sincerely,

Bruce Wishart
Policy Director
People for Puget Sound