



**KITSAP COUNTY HEARING EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**In the Matter of Request for  
Shoreline Substantial Development Permit - Commercial, File No. 16 04402**

**February 16, 2017**

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THIS MATTER came before the Kitsap County Hearing Examiner on February 9, 2017. The Hearing Examiner makes the following Findings of Fact, Conclusions of Law, and Decision:

**1. FINDINGS OF FACT**

**1.1 Proposal.** The Suquamish Tribe requests a Shoreline Substantial Development Permit (SSDP) under the Shoreline Management Master Program, Title 22 of the Kitsap County Code (KCC), in order to install a Pacific oyster cultch and single oyster cultivation project within a three-acre portion of the tidelands in Port Orchard Bay, Puget Sound.

The Applicant, property owner, project representative, site location, and assessor's number are as follows:

**Applicant:** Suquamish Tribe, Suquamish Seafood Enterprises.

**Property Owner:** USA in Trust, P. O. Box 498, Suquamish, WA 98392.

**Project Representative:** Tony Forsman, Suquamish Seafood Enterprises, P. O. Box 1413, Suquamish, WA 98392.

**Site Location:** The proposed Shellfish Nursery will be located in Port Orchard Bay, Puget Sound. The project area is located in North Kitsap County; Commissioner District 1 (Section 32, Township 26 North, Range 02 East). The proposal is located at the Old Suquamish Tribal Center at 15838 Sandy Hook Road NE, Poulsbo.

**Assessor's Number:** 322602-2-005-2007.

**1.2 Administrative Record.** The Hearing Examiner reviewed Exhibits 1-14 before the hearing, which included the Staff Report. At the hearing, the Department of Community Development (DCD) proposed adding a power point and an additional public comment to the administrative record as Exhibits 15 and 16, respectively. The Examiner admitted Exhibits 1-16.

**1.3 Notice of Application.** The Notice of Application was sent to the Applicant and its representative, property owners within an 800 foot radius, as well as the Suquamish Tribe, Point-No-Point Treaty Council, Department of Ecology, Department of Fish and Wildlife, Department of Natural Resources, Department of Transportation, Naval Base Kitsap, Kitsap County Public Works, Kitsap Public Health District, Kitsap Transit, North Kitsap Fire District,

North Kitsap School District, Water Purveyor, and Kitsap Parks and Recreation. No comments were received. Two comments were received after the SEPA decision was issued. In response, the Suquamish Seafood Enterprises project lead wrote a memo<sup>1</sup> explaining the operation plan, potential impacts, visual impacts and mitigation methods that will be implemented to reduce the visual concerns. A second written comment expressed a similar concern and is addressed by the same memo. A third comment was admitted at the hearing, which the Applicant and DCD both addressed at the hearing.<sup>2</sup> Further details on project impacts and mitigation are in the Biological Evaluation and Operational Plan.<sup>3</sup>

**1.4 SEPA.** The SEPA comment period occurred concurrent with the Notice of Application dated October 24, 2016.<sup>4</sup> After the comment period ended, the Responsible SEPA Official issued a Mitigated Determination of Non-Significance (MDNS).<sup>5</sup> The MDNS included the following comments:

The SEPA comment period previously occurred concurrent with the Notice of Application dated October 24, 2016. No comments were received. Pursuant to WAC 197-11-330(1)(c), the Department has considered mitigation measures which agencies or the applicant will implement as part of the proposal, including mitigation measures required by development regulations and existing environmental laws. The proposal will be conditioned pursuant to Kitsap County Code Section 22.600.115 (Aquaculture), State NPDES Permit requirements, State HPA Permit requirements, and US Army Corps of Engineers Section 10 permit requirements. Primary reports considered in support of this threshold determination include:

1. *JARPA* submittal with supporting materials as required at KCC 22.28.070(4).
2. *Suquamish Tribe Oyster Culture Operational Plan*, September 28, 2016.
3. *Biological Evaluation Suquamish Seafood Enterprises Oyster Cultivation at Old Tribal Center Beach and Site 10 Beach*, September 2016.<sup>6</sup>

The MDNS, which was not appealed, included the following mitigation measures:

Pursuant to SEPA Substantive Authority at KCC 18.04.200(D)(2), the following proposals by the applicant are incorporated as SEPA mitigation to ensure compatibility with aquatic and upland uses within the project vicinity:

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<sup>1</sup> Exhibit 12.

