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November 18, 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:

I would like to reply to the proposed final draft Shoreline Guidelines WAC 173-26. To put it nicely, the draft aquaculture rule has gone way beyond both the legislative direction given to Ecology in SHB 2220 and the recommendations put forward by the Shellfish Aquaculture Regulatory Committee (SARC). To put it more bluntly, when I factor in Ecology's "complicity" in the Pierce County Interim Ordinance (which was overturned in Thurston County Court) with this proposed rule change I can't help but think that the Department of Ecology wants to remove shellfish aquaculture from state waters. As things now stand, I have very little trust that the Department of Ecology will act on sound science and what is right versus responding to public and political pressure.

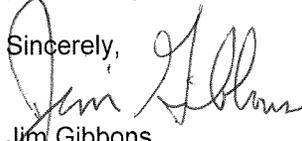
The most eye catching and bothersome change is Ecology's redraft of the Aquaculture Policy guidance and the redefinition of Critical Saltwater Habitats. Someone in Ecology has basically decided to ignore the legislature and, more importantly, what's best for the environment and is attempting to set their own agenda by using the power of Ecology to make rules. Additionally, the Small Business Impact Statement associated with this rule is woefully inadequate in that it fails to recognize most of the impacts of the rule as proposed and provides no real mitigation for the effects that are identified.

The Aquaculture Policy and Critical Salt Water Habitat language redraft is a complete departure from current policies that protect aquaculture. Such changes if enacted will work to eliminate shellfish aquaculture from the most productive shorelines of Washington State. Interestingly, and disturbingly so, the language included in this final draft was never included in the draft rules. It just appeared. Such a radical change without prior notice is an untrustworthy and deceptive way to operate a state agency.

Let me conclude with a comment by Dick Wilson of Bay Center Farms who I think has captured the most objectionable part of the proposed rule change. In his letter to you he stated that:

"The most disconcerting aspect of these proposed guidelines as alluded to in the above cannot be over emphasized. DOE has imposed a blatant disregard for the importance of shellfish in creating habitat, increasing biodiversity and species abundance, and improving conditions for other marine species. They ignore the science defining how different shellfish species contribute to the richness of the near shore of their bay or sound. This is the travesty of DOE's embarrassing proposal."

I would urge you to read his letter in its entirety. Twice. I would also urge you to scrap the proposed rule and begin anew.

Sincerely,

Jim Gibbons
President

Seattle Shellfish LLC

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