From: John
To: ECY RE Shoreline Rule;
Subject: Chapters 173-18, 20, 22, 26 and 27 WAC comment E0021
Date: Monday, November 22, 2010 9:03:49 PM

November 22, 2010

Ms. Cedar Bouta
WA Department of Ecology – SEA Program
PO Box 47600, Olympia WA, 98504-7600

Re: WAC 173-18,20,22,26 and 27 Proposed Rule Amendment

Dear Ms. Bouta:

I am writing this letter in response to the rulemaking amendments that WDOE is proposing that pertains to shellfish aquaculture. Although interested and effected parties completed a thorough process (SARC) to evaluate and make recommendations concerning geoduck culture as requested by the legislature, the Department of Ecology seems to be using the opportunity to further an anti-aquaculture agenda. There seems to very little "Sound Science" basis for any of the proposed changes. Has Ecology looked at the nitrogen and other nutrient loadings that plague Puget Sound and the beneficial effects that bivalve aquaculture contribute in bioremediation for that problem? Has Ecology measured the carbon sequestration contribution of the industry or even considered that? The shellfish farmers of Washington have been fighting for clean waters in this state since the first pulp mills were being constructed in the 1920's. But, more recently science has shown that bivalve's do an incredible job in cleaning the water of nitrogen and phosphorus themselves. The three dimensional habitat that bivalves and their culture gear create rivals eel grass beds in both species diversity and richness. They are providing not only food for foraging juvenile salmonids and other species, but also refuge from prey species. Has this habitat contribution been considered and the effect of the rule changes weighed?

The changes to the Aquaculture Policy and Critical Saltwater Habitat

language are by far the most obvious examples that Ecology is trying to write new laws for aquaculture. These changes were not even present in the previous draft for the rule change. The only group that this rule change could fit under in the proposal is "Housekeeping Amendments" which does not begin to describe a dramatic policy change such as this. This is not a rule change. The Aquaculture Policy and the Critical Saltwater Habitat language were crafted and written after a lengthy and exhaustive public process involving a complete spectrum of the public, scientists, and policy makers. To change that policy on the final draft of a "rule" change is deceitful and inappropriate especially under the guise of a housekeeping amendment. The science also backs the original language which should remain unchanged.

The rule changes that are proposed for geoduck aquaculture are almost all covered in some way by the guidance from the Army Corp of Engineers permit in consultation with US Fish and Wildlife Service and National Marine Fish Service. This is placing the Department of Ecology and the counties in a position of evaluating ecological interactions of aquaculture with the marine environment that is already being done by agencies that have far more expertise on the subject. This will cause a great amount of wasteful duplication of all agencies time and resources at a time when budgets and staffing are already straining from reduced revenues. Requiring farmers to adhere to ACOE permits will achieve the same results without creating another two levels of bureaucracy. Coincidently, they are already required to adhere to those permits.

The Small Business Economic Impact Statement proves that there is a disproportionate impact on small businesses. Most of the geoduck growers are small businesses according to the same study. I would argue that a 5 year CUP is not the type of permit that would encourage and foster a long term business model that farmers require to build a successful farm. Consider the amount of time that 30 different property sites would require to fulfill CUP permitting requirements just to get and maintain the farm sites. This would require full time staffing on a small farm. The proposal to allow combining multiple sites on one permit could find the farm at a standstill if the permit process did not proceed in a timely and predictable manner, which never happens, or the permit for the combined sites could be delayed indefinitely for an issue with just one of the parcels. Either of these scenarios would be devastating to a small business starting up that is trying to maintain cash flow and its trained staff. The study clearly states that conditions 1,3,4,5,6,7,10,11,12,13,14,and 15 have "non-quantifiable" costs associated with them. That is completely unacceptable and inaccurate. If the Department of Ecology has compelling reasons and expectations to impose these 15 conditions on all geoduck operations, then they should be able to define the limitations they are imposing and quantify their economic impacts for both large and small growers.

This rule change does not reflect the recommendations of the SARC committee nor is it using the best available science. This rule change should at least be delayed until the ongoing science of the SHB 2220 is completed and can be applied to these rule changes.

Sincerely,

John Lentz