<sup>2</sup> Exhibit 16.

<sup>3</sup> Exhibits 7 and 8.

<sup>4</sup> Exhibit 9.

<sup>5</sup> Exhibit 10.

<sup>6</sup> Exhibit 10.



1. Dark materials and colors that blend with the marine environment (typically gray, black or dark greens) shall be utilized for accessory structures, including the feed barge, cages and permanent equipment.
2. Any motorized equipment that can be covered to reduce noise levels shall be covered.
3. A sixteen foot buffer shall be provided between the cultivation area and the eelgrass beds.
4. Raise the oyster bags to leave a space of two to four inches between the bottom of the bags and the sediment in order to avoid creating turbidity.
5. Minimize turbidity by accessing and working the site at low tide from vessels at higher tides.
6. The applicant shall rely on the Pacific Coast Shellfish Growers' Association Environmental Codes and Practices during implementation and maintenance of the project.
7. Light and noise shall be limited to the project area. The type of lighting used during night work shall be limited to headlamps and propane camping lamps when needed.
8. Noise levels may be more elevated during rack installation when crews may use gas powered augers. Installations shall be limited to daytime for a few days for the entire life of the project.
9. Sanitary facilities are available on the adjacent upland property at the Suquamish Seafood Plant. All garbage and recycling shall be disposed of on the upland facility in appropriate receptacles. Work crews shall patrol the beach every week and remove or fix any oyster rack components that may break from the system.
10. Oyster bags shall be periodically opened and any potential predator and other animals shall be removed and released on the beach. No herbicides, pesticides, or antifouling agents shall be used.
11. No growth stimulant, antibiotics, vaccines or fertilizers shall be used in this operation.
12. The lower end of the oyster rack system shall be marked with navigational aids in accordance with U.S. Coast Guard requirements.
13. To avoid pollution, all shellfish shall be processed off site.

14. Motorized vessels and gators shall be fueled off site on the upland.

15. If a spill occurs on land or on the beach, the applicant shall follow guidelines from the Washington Department of Ecology Spills Prevention, Preparedness, and Response Program.<sup>7</sup>

**1.5 Hearing.** The Hearing Examiner considered the requested approval at an open record public hearing on February 9, 2017. DCD, through Mr. Heacock, provided a proposal summary. The presentation identified relevant code requirements and how the proposal met them. As DCD found the proposal consistent with applicable requirements, it recommended SSDP approval. The Applicant's representatives provided sworn testimony elaborating on the proposal. Applicant representatives further addressed public comment which had been submitted and also addressed questions from the Hearing Examiner. At the hearing, no oral public comment was submitted.

**1.6 Notice and Agency Comment.** The notice of hearing was published, posted and mailed, following mailing and publishing of the notice of application.<sup>8</sup> In addition, the proposal was circulated within the County, to several state agencies, utility providers, and tribal entities.<sup>9</sup> No concerns on notice were raised by any party.

**1.7 Site Use and Characteristics.** The project is located in water. The upper intertidal has a mix of sediment grain sizes (rocks, cobble, gravel and sand). Mid intertidal is mainly sand and gravel. This area is fairly exposed to prevalent winds and sediments shift a great deal seasonally which makes it difficult for some infauna to reside permanently. The lower intertidal is a mix of sand and finer sediments that support clams (macoma, butter clams, littleneck clams, and some geoduck) and other infauna such as worms. There are two main native eelgrass beds on site, which the project will be set back from. A habitat survey was conducted in June, 2016. A map of the delineated eelgrass bed is included with the Biological Evaluation.<sup>10</sup> As described in that document, impacts to fisheries and aquatic resources are not anticipated given project size and design, and the incorporated mitigation.

**1.8 Project Details.** The proposal involves the installation of an aquatic-based aquaculture project for oyster cultch and single-oyster cultivation. The proposal is located in the aquatic zone of Port Orchard Bay, Puget Sound. The project proposes a new cultivation operation for growing oysters, using oyster spat seeded bags (oyster larva) purchased from a certified shellfish hatchery. The bags will be tied onto non-treated wood pallets placed on the beach between -2 and +2 feet at Mean Lower Low Water. The spat will be allowed to grow for approximately 12 months in protective mesh bags. After this initial growth period, oysters will be taken out of their mesh bags and spread on the beach by hand. Bags and pallets will be recycled when possible or disposed of properly on land. Oysters will grow to commercial size for another 12 to 24 months. They will be harvested by hand in cages and picked up by an oyster

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<sup>7</sup> *Id.*

<sup>8</sup> Exhibit 11.

