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September 14, 2018

Pierce County Council
930 Tacoma Avenue South, Room 1046
Tacoma, Wa 98402

Re: Pierce County Comprehensive Shoreline Master Program Update-Conditional Ecology Approval—

Dear Mr. Young,

Thank you for the opportunity to comment on Department of Ecology's (DOE) review of the county's Shoreline Master Plan of 2016. The coalition of the county's environmental organizations have worked with you and the staff in a multi-year effort to revise our Shoreline Management Plan. It was a monumental effort in which the county council played a key role in achieving consensus among the varied interest groups and neighbors with concerns about the county shorelines.

We find Ecology's conditional approval and recommendations contrary to the scientific evidence that is widely available. In particular, some of their suggested changes are inconsistent with the Governor's executive order to protect salmon and orcas. For this letter we have researched and found a number of instances where Department of Ecology has exceeded their administrative authority and is not providing for a "no net loss of ecological functions."

In talking to Council members we understand that refusing to accept DOE's required changes to the SMP would only result in further delay in implementing the SMP. Since the majority of the SMP is a significant improvement in shoreline regulations, we support passing the SMP as presented.

In order to put into affect the several changes in aquaculture and protections for homeowners and wildlife, we would like to encourage the council to open up the Shoreline Master Plan for further amendment again in 2019. At such time we could re-consider the items listed in this letter that were part of the previous Shoreline Master Plan which was rejected by the Department of Ecology.

The county process of updating this Shoreline Master Plan has taken almost a decade of endless public meetings and hearings that required several major revision. Several more years were lost due to lengthy delay and negotiations with the Department of Ecology. During these years of delay we have learned more about the impacts of Industrial Aquaculture practices on the food supply for salmon, shorebirds and forage fish.

We hope that you will consider allowing an amendment process in which these items can be considered as improvements to the SMP.

Required Regulation Changes by DOE to the Pierce County SMP

1) Dredging in Nisqually Reach--#7, Page 2, Chapter 185.30.040-Anderson Island/Ketron toxic waste dumpsite in the Nisqually Reach Aquatic Reserve.

Pierce County's regulation to prohibit the dredge disposal in the Nisqually Reach Aquatic Reserve should not be deleted as recommended by Ecology. This dumpsite was established in 1989 and then allowed later when the Aquatic Reserve was established in 2011. It is clear that the following facts were not adequately addressed in the past or for the future:

- The Department of Natural Resources (DNR) has been remiss in their investigation surrounding the Anderson Island /Ketron toxic waste dumpsite. For example, DDT was discovered at the Zittle Marina dredge site in Thurston County. All of that DDT was dumped at the Anderson dumpsite. The half-life of DDT in an aquatic environment is 150 years.
- Dioxins have likely been shipped to Anderson. The half-life of dioxins ranges from 25 to 100 years. We don't need these chemicals in our environment.
- In the literature there is reference to this dumpsite lasting for 150 years and being able to handle 9 million yards of spoils. Those numbers are staggering.
- Purple loosestrife may have been shipped to the dumpsite from Budd Inlet. The seeds come from Capitol Lake and wash into the inlet. These seeds are highly noxious and may affect the close by Nisqually National Wildlife Refuge. DNR has no idea of the damage that might be done.
- These toxic materials need to be disposed of in upland sites so we can preserve our marine environment. Thurston County should be dealing with this toxic waste in their own county.

The DOE requirement to lift the prohibition against dumping and dredging in Nisqually Reach is inconsistent with WAC 173-26-211(5)c)(i) which provides in part that the purpose of **aquatic environment is to protect, restore and manage the unique characteristics and resources below the Ordinary High Water Mark.**

b) Impact on fish and endangered birds in Nisqually Reach

In addition the County's prohibition provides protection for birds and rockfish in the Nisqually Reach.

- Marbled Murrelets, now listed as endangered, have been sighted around Ketron Island adjacent to the dumpsite. Sightings have been as recent as 2017. They feed in the waters and then fly inland to nest in the old growth timber and on steep sand banks typical of Ketron Island and other shorelines.
- Dumping of the spoils also affects juvenile rockfish common in deep water locations.

