

-----Original Message-----

From: Robert Phreaner

Sent: Friday, February 27, 2015 7:54 AM

To: zSMP

Subject: Comments on SMP from Olympic Peninsula Audubon Society Conservation Committee

Attached find pdf with a cover letter and specific comments on the Draft Clallam County Shoreline Master Program written by the Conservation Committee of the Olympic Peninsula Audubon Society



*“Promoting Birding and Conservation as Community  
Educators,  
Volunteers, and Stewards”*  
P.O Box 502 Sequim, WA 98382

February 26, 2015

Clallam County Department of Community Development  
RE: Shoreline Master Program Update  
223 East Fourth Street, Suite 5  
Port Angeles, WA 98362  
Sent by email: [SMP@co.clallam.wa.us](mailto:SMP@co.clallam.wa.us)

Members of the Clallam County Planning Commission:

The Olympic Peninsula Audubon Society (OPAS) welcomes the opportunity to comment on the draft Clallam County Shoreline Master Plan (SMP) dated November 2014. Our primary interest in commenting is to ask that our county’s planning and development regulations contain specific provisions that are understandable, enforceable, and necessary for protection of the fragile and invaluable natural resources for which each of us, as Americans are responsible. We do not oppose forestry, development of personal property, aquaculture (both shellfish and finfish), construction of public infrastructure, or industrial development. We do ask that these uses be adequately permitted, regulated and inspected by our local governments, and that property owners, developers, and industries applying for permits, and renewal of permits, pay fees set at levels to sustain governmental staffing qualified to evaluate and inspect new and existing development.

In our study of the draft SMP we find little or no mention of habitat protected to conserve and ensure that wildlife can continue to live and maintain the biodiversity necessary to co-exist with human shoreline uses. There is little mention of a need to evaluate impacts of proposed new shoreline uses on wildlife both on shorelines and in the intertidal waters. We urge our county to structure the SMP so that major changes in land and water use require best available science-based evaluation before development is permitted, up to and including a full environmental impact assessment as deemed necessary. Wildlife has no voice or leverage in this review and eventual regulatory process. It becomes essential that we understand the impact, both those observable in new projects and the long-range impacts imposed by continued and repetitive actions on the same shoreline. Shorelines and intertidal lands are in most cases privately owned in Washington, but the waters and air that move along, over,

and through these owned properties belong to, or rather are entrusted to us, the human inhabitants of this County.

We are concerned that the setting of fees and renewal of permitting fees is not clearly defined. It is the responsibility of government to regulate activities that impact the public as a whole. Developers and industries that propose to use County lands and waters need to adequately fund the inspection and regulatory staffing needed by local government. In the case of long term aquaculture projects, the duration of permits and the renewal of permits should be set for reasonable periods to allow for the evolving introduction of best available science, as it develops; and best management practices as they improve. Grandfathering industrial and prior issued conditional use permits must be subject to a sunset provision in this edition of the SMP. Thus, existing extractive industrial and aquaculture uses must be required to either be updated and brought to the current standards as stated in this SMP or to cease operation within a negotiated time period. Shorelines/tidelands/bay and harbor bottoms must be restored to as near native condition as possible. The cost of restoration should be borne by the permit holder, not the local government.

Climate change is occurring and the SMP needs to incorporate the comments submitted by Olympic Climate Action. We endorse those comments and we urge that they be embodied in the draft SMP before it is sent on to our County Commissioners.

We have also prepared specific comments on provisions in the draft SMP. We ask for inclusion of the attached comments to the SMP.

Thank you for considering our comments. If you need clarification of our comments or more information, please contact Bob Phreaner at 360-504-2110 or by email at [phreaner@aol.com](mailto:phreaner@aol.com).

