

## Merrill, Hannah

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**From:** Hennessey, Jennifer (ECY) [JENH461@ECY.WA.GOV]  
**Sent:** Wednesday, August 21, 2013 1:34 PM  
**To:** katie.krueger@quileutenation.org; Gray, Steve; Merrill, Hannah; Lear, Cathy; zSMP; Culver, Michele K (DFW); Lassiter, Katrina (DNR)  
**Cc:** frank.geyer@quileutenation.org; 'Mel Moon'; Jennifer Hagen; Lynn, Brian (ECY); Stewart, Jeff R. (ECY)  
**Subject:** RE: Issue for Clallam SMP to resolve re finned fish aquaculture.

Hi Katie,

As I mentioned last night, aquaculture is a water-dependent and preferred use of the shoreline under the Shoreline Management Act. Here are a few resources on the Shoreline Management Act, it's regulations, and Ecology's guidance related to net pen aquaculture that you might find helpful. The guidance document has answers to several common questions.

Ecology's interim guidance on Aquaculture for Shoreline Master Program updates:  
[http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/aquaculture\\_guidance.pdf](http://www.ecy.wa.gov/programs/sea/shorelines/smp/handbook/aquaculture_guidance.pdf)

Ecology's website on Net Pen Aquaculture:  
<http://www.ecy.wa.gov/programs/sea/aquaculture/netpen.html>

Jeffrey Stewart is Ecology's Shoreline Planner working with Clallam Co. on their Shoreline Master Program update and you may contact him at: [jste461@ecy.wa.gov](mailto:jste461@ecy.wa.gov) or (360) 407-6521.

Thanks,  
Jen

### Jennifer Hennessey

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**From:** Katie Krueger [mailto:katie.krueger@quileutenation.org]  
**Sent:** Wednesday, August 21, 2013 11:22 AM  
**To:** Gray, Steve; 'Merrill, Hannah'; Hennessey, Jennifer (ECY); 'Lear, Cathy'; 'zSMP'; Culver, Michele K (DFW); Lassiter, Katrina (DNR)  
**Cc:** frank.geyer@quileutenation.org; 'Mel Moon'; Jennifer Hagen  
**Subject:** Issue for Clallam SMP to resolve re finned fish aquaculture.  
**Importance:** High

Is Clallam required as a matter of state law to put *coastal* finned fish aquaculture in its Plan? I believe the state law in the SMA re finned fish was originally for hatcheries (excerpt below). Might have been "stretched" over time. Is there more law in other sections than the SMA that would require Clallam (require, not a choice) to support coastal finned fish aquaculture? If not, is this our best approach, in light of escaped non-native species, lice, and microbes in recent years, from such fish farms? If finned fish can only be raised in upland facilities, some of these concerns may be alleviated. I hear Jefferson County is exploring this. Maybe we can be silent here and not appear to advocate it? Is there a contingency in the County that is advocating finned fish aquaculture on the coast? Is that why we are including it? I am sorry to be so late at commenting here but I am learning things as I go.

[http://www.clallam.net/LandUse/documents/CCSMP\\_Ch3\\_UMPR111512.pdf](http://www.clallam.net/LandUse/documents/CCSMP_Ch3_UMPR111512.pdf) This is the part of the Draft Clallam SMP relating to aquaculture and as you can see it does not ban finned fish aquaculture on the coast. We had a lot of unhappy discussion about that in our Advisory Committee meetings but were told NOAA and Ecology authorize it and so it is a go. Here is the Ecology (SMA) excerpt:

RCW 90.58.065(2)(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

(i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; **upland finfish rearing facilities**; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing fruit or vegetables; and

But read on: Below is from the WDFW statute on aquaculture: There is such a presumption that the fish will escape, that we need to make rules, regarding "what if"!