The DOE requirement to lift the prohibition against dredging in Nisqually reach is inconsistent with WAC 173-26-176 (2) which provides that water dependent uses shall be allowed only where **reasonable and consistent with avoiding adverse effects to wildlife and vegetation, aquatic life, and public navigation.**

c) Prohibition of Aquaculture in Nisqually Reach.

#12.17. Page 4. We request that the following language not be deleted as required by DOE: “With the exception of Olympia Oyster propagation which is a conditional use, new commercial shellfish aquaculture operations are prohibited within the Nisqually Reach Aquatic Reserve.”

- Since 2011, there have been scientific findings that shellfish aquaculture is an adverse impact to Chinook salmon and other species that are found in the Nisqually Reach Aquatic Reserve. DOE also does not include the full legal language for water dependent uses.

The DOE requirement to lift the prohibition against dredging in Nisqually Reach is inconsistent with WAC 173-26-211(3)b(i)(C) which provides that geoduck aquaculture should be limited and conditioned to **assure appropriate compatible types of aquaculture for the local conditions as necessary to assure that no net loss of ecological functions** are in consideration of local ecological conditions

d) Nisqually Reach includes the Nisqually National Wildlife Refuge. Permitting geoduck within the view shed of this popular wildlife refuge impacts aesthetic quality of the shoreline and impacts the public view.

Planting of geoduck aquaculture lines the beach area with 44,000 white plastic pipes per acre. At medium tides, these beaches look like a military cemetery. Predator control netting that covers pipes at times of the year endangers wildlife by limiting access to crabs and other food for birds and wildlife.

DOE reversal of the county's prohibition against aquaculture in the Nisqually Reach is inconsistent with WAC 173-26-241(3)b(i)(C) which provides that geoduck **aquaculture should not be permitted in areas where there will be significant impacts to the aesthetic qualities of the shoreline.** and the DOE reversal is also inconsistent with WAC 173-26-211(5)c(ii)(D) which provides that in the aquatic environment all development and uses should be located to **minimize interference with impacts on public views?**

2) Aquaculture

a) Introducing new shellfish species.

#10. 14. Page 3. **Introduction of new shellfish species, changing shellfish species cultivated, expansion of the physical area cultivated or relocation of the aquaculture operation.** We request the proposed Pierce County language should remain as stated.

Introducing a new species, or changing to another species requires a new environmental review and county permit. We do not agree with DOE that this change is for consistency. Different species are planted at different elevations on the beach. Each species affects forage fish and aquatic vegetation and should be reviewed with public input.

b) Aquaculture prohibition in estuaries.

- #13. 18. Page 4. We request that the following language not be deleted as required by DOE: “Aquaculture is prohibited in estuaries within 300 feet of the mouth of freshwater streams (as measured at extreme low tide). Pierce County mapped streams that support species of salmon and trout that need protection. Allowing aquaculture in these mapped critical areas through use of a conditional use process means the public has to be engaged to insure these species are protected each time a new application is submitted.

DOE requirement to lift protection for streams is inconsistent with WAC 173-26-211(3)b)(i)(C) which provides that geoduck aquaculture should be limited and conditioned to **assure appropriate compatible types of aquaculture for the local conditions as necessary to assure that no net loss of ecological functions** are in consideration of local ecological conditions.

DOE points out that some mapped streams and estuaries have existing and on-going aquaculture. The on-going aquaculture is a vested permit. Prohibition would limit permit only from expanding.

County has the ability to protect existing salmon streams from expansion of existing aquaculture and from the increase of other water dependent uses within the estuary. Typically, aquaculture diverts the fresh water from streams resulting in irreparable damage to the streambed. If these areas were opened to conditional use process, the public would have to protect streams and estuaries from additional cumulative impacts.

DOE requirement to lift protection for streams is inconsistent with WAC 173-26-176 (2) which provides that water dependent uses shall be allowed only where **reasonable and consistent with avoiding adverse effects to wildlife and vegetation, aquatic life, and public navigation.**

3 Remove protection for selected narrow estuaries.

a) Residential neighborhoods.

#14. 19. Page 5. We request that the following language not be deleted as required by DOE: “Aquaculture is prohibited adjacent to residential neighborhoods in Horsehead Bay, Wollochet Bay, Lay Inlet and adjacent to Raft Island.”