Sincerely,

Bob Phreaner, Chair  
Conservation Committee  
Olympic Peninsula Audubon Society

Attachment: 6 pages of specific comments numbered 3 - 8

OPAS recognizes that while the Shorelines Management Act (SMA) does not preclude development on the shorelines, its policies seek to protect against adverse effects to the land, to the vegetation, to the wildlife and, to the waters of the state and their aquatic life so that there is “no net loss in ecological function.” Thus, the SMA ultimately strives to preserve the ecological functions of the shorelines as they exist today and not allow for their degradation.

- RCW 90.58.020; WAC 173-26-186(8). WAC 173-26-020(13) defines “ecological function” to be the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.”

Recommendations:

## Shoreline Environmental Designations

2.1.1 Designations shall be amended as follows:

- 2.1.1 - Add (g.) Priority Aquatic that protects to the highest degree possible and, where feasible, restores waters and their underlying bedlands deemed vital for salmon and shellfish. The Priority Aquatic designation is assigned to the most vital salmon streams and nearshore areas and the highest value marine shellfish habitats waterward of the ordinary high water mark. These shorelines have one or more of the following qualities:
  - a. Documented Endangered Species Act-listed salmonid streams and marine habitats (summer chum, chinook, and steelhead);
  - b. Estuaries that support Endangered Species Act-listed salmonid rearing;
  - c. Other freshwater shorelines that provide habitat for salmonid species (coho, fall chum, pink, and cutthroat) and are relatively undeveloped;
  - d. Intact drift cell processes (i.e., sediment source, transport, and deposition);
  - e. Documented forage fish spawning habitats (herring, surf smelt, sandlance); and/or
  - f. Important intertidal and subtidal shellfish areas (clam, oyster, crab, shrimp, and geoduck). Designation [Reference: *Jefferson County Shoreline Master Program, Section 18.25.210 Shoreline environment designations - Purpose and criteria (3) (a) (i) (ii)*]

## 2.9 - Allowed Uses in Each Shoreline Environment Designation

- Table 2.2 requires Priority Aquatic Designation to be added. All finfish aquaculture in this designation is prohibited (X) [Reference: *Jefferson County SMP, Section 18, Table 18.25.220*].

## Aquaculture

### 3.2.1 Policies shall be amended as follows:

- 3.2.1.1 - Aquaculture is of statewide interest and is important to the long-term economic viability, cultural heritage and environmental health of Clallam County. Properly managed, it can result in long-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and ~~is a preferred use of the water area~~ is permitted only when pollution is controlled and damage to the wildlife and fish habitat environment is prevented.
- 3.2.1.3 - When properly managed, aquaculture can result in long-term ecological and economic benefits. The County ~~should~~ shall engage in coordinated planning to identify potential aquaculture areas and assess long-term needs for aquaculture. This includes working with the Washington Department of Fish and Wildlife (WDFW), the Department of Natural Resources (DNR), Department of Ecology, National Oceanic and Atmospheric Administration (NOAA), area tribes, tribal co-managers, and finfish and shellfish industry interests to identify areas that are suitable for aquaculture and protect them from uses that would threaten aquaculture's long-term sustainability.
- 3.2.1.4 - Aquaculture use and development should locate in areas where biophysical conditions, such as tidal currents, water temperature and depth, will minimize adverse environmental impacts. The County should support aquaculture uses and developments that:
  - Add (f.) No loss of ecological function for migratory and resident wildlife and their habitat.

### 3. Regulations - Commercial Geoduck Aquaculture shall be amended as follows:

- 3.2.3 - Add (4.) Monitoring shall be required prior to bed preparation and prior planting, then again after harvesting. Monitoring shall include impacts on shorebirds, benthic community, water quality and impacts on adjacent eelgrass beds. It should note species richness, altered species abundance and distribution, change in community intertidal structure composed of surface species, sub-surface species and bivalves.
- 3.2.3 - Add (5.) Aquaculture uses and developments, except in-water finfish aquaculture, shall be located at least six hundred (600) feet or more from any National Wildlife Refuge, seal and sea lion haulouts,

seabird nesting colonies, or other areas identified as critical feeding or migration areas for birds and mammals. The county may approve lesser distances based upon written documentation that U.S. Fish and Wildlife Service (USFWS), Washington Department of Fish and Wildlife (WDFW) and affected tribes support the proposed location. [Reference: Jefferson County Shoreline Master Program, Section 18.25.440 (4) Regulations - General (e) (viii)]

