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November 23, 2010

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

Re: WAC 173-26 Proposed Rule Amendment

Dear Ms. Bouta:

The Jamestown S'Klallam Tribe appreciates the opportunity to provide comments on the proposed final draft Shoreline Guidelines WAC 173-26. In 2007, Department of Ecology was directed by the legislature to add language to the Shoreline Master Program Guidelines which incorporated recommendations of the Shellfish Aquaculture Regulatory Committee (SARC) to address geoduck aquaculture. We are very concerned that DOE proposed final draft contradicts many of the SARC recommendations. Many stakeholders and government representatives participated in this process for 2 years, including the Tribes, and it's very disturbing to know that time and resources appear to have been wasted on this public forum. The Jamestown Tribe will need to consider it's future participation in these forums and may find it necessary to interact at a government to government level.

Ecology's redraft of the Aquaculture Policy guidance and the redefinition of Critical Saltwater Habitats is a complete departure from current policies that protect aquaculture and shellfish habitat. Of specific concern is the proposed redefinition of critical salt water habitat to exclude subsistence, commercial and recreational shellfish beds and replace it with "naturally occurring beds of native shellfish species." The Jamestown Tribe considers its' subsistence and commercial shellfish beds as critical salt water habitat and disagrees with DOE's removal of language that designates "All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas...." Many public tidelands are routinely enhanced and not entirely "naturally occurring" with clam seed of a "non-native" species from hatcheries. Would this practice remove an area as a critical salt water habitat? The proposed changes appear to be decreasing protection of shellfish habitat.

Furthermore, as a result of the shellfish settlement with the State of Washington and growers, the Jamestown S'Klallam Tribe has been planning several aquaculture projects as encouraged by the agreement. We are now presented with a final draft of the rule that impedes the types of aquaculture activity previously agreed to by the State of Washington. If the proposed changes are implemented, the outcome would deviate so far from our expectations, we would need to schedule a government to government consultation as soon as practical. Please contact me if you have any questions or concerns.

Sincerely,

Kelly Toy  
Shellfish Manager  
Jamestown S'Klallam Tribe  
1033 Old Blyn Highway  
Sequim, WA 98368  
(360) 681-4641

cc: Scott Chitwood, Jamestown S'Klallam Tribe Natural Resource Director  
Ron Allen, Jamestown S'Klallam Tribe Chairman  
Randy Hatch, PNPTC Senior Shellfish Biologist  
Randy Harder, PNPTC Executive Director  
Tamara Gage, Port Gamble S'Klallam Tribe Shellfish Manager  
Tony Forsman, NWIFC