<sup>9</sup> *See e.g.*, Exhibit 9.

<sup>10</sup> Exhibit 8 (Biological Evaluation), Fig. 4.



barge or other floating work platform at high tide. Planting will be staggered over a ten year period to occupy a total of approximately one acre.

The Single Oyster Culture component of the project is also located in the aquatic zone at the Old Tribal Center and uses a flip-flop/tumble technique. This process requires bagging approximately 200 oysters in semi-rigid mesh bags or purses and tying them to an anchored rope or wire system. Floatation is added to each bag to allow them to flip back and forth with the tide. A maximum of 16,000 bags will be used at this location, occupying approximately two acres. PVC pipes will be used for anchoring this system.

In addition to the Biological Evaluation prepared for the project, the Suquamish Tribe has developed an Oyster Culture Operational Plan, with collaboration from the Washington State Department of Natural Resources, and their consultant Anchor QEA, Inc. To ensure no net loss in ecosystem functions, all efforts have been taken to avoid and minimize any potential impacts.<sup>11</sup> In fact, it is expected that the proposed operation will provide ecosystem benefits in terms of water quality (increased circulation and filtration). Also, the proposed seeding outcome will aid in the establishment of a healthy shellfish population in Port Orchard Bay and the greater Puget Sound region, where possible. Given the above circumstances, no net loss of ecosystem function is expected to occur as a result of this proposed project.

**1.9 Comprehensive Plan Designation, Zoning, and Surrounding Land Use.** The project is located in waters of Puget Sound and does not have a comprehensive plan designation or an existing zoning designation. The nearest adjacent upland area is part of Suquamish Tribal Reservation. As the upland area is under tribal jurisdiction, it has no County zoning designation.<sup>12</sup> Beyond the Reservation boundaries to the north and south along the shoreline, zoning is Rural Residential (RR). Parcels in the area are developed with single family residences and are zoned RR (one dwelling unit per five acres).

**1.10 Shoreline Environment Designation.** Under the Kitsap County Shoreline Management Master Program (SMP), the affected shoreline designation is Aquatic. There is no adjoining upland shoreline designation, as the use is adjacent to tribal Reservation boundaries, and outside SMP jurisdiction. The closest upland designation is Shoreline Residential.

**1.11 Utility and Public Services.**

- **Water:** Public Utility District No. 1
- **Power:** Puget Sound Energy
- **Sewer:** On-site Septic
- **Police:** Suquamish Police Department
- **Fire:** North Kitsap Fire and Rescue District
- **Schools:** North Kitsap School District No. 400

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<sup>11</sup> *Se e.g.*, Exhibit 8 (Biological Evaluation), Section 2.4, Impact Avoidance and Minimization Measures and Conservation Measures.

<sup>12</sup> Despite historic tribal use of the area, Reservation boundaries end at the high tide mark.

**1.12 Access.** Access to the site is off Sandy Hook Road NE.

**1.13 Shoreline Substantial Development Permit.** The ecological conditions at the site are particularly well suited to oyster cultivation and the use has been designed and conditioned to protect shoreline ecological functions.

## **2. CONCLUSIONS OF LAW**

**2.1** The Hearing Examiner reviews SSDP applications.<sup>13</sup> With this review, an assessment of consistency with applicable shoreline policies and regulations is required. For the reasons set forth below, the Hearing Examiner concludes that the proposal is consistent with the County's shoreline regulations and policies, and with the Shoreline Management Act, Ch. 90.58 RCW (SMA). As such, the SSDP should be approved.

**2.2 Shorelines of Statewide Significance, KCC 22.300.145.** Areas in Kitsap County and in Puget Sound which lie "seaward from the line of extreme low tide," are designated as shorelines of statewide significance.<sup>14</sup> To recognize and protect statewide interests over the local, development proposals with this designation are reviewed "for consistency with RCW 90.58.020" and a series of shoreline policies. The policies are extensive, but the primary considerations are summarized below.