4. Regulations - Finfish Aquaculture shall be amended as follows:
  - 3.2.4.3 - Finfish aquaculture facilities shall employ best available control technologies and practices to prevent and minimize release of fertilizers, non-indigenous species, parasites, viruses, pharmaceuticals, genetically modified organisms, feed, or other materials known to be harmful into surrounding waters.
  - 3.2.4- Add (12.) In-water finfish facilities, including net pens, shall be located 1,500 feet or more from any National Wildlife Refuge, seal and sea lion haulouts, seabird nesting colonies, or other areas identified as critical feeding or migration areas for birds and mammals. The county may approve lesser distances based upon written documentation that U.S. Fish and Wildlife Service (USFWS), Washington Department of Fish and Wildlife (WDFW) and affected tribes support the proposed location. [Reference: Jefferson County SMP Section 18.25.440 Aquaculture - (4) Regulations - General, (e) (viii)]
  - 3.2.4 - Add (13) Monitoring of seabed beneath a finfish pen is required for changes in the bathos and appearance of scavengers in the water column. Independent monitoring is necessary with changes reported to the county as required.
  - 3.2.4 - Add (14) Introduction of a new species, changing the species cultivated, expansions of the physical area cultivated or relocation of the aquaculture operation is considered a new use/development and shall require a new permit and compliance with the SMP.
  - 3.2.4 - Add (15) In-water finfish net pen operations shall not be permitted to use firearms or underwater noise emitting devices to drive off birds or marine mammals that may be attracted to the net pen.
  - 3.2.4 - Add (16) 3.2.4 Clallam County shall use the best available science appropriate for permitting the location of in-water finfish facilities, including net pens, to protect our natural resources such as National Wildlife Refuges, seal and sea lion haulouts, seabird nesting colonies or other habitats identified as critical feeding or migration areas for birds and mammals.
5. Application Requirements shall be amended to read as follows:
  - 3.2.5.3 - Prior to approving a permit for a new aquaculture use or development, In areas adjacent to navigation lanes with high wind or wave

energy, the Administrator ~~may~~ shall require, ~~at his/her discretion~~ a plan to address and mitigate the potential for net pens to be swept from moorings into navigation lanes.

- 3.2.5.4 - ~~Prior to issuing a permit for any proposed aquaculture use or development,~~ The Administrator shall consider how the proposed activity is being regulated by other agencies and then establish the appropriate level of additional review. The Administrator ~~may~~ shall require, ~~at his/her discretion,~~ copies of permit applications and/or studies required by state and federal agencies to ensure provisions of this Program are met, including but not limited to, the following information:
- 3.2.5.6 - The Administrator, ~~at his/her discretion,~~ may shall require the applicant to provide baseline and periodic surveys, assessments, and/or operational monitoring by a qualified consultant to determine the magnitude of any significant adverse impacts. Conditional use permits shall include specific performance measures and provisions for adjustment or termination of the project if monitoring indicates significant, adverse environmental impacts that cannot be adequately mitigated.
- 3.2.5.7 - For in-water finfish aquaculture facility proposals the Administrator ~~may~~ shall require an operations plan that includes annually monitoring projections for:
- 3.2.5 - Add (8.) Cumulative Impact Analysis - Expanded requirements
  1. Applicants proposing complex projects, such as multi-species farms, farms on shorelines of statewide significance, farms that have the potential to harm habitat, community recreation use or significant degradation of views and aesthetic values, farms within low-energy shorelines areas including but not limited to bays, coves and estuaries and areas situated adjacent to identified critical areas; farms proposed in areas adjacent to existing aquaculture actives; or when the proposal is the first of its kind in the area shall be required to provide additional base line information that may include:
    - a. Aquatic and benthic organism diversity and abundance
    - b. Sediment compaction
    - c. Littoral drift estimates
    - d. Current flow data
    - e. Water quality
    - f. Analysis of flushing rates may be required of projects within enclosed water bodies
    - g. An analysis of impacts of farms within water bodies or with the vicinity of the proposal
    - h. An analysis of visual and aesthetic impacts of farms proposed adjacent to Residential and High Intensity residential SEDS