### **77.125.030**

#### **Development of proposed rules — Elements.**

The director, in cooperation with the marine fin fish aquatic farmers, shall develop proposed rules for the implementation, administration, and enforcement of marine fin fish aquaculture programs. In developing such proposed rules, the director must use a negotiated rule-making process pursuant to RCW [34.05.310](#). The proposed rules shall be submitted to the appropriate legislative committees by January 1, 2002, to allow for legislative review of the proposed rules. **The proposed rules shall include the following elements:**

(1) Provisions for the prevention of escapes of cultured marine fin fish aquaculture products from enclosures, net pens, or other rearing vessels;

(2) Provisions for the development and implementation of management plans to facilitate the most rapid recapture of live marine fin fish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels, and to prevent the spread or permanent escape of these products;

(3) Provisions for the development of management practices based on the latest available science, to include:

(a) Procedures for inspections of marine aquatic farming locations on a regular basis to determine conformity with law and the rules of the department relating to the operation of marine aquatic farming locations; and

(b) **Operating procedures at marine aquatic farming locations to prevent the escape of marine fin fish, to include the use of net antifoulants;**

(4) **Provisions for the eradication of those cultured marine fin fish aquaculture products that have escaped from enclosures, net pens, or other rearing vessels found spawning in state waters;**

(5) Provisions for the determination of appropriate species, stocks, and races of marine fin fish aquaculture products allowed to be cultured at specific locations and sites;

(6) Provisions for the development of an Atlantic salmon watch program similar to the one in operation in British Columbia, Canada. The program must provide for the monitoring of escapes of Atlantic salmon from marine aquatic farming locations, monitor the occurrence of naturally produced Atlantic salmon, determine the impact of Atlantic salmon on naturally produced and cultured fin fish stocks, provide a focal point for consolidation of scientific information, and provide a forum for interaction and education of the public; and

(7) **Provisions for the development of an education program to assist marine aquatic farmers so that they operate in an environmentally sound manner.** *(How far along is that???)*

[2001 c 86 § 3.]

**WAC 220-76-100**

No agency filings affecting this section since 2003

**Marine finfish aquaculture—Approval permit for marine finfish aquaculture.**

(1) It is unlawful for any aquatic farmer to possess any species, stock or race of marine finfish, defined as finfish being raised in marine waters, in net pens, cages or other rearing vessels without having first obtained and possessing a valid marine finfish aquaculture permit from the director for that species, stock and race at that specific location of rearing or holding. The director will approve, condition, or deny a permit within sixty days after a completed application containing all requested information is received by the department's aquaculture coordinator. **The application must be accompanied by an escape prevention plan and the escape reporting and recapture plan as required by this chapter.** A permit may be denied based on the determination by the director of significant genetic, ecological or fish health risks of the proposed fish rearing program on naturally occurring fish and wildlife, their habitat or other existing fish rearing programs. The use of transgenic fish (as defined by the actual transfer of genetic material from one species to another) is prohibited. Each permit application must contain a means mutually agreed to by the department and the aquatic farmer to individually identify to the aquatic farmer all marine finfish in aquaculture hatched after December 31, 2003. A permit will be valid for a period of five years from the date of approval. The department will comply with the procedures of any appropriate federal court order in processing permit applications. Any change in species, stock, or race at a specific location of rearing or holding will require reapproval of the marine finfish rearing operation. In the event of denial, the affected person may appeal the decision to the director. The department will advise the person of the appeals process. Additional appeals may be made through the Administrative Procedure Act (chapter [34.05](#) RCW).

(2) Any person who imports marine finfish into the state for aquaculture or transports marine finfish within the state for aquaculture and who does not have an approved marine finfish aquaculture permit is guilty of unlawfully transporting finfish. Violation of this section shall be enforced under RCW [77.15.290](#). [Statutory Authority: RCW [77.12.047](#). WSR 03-02-047 (Order 02-309), § 220-76-100, filed 12/24/02, effective 7/1/03.]

There appears to be a culture, if you will pardon the pun, of allowing something pretty hard to reverse (horse out of barn, if I may mix metaphors). This state is already spending so much on noxious species control. Thoughts?

## Li/qtskal/ax2

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