- **Recognize and protect state over local interests.** These policies provide for consulting with WDFW, Ecology, affected tribes and other agencies/interest groups on proposals that could affect anadromous fisheries or other priority species or habitats; and, considering state agencies' relevant policies and recommendations. DCD conducted outreach for this proposal. Comments were quite limited. Nevertheless, the project incorporates current agency approaches to shoreline mitigation, ecological restoration, and access, thus protecting both state and local interests in encouraging responsible shoreline access. With respect to consultation with affected tribes, the proposal is tribal in nature and would facilitate tribal access to shoreline resources located adjacent to Reservation boundaries.
- **Preserve shoreline natural character.** These policies provide for administering regulations to minimize damage to shoreline ecology, facilitate restoration where natural resources are being diminished, and new intensive development "should upgrade and redevelop those areas where intensive development already occurs, rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas." The project is not an intensive development or high intensity use, and is fully mitigated to address shoreline ecology issues. Also, the use as it is proposed is consistent with the Tribe's historic use of the shoreline area.
- **Protect long-term over short-term benefit.** These policies provide for preserving sufficient areas to accommodate "current and projected demand for economic resources,

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<sup>13</sup> See e.g., KCC 21.04.080, .100 and KCC 22.500.105(E).

<sup>14</sup> KCC 22.300.145(A)(1).



such as shellfish beds and navigable harbors;" strictly limit actions that would convert resources into irreversible uses or detrimentally alter natural conditions; evaluate short term economic gain/convenience over long term and costly environmental impairment; and promote aesthetic considerations. As the use is for shellfish cultivation, it is consistent with the types of uses contemplated by these policies. The use would not be detrimental to natural conditions or result in irreversible, adverse shoreline impacts. Also, the proposed use would make economic use of the shoreline. Based on testimony at the hearing, the area is of commercial significance for seafood cultivation and is properly used for such purposes over the long term. No evidence was presented suggesting the project would impair other economic resources. And, the use is fully mitigated to protect ecological resources.

- **Protect the resources and ecology of the shoreline.** These policies provide for considering "incremental and cumulative impacts while ensuring no net loss of shoreline ecosystem processes and functions"; ensuring "the long-term protection of ecological resources of statewide importance, activities impacting anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds and other unique environments;" and limiting "public access where improvements would result in a loss of shoreline ecological functions, such as in priority or sensitive habitats." The project is for shellfish cultivation and would build on the fertile environment at this location for same. The project as proposed and mitigated would not have significant adverse impacts on ecosystem processes and functions.
- **Increase public access to publicly owned areas of the shorelines.** These policies provide for preserving/encouraging public access to areas with scenic or cultural qualities; giving priority to paths, trails, and linear shoreline access; and, locating development inland to enhance access. By promoting a traditional tribal activity at this location and supporting shellfish cultivation, the proposal increases the productive use of the shoreline area. Shoreline access is not impeded and mitigation addressing aesthetic concerns was incorporated into the proposal.
- **Increase recreational opportunities for the public in the shoreline.** These policies provide for accounting for state agencies/citizen interests in visiting public shorelines with regard to public access/recreation requirements; and encouraging "development of facilities for recreational use of the shorelines," while reserving upland areas for lodging, with provisions for nonmotorized shoreline access. The proposal does not impede recreational use of the shoreline. Also, although the oyster cultivation would be commercial in nature, given the importance of shellfish locally and to the Tribe, there is also a cultural and recreational component to the endeavor.

As explained above, the proposal is not only consistent with these policies, but also furthers their underlying objectives to support environmentally responsible utilization of shoreline resources and water dependent uses. In this case, the resource is shellfish cultivation. The identified location is particularly well suited for the use, which the County's SMP, and the SMA more generally, both support.



**2.3 Standards for Work Waterward of the Ordinary High Water Mark, KCC 22.400.105(B).** Work waterward of the ordinary high water mark is subject to several requirements. In-water work must obtain all applicable state and federal permits. With the JARPA application, the Applicant has identified the required permits. The Staff Report provided further detail on these policies. However, in summary, this is a low impact project which does not involve bank alteration or impacts to vegetation, and in fact is set back from the eelgrass beds located further out in the water. With respect to notification requirements, if water quality problems result from in-water work, immediate notification will be made to the appropriate state and/or federal agencies. The project is consistent with these policies, and per KCC 22.400.110(C), mitigation compliance is required to ensure consistency with these policies.

