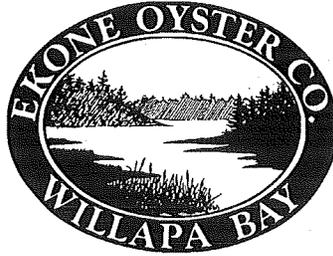


October 8, 2010
 Cedar Bouta
 Department of Ecology
 PO Box 47600
 Olympia, WA 98504-7600



Dear Cedar Bouta,

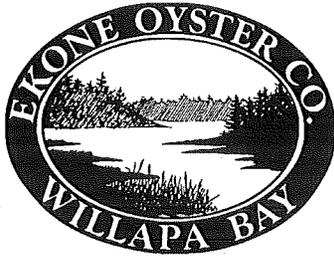
I would like to take this opportunity to comment regarding Washington Department of Ecology Proposed Shoreline Guidelines on Shellfish Aquaculture.

I will preface this letter by saying I was one of the persons invited to participate in SARC. I am a grower and processor of shellfish working in the Willapa Bay watershed. My company, Ekone Oyster Co. employs 47 full time employees. Ekone Oyster Co. works year round and feels that we provide living wage jobs in an area of the state that has severe unemployment.

One of the most difficult changes that Ecology has proposed are the rule changes that deal with the language regarding Aquaculture. It appears that Ecology has proposed to strike "Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Properly managed, it can result in long term over short term benefit and can protect the resources and ecology of the shoreline". At the time this language was developed the State obviously felt that these activities were of STATEWIDE INTEREST. I would like to ask what has changed that Ecology needs to strike this language and replace it with some very different language. Quoting from the new proposed language, "Aquaculture should not be permitted in areas where it would adversely impact critical areas or critical resource areas, suspend sediments that exceed state sediment standards, or conflict with navigation and other water dependent uses". I can see this new language putting aquaculture behind commercial and recreational navigation, ports, docks, bulkheads, and even wading. Surely something that is and has been of STATEWIDE INTEREST will no longer be of interest to anyone except those trying to farm aquatic species. Let us not lose the lesson of the Chesapeake, where surrounding States are scrambling to restore the benefits of shellfish Aquaculture. Washington State still has a vibrant shellfish industry which serves not only the industry, but is helping prevent our aquatic waterways from going eutrophic.

Even within the framework of the existing language, I would argue that Ecology can make rules that would allow for the "proper management" of these aquatic activities.

Regarding conditional use permits, I believe Ecology's Small Business Economic Impact Statement is flawed. Ecology used the cost of filing the permit as the true cost. Typically with all the requirements that must be met when filling out a CUP permit, this forces that cost up. I

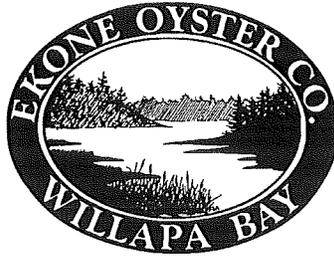


would suggest Ecology re-do the Economic Impact Statement and contact a number of small and large companies that actually have filed conditional use permits to get an accurate cost.

Within the specific additions to these conditional use permits, Ecology has strayed from my understanding of where SARC was able to agree.

- a. Prohibiting the placement of tanks or pools. **SARC determined that there was less than 1 acre that was currently covered by these structures. I believe SARC decided that there would be a limit placed on their usage, not a complete ban.** c
- b. Limiting on-site activities during specific periods regarding forage fish: the experts from WDFW determined that forage fish actually did not use the small band of intertidal where geoduck is typically farmed. **SARC grower representation agreed that they could farm within the band where forage fish typically were not found.** d
- c. Limiting area of a site that can be planted or harvested at one time: Harvest occurs typically once every five years. I would argue disturbing one area and then leaving that area alone for another five years would be less disruptive than hopping around and disturbing smaller areas more frequently. I would suggest Ecology define what they mean by 'limiting'. **SARC did not receive testimony from growers regarding this requirement.** e
- d. Requiring installation of property corner markers that are visible at low tide. **SARC discussed this, and felt within reason this can be accomplished.** Actually marking the corners may be doable without a great cost, but the *Economic Impact Statement failed to realize the cost of aquatic surveys which typically run from \$6000.00 and up per parcel in Willapa Bay. I would suggest Ecology contact a* number of Puget Sound growers who have had recent surveys, as to the true cost of an aquatic survey. This information should be included within the Economic Impact Statement. f
- e. Requiring buffers, requiring measures to minimize impacts to fish and wildlife. Does Ecology expect every County to become an expert in deciding how large a buffer may be necessary? SARC members did question who would pay for the cost of mandates that Ecology creates. **SARC members also felt that most counties would not have funds for implementation or enforcement of additional rule-making.** I would question whether each County will need to develop individual rules to minimize impacts to fish and wildlife. g

If Ecology truly feels individual rules are necessary, who better than Ecology to provide guidelines to the counties regarding buffer size and provide a list of measures that would minimize impacts. To misunderstand that our small rural counties have the expertise or the financial wherewithal to create these rules will lead to very poor language that will no doubt be challenged within our judicial system.



- f. Establish limits on barges or vessels moored. Will the counties also be required to establish and provide similar limits to other commercial and recreational vessels that are moored?
- g. Require measures to minimize impacts to navigation, including recreational uses of the water over the site at high tide. So if someone is kayaking or swimming over geoduck tubes, and they scratch their kayak, or cut a foot could a county require tubes to be pulled? **To my knowledge impacts to commercial and recreational navigation were not discussed by SARC.**

It appears to me that Ecology has taken a list of items that were discussed through the SARC process and now has given the Counties the charge of figuring out what SARC could not come to consensus on. I would argue that this is exactly what the Governor and Legislature did not intend for Ecology to do with the SARC process.

I would like to thank you in advance for taking my comments and look forward to your reply.

Nick Jambor
President/ Ekone Oyster Co
SARC Member