- In narrow estuaries named above, there is evidence from the citizens from Burley Lagoon, that the aquaculture gear, stakes, plastic pipes etc. have injured citizens and preclude the public from safely enjoying the public marine waters - which is a right under the Shoreline Management Act. Some of these estuaries are relatively narrow areas and have unique natural beauty that should not be used for industrial purposes.

- It is not possible to buffer industrial aquaculture farms when permitted in narrow inlets from noise and lights of night harvesting which can be seen and heard across the inlet and from immediate shoreline. No other industry is permitted to dump nets, pipes and industrial pollution on adjoining properties without fencing or adequate buffers.

DOE requirement to delete language prohibiting aquaculture in residential neighborhoods is inconsistent with WAC 173-26-221(4)d)(iv) which provides that an SMP must include provisions **to minimize view impacts from substantial numbers of residences and that water-dependent uses are subject to these provisions when there are compelling reasons**

b) Estuaries contain documented species.

- Portions of Horsehead Bay, Wollochet Bay, Lay Inlet and adjacent to Raft Island have significant portions of their shoreline mapped by Department of Fish and Wildlife showing one or several of these Documented Spawning Species: sand lance, herring, smelt, or are WDFW Spawning and eelgrass Habitats of Local Importance.
- These species are important to forage fish and for salmon.

DOE requirement to delete language prohibiting aquaculture is inconsistent with WAC 173-26-176 (2) which provides that water dependent uses shall be allowed only where **reasonable and consistent with avoiding adverse effects to wildlife and vegetation, aquatic life, and public navigation.** And further,

DOE requirement to delete language prohibiting aquaculture is inconsistent with WAC 173-26-211(3)b)(i)(C) which provides that geoduck **aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adverse impacts to eelgrass or macro-algae, conflict with navigation or conflict with other water-dependent uses.**

Note: WDFW & DNR maps which show locations of species at each of these estuary are attached.

4. Mitigation sequencing made optional.

#16. Page 6. B. Policies- DOE rewrites regulations on mitigation sequencing to removes regulatory requirement and make it optional. Every critical "shall" in this paragraph is removed and renders new regulations meaningless with use of word "should". We ask that the section be rewritten as follows:

8. Give flexibility to aquaculture practices provided that proposal ~~should~~ **shall** be consistent with mitigation sequencing to avoid or minimize negative impacts as set forth in Title 185 PCC."

Mitigation sequencing is an important method added to the SMP to protect the shorebirds, forage fish and wildlife. It is consistent with SEPA and it shall be a requirement, should not be reduced to an option that allows removal of naturally occurring species that compete with aquaculture.

- #18. Page 7. B Policies. We request the word “shall” not be changed to “may”. This section relates to cumulative impacts which are necessary to carefully evaluate with the expansion of industrial aquaculture.

- #54. Page 14. We request that Pierce County does not change the eelgrass language to: “Eelgrass means those native species including *Zostera marina*.” According to the Washington State Weed Board, it is up to the County on how they control *Zostera japonica* (Class C) which serves many of the same ecological functions as *Zostera marina*. Changing this language endangers also *Zostera marina* which commonly grows in mixed beds and is also considered to be a “pest” by the shellfish industry.

The DOE rewrites of these regulations are inconsistent with WAC 173-26-186 (8)b which provides that local master programs shall include **policies and regulations designed to achieve "no net loss of ecological functions."**

Thank you for the opportunity to share our concerns about Ecology's recommendations to Pierce County's Shoreline Master Program. No coincidence that Ecology has removed the sections of the plan pertaining to industrial aquaculture and its impact on residents, boaters and fish & wildlife. We would like an opportunity to re-instate these changes without putting into jeopardy the other important changes to the county's SMP.

If you have any questions, please feel free to contact us.

Sincerely,

Tahoma Audubon Society
Kirk Kirkland

Sierra Club-Tatoosh/Pierce County
Dorothy Walker

Coalition To Protect Puget Sound
Laura Hendricks

Citizens for Healthy Bay
Melissa Malott

Friends of Burley Lagoon
Heather McFarlane