## Mining

- 3.5 - We find the Jefferson County SMP provisions for shoreline mining to be more protective for homeowners, wildlife species and habitat, and water quality. We suggest reviewing and incorporating their provisions into the Clallam County SMP. [*Jefferson County SMP, Section 18.25.480 Mining, <http://www.codepublishing.com/WA/JeffersonCounty/html/jeffersoncounty18/JeffersonCounty1825.html#18.25.480>*]

## Utilities

- 3.12 - Hydropower often requires the use of dams, which can greatly affect the flow of rivers, altering ecosystems and affecting the wildlife and people who depend on those waters. Hydroelectric dams can cause erosion along the riverbed upstream and downstream, which can disturb wildlife ecosystems and fish populations. Hydroelectric power plants affect various fish populations in different ways. Most notably, certain salmon populations in the Northwest depend on rivers for their life cycles. These populations have been dramatically reduced by the network of large dams in the Columbia River Basin and in the Elwha River on the Olympic Peninsula. The large-scale Elwha Dam removal shall be a reminder to Clallam County to not consider building hydroelectric dams on our rivers and streams.

## Administrative Procedures

Administrative procedures shall be amended as follows:

### 10.2.7 Expiration of Permits and Permit Exemptions

- The Washington Sea Grant study titled *Effects of Geoduck Aquaculture on the Environment: A Synthesis of Current Knowledge*, found limited effects of geoducks on habitat in Puget Sound. The 2009 study was a literature review of potential environmental effects of aquaculture on Puget Sound. However, the studies did not compare the habitat conditions before planting or after harvesting and did not study the bivalve carrying capacity in Puget Sound. They found: *No peer-reviewed studies are available for geoduck carrying capacity or bivalves carrying capacity in Puget Sound. We have chosen not to review carrying capacity for different bivalves in different bodies of water because this would not add to our knowledge about geoduck culture in Puget Sound* (Sea Grant, page 29). Based on the lack of information about the long term impacts of geoduck aquaculture on the intertidal area, we suggest that a permit for geoduck aquaculture, once granted, be limited to no more than a 10 year period. Finfish aquaculture permits, once granted, shall be limited to no more than a 5 year period.
- In the interest of insuring no loss of ecological function to the habitat for fish and wildlife, we must address sunset provisions for prior issued or "grandfathered" conditional use permits. Existing extractive industrial

- and aquaculture operations must be required to comply with current standards, as stated in this SMP, or cease operation within a negotiated period of time. Shorelines/tidelands/ bay and harbor bottoms must be restored, as close as possible, to native conditions. The cost of restoration shall be the responsibility of the permit holder and not Clallam County.
- Extension of Permit - Should not be allowed for aquaculture projects without an environmental assessment that shows that the substrate, water quality, Priority Habitat Species, forage fish spawning areas, and resident and migratory bird species have not experienced a net loss of ecological functions during the initially permitted period.

#### 10.2.9 Permit Revision

- Same wording as 10.2.7 [Extension of Permit] - Should not be allowed for aquaculture projects without an environmental assessment that shows that the substrate, water quality, Priority Habitat Species, and forage fish spawning areas, and resident and migratory bird species have not experienced a net loss of ecological functions during the initially permitted period.