**2.4 Aquaculture, KCC 22.600.115.**<sup>15</sup> The project is consistent with the SMP aquaculture policies, and in fact furthers the underlying objective to promote ecologically sound aquaculture (a preferred use)<sup>16</sup> and to respect tribal use of traditional aquatic resources. The modest project proposed is adjacent to Reservation boundaries, so is of particular importance to the Suquamish Tribe. The use does not cause significant interference to navigation or other water dependent uses, and was thoroughly evaluated and designed to minimize ecological impacts.<sup>17</sup>

Baseline conditions were documented, including through a habitat survey, which mapped the eelgrass beds, and mitigation was designed to protect those resources, including through a 16 foot setback. *See* the Biological Evaluation Suquamish Seafood Enterprises Oyster Cultivation at Old Tribal Center Beach and Site 10 Beach. Best Management Measures will be adhered to, as the Biological Evaluation details.<sup>18</sup> Operational details were elaborated on in the application materials, at the hearing, and through the Suquamish Tribe Oyster Culture Operational Plan. With the materials submitted, all application requirements were met.

The scale of project operations is modest. Employees are relatively limited in number (averaging 5-10), waste products will be removed daily, and the Tribal Center has restroom facilities for employees. Noise (a concern raised in public comment) is not expected to be a significant issue. During hearing testimony, the Applicant explained that ambient levels are higher than the noise the new use will create. As the Operational Plan details:

Light and noise will be limited to the project area. The type of lighting used during night work will be limited to headlamps and propane camping lamps when needed. Noise levels may be more elevated during rack installation when crew may use gas powered augers. This will be limited to daytime for a few days for

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<sup>15</sup> There is no upland shoreline designation, as the upland area is within Reservation boundaries and outside SMP jurisdiction. The closest shoreline designation is Shoreline Residential, which would require a shoreline substantial development permit for the use.

<sup>16</sup> *See e.g.*, KCC 22.300.125(E).

<sup>17</sup> The Staff Report provides additional detail on the individual SMP policies, further documenting project consistency. *See* Exhibit 14.

<sup>18</sup> *See e.g.*, Exhibit 8 (Biological Evaluation), pp. 11-12.

the entire life of the project. Otherwise, noise will be below ambient noise levels generated by road traffic, boats, Seafood Plant activities etc.<sup>19</sup>

Also, no processing will occur on the beach, piles of oyster shells will not be left on the beach (a concern raised in comment). In general, minimal impacts are expected as the proposed use is relatively low intensity, with no substrate modification. Due to the "small size of the operation as well as the high tidal flushing" at this location, oyster pseudo-feces are not expected to impact biological oxygen demand.<sup>20</sup> In fact, the shellfish operation is expected to provide ecosystem benefits by increasing circulation and filtration, and improving the oyster resource.<sup>21</sup>

**2.5 Aquatic Policies, KCC 22.200.135.** The proposal is consistent with the SMP Aquatic policies. The project furthers the core objective behind these policies, which is to support the public's use of the water in an ecologically sound manner.

New over-water structures and development on navigable waters and their beds should be allowed only for water-dependent uses, public access or ecological restoration, and when:

- a. They do not preclude attainment of ecological restoration; and
- b. The size of the new over-water structure is limited to the minimum necessary to support the structure's intended use; and
- c. Multiple use of the over-water facility has been encouraged; and
- d. The structure or use is located and designed to minimize interference with surface navigation, to consider impacts to public views, to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration, and to ensure that the project does not conflict with existing water-dependent uses; and
- e. The use or modification is designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.<sup>22</sup>

The use is not an over-water structure, and is water-dependent. The use will be developed consistent with the Biological Evaluation and Operational Plan completed for the use and was designed and is mitigated to protect ecological resources. This includes allowing for passage of fish and wildlife, and addressing aesthetic concerns, including public views.

**2.6 Summary.** The Pacific oyster cultch and single oyster cultivation project is a preferred shoreline use at this location. The proposal is consistent with the applicable shoreline policies and regulations. The proposal will not cause a net loss to shoreline functioning and is unlikely to have significant environmental impacts on the shoreline. As such, the proposal is consistent with the policies and procedures of the SMA, Ch. 90.58, and the County's SMP, and should be approved consistent with WAC 173-27-150.

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<sup>19</sup> Exhibit 7 (Operational Plan), p. 4.

<sup>20</sup> Exhibit 7 (Operational Plan), p. 6.

<sup>21</sup> This issue is addressed throughout the record, but *see e.g.*, Exhibit 8 (Biological Evaluation), p. 66 ("The project may result in improved localized water clarity, through filter feeding, and more complex habitat as a result of the presence of oyster cultivation three-dimensional components, which are in place for long durations.").

<sup>22</sup> KCC 22.200.135(C)(1)(a-e).



## DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested Shoreline Substantial Development Permit, provided the following 22 conditions are adhered to.

### **General.**

1. All floating and submerged aquaculture structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.
2. Alteration or disturbance of the bank and bank vegetation must be limited to that necessary to perform the in-water work.
3. All disturbed areas must be restored and protected from erosion using vegetation or other means.
4. If, at any time, water quality problems develop as a result of in-water work, immediate notification must be made to any appropriate state or federal agency, e.g. Ecology, WDFW, National Marine Fisheries Service, U.S. Fish and Wildlife Service, etc. Affected tribes shall also be notified.
5. Upon final SSDP issuance, all construction within the shoreline jurisdiction must commence within two years and be complete within five years. A one-time one year extension is available but only if requested on or before ninety days of original permit expiration. No exceptions are allowed unless provided for by law.
6. The project shall comply with all state and federal requirements, including but not limited to Department of Health certification and license, or shellfish import or shellfish transfer permits, where applicable.
7. The project is to be served by an approved public water system.
8. Upland solid waste disposal containers and staff restrooms should be provided.

### **Planning/Zoning.**

9. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
10. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of

the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other use of the subject properties.

11. The decision set forth herein is based upon representations made and exhibits contained in the project application for the Shoreline Substantial Development Permit (SSDP) 16 04402. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

12. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

13. Any violation of the conditions of approval shall be grounds to initiate revocation of this SSDP.

**Environmental.**

14. Timing of the in-water work shall be as specified in the JARPA, Biological Evaluation, HPA, Corps of Engineers or other authorized regulatory agencies.

15. Where forage fish spawning is documented or reported, additional testing may be requested of WDFW to vary work windows. Site inspection, notification, and scheduling shall be per WDFW procedures.

16. Work on projects shall be accomplished per the submitted and approved drawings and specifications.

17. All man-made debris involved in the construction process shall be removed from the site and disposed in approved upland site.

18. All required in-water construction shall be conducted within the permitted work window.

19. In-water construction may need to be completed after the in-water work window (if applicable). This work may include installation of the floating structures, or maintenance of facilities. In-water work shall be conducted under the following procedures:

- a. All materials shall be moved by hand equipment or small barges that shall bring materials to the site but shall not be allowed to ground or be in any way detrimental to the site.



b. The floating structures shall be constructed at an upland off-site location and installed as modular units.

c. All over-water remaining construction shall be completed with hand tools and small relatively quiet power tools, i.e. skill saw, ½” electric drill, etc.

20. All possible precautionary measures shall be taken to contain material, material wastes, or any other foreign material on the project site.

21. Over-water structures and/or equipment, and any items stored upon such structures, such as materials, garbage, tools, or apparatus, shall be designed and maintained to minimize visual impacts. The maximum height for items stored upon such structures shall be limited to three feet, as measured from the surface of the raft or barge, unless shoreline conditions serve to minimize visual impacts (for example, high bank environments, shorelines without residential development), but in no case shall the height exceed six feet. Height limitations do not apply to materials and apparatus removed from the site on a daily basis. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the OHWM.

22. The Best Management Practices for Marinas produced by the U.S. Environmental Protection Agency (U.S. EPA, 2012) as well as the Marina Best Management Practices (BMPs) by Clean Marina Washington (Clean Marina Washington, 2015) are required for in-water work and operation of the proposed floating structures.

THIS DECISION is entered this 16th day of February, 2017.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond