

February 8, 2019

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Rich Doenges
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504

WA State Department
of Ecology (SWRO)

Dear Mr. Doenges,


Thank you for the opportunity to provide testimony regarding the reissuance of Cooke Aquaculture's NPDES permits and for Ecology's input at the recent public meeting here on Bainbridge. The residents of Rich Passage Estates Homeowners' Association are well aware of the need to establish strict measures and controls to protect water quality.

The attached letter, that we wish to enter into testimony, identifies specific areas of improvement that are critical to the reissuance of Cooke's NPDES permit. We address:

- net washing practices
- the handling of operational debris
- solid waste storage and disposal
- Inspections of mooring points
- the need for training.

We support the additional protective measures that were outlined at the public meeting. Further, we ask that any proposed introduction of native fish be viewed as a substantial modification. Finally, there is general agreement that Ecology should not renew NPDES permits at the expiration of current leases. Please confirm receipt of our testimony via the email shown below.

Sincerely,



Kathleen Hansen

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Rich Passage Estates HOA
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Thank you to the Department of Ecology for its work in recognizing some of the short-comings at the Bainbridge Cooke Facility and placing measures to protect water quality by prohibiting the over-water cleaning of equipment and power washing that increased with Cooke ownership.

*FACT SHEET FOR NPDES PERMIT WA0031534
COOKE AQUACULTURE PACIFIC, LLC
FORT WARD SALTWATER II*

On December 12, 2017, after multiple conversations, email correspondence, warning letters, and a Notice of Violation regarding Cooke staff illicit discharges at the Bainbridge Island service dock for the three facilities in Rich Passage, Ecology issued Cooke a penalty of \$8,000 for violations of RCW 90.48. Though the service dock was not included in the NPDES permits for the facilities, this reissuance of the permit requires, as part of the pollution prevention plan, that Cooke include procedures for conducting routine maintenance of the facility and supporting structures (including barges and docks) and equipment in such a way as to prevent pollutants from entering state waters in violation of RCW 90.48.

Recommendation: Both the NPDES permit and Pollution Prevention Plan should be comprised of strict controls (not guidelines) that are specific and measurable...Here are examples where more strict controls are needed:

From Cooke's Pollution Prevention Plan:

NETWASHING PRACTICES

4. At the end of the growing cycle after the fish have been harvested out, the nets are removed from the water and transported to a land based cleaning and repair facility.

Like thousands of others, we are well aware of the dangers of poor net-maintenance as demonstrated by the failures and mismanagement at Cypress Island. Last summer, at the end of the growing cycle, instead of predator nets being removed from the Fort Ward Pens here on Bainbridge, nets were cleaned by divers using power washers...the spray shooting many feet into the air.



The response from Ecology was:

"I spoke to Kevin Bright with Cooke regarding this activity. Kevin indicated that all the nets were removed from the Orchard Rocks site, but only the stock nets had been removed from the Fort Ward site. The reason was that Cooke anticipated approval of a transfer permit from DFW to re-stock the Fort Ward site. The permit was eventually denied due to problems with the fish they were going to stock. Cooke has procured new smolts to stock the Fort Ward pens and timing will not allow for removal of the predator net. Ecology is not overly concerned that the predator net was not removed (even though it is not in complete compliance with the Pollution Prevention Plan), and that it is being pressure washed in place. In situ pressure washing is in compliance with Cooke's Pollution Prevention Plan. Net biofouling is not contingent on the presence of fish in the pens. Mussels and other marine organisms will accumulate regardless, especially during the summer months. So if nets are present, diligent washing of the nets is considered a BMP. A greater concern for Cooke could be the transfer of any legacy fish health problems from the previous stocking being transferred to the next crop of fish from the uncleaned net. However even if the nets were removed there could still be transfer from the floating structure itself."

Ecology appears to acknowledge that:

1. Cooke was not in complete compliance with its own Pollution Prevention Plan
2. No matter what cleaning methods are employed (in situ or net removal) there still could be transfer of fish health problems from the structure itself

Additionally, a warning letter to Cooke from Ecology for unpermitted net washing was issued August 25, 2016 for discharges. This warning letter followed a month-long incident of power washing stock nets into State waters. Cooke explained this activity as a cost saving measure that was approved by management. Prior net pens owners were known to transport nets at the end of the growing season by truck which left foul discharges on Bainbridge roads. The previous Cooke GM communicated that nets would be shipped away from the pens by barge.

In Attachment A, Cooke states that in 2012, it switched company-wide to a "single stocking production plan that allows ample time for the containment nets to be removed from the farms and transported to an upland net washing facility for complete cleaning and repairs". These upland facilities are designed to handle the nets and dispose of materials properly. Cooke's practices during the last two production cycles are inconsistent with their pollution prevention plan or best practices as described in Attachment A. On paper, Cooke's recommendations seem reasonable. Actual practice, however, seems to favor actions that are expedient and cost efficient. A lack of specificity in permits makes it difficult for State agencies to ensure that the proper practices are being followed.

To date, no fish have been stocked in the Fort Ward Pens. The operator should not have the option of short-cutting the net cleaning process at the end of the growing cycle

Recommendation: Strict adherence to the removal of all stock and predator nets for cleaning *by barge* from the pens at the end of the growing cycle to ensure proper net cleaning and testing of the structures themselves to ensure fish health. The NPDES Permit and the Cooke Pollution Prevention plan should be amended to state the following:

- **At the end of the growing cycle all stock and predator nets *"must"* be removed from the facility by barge and transferred to an upland facility for complete cleaning and repair**
- **In-situ washing of nets with pressurized seawater may *"only"* be used during the growing cycle to minimize bio-fouling.**

Other Concerns:

- 1. During in-situ washing how are portions of the net pen structure itself not affected by underwater washing as referenced in Section 2. O&M Manual Components, Subsection s? "The Permittee may not pressure wash any portion of the net pen structure or any equipment..."**
- 2. During potential net rotations, how are possible escapements monitored, reported, and prevented?**

*FACT SHEET FOR NPDES PERMIT WA0031534 COOKE AQUACULTURE PACIFIC, LLC FORT WARD SALTWATER II
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The Permittee is required to handle and dispose of all solid waste material in such a manner as to prevent its entry into state waters. Solid wastes of concern for marine salmon net pens include fish mortalities under normal operations, fish mortalities due to a fish kill involving more than five percent of the fish, blood and waste from harvesting operations, and sanitary waste and operational debris. The Permittee is required to develop a pollution prevention plan that addresses how solid and biological wastes are collected, stored, and ultimately disposed of at an upland facility.

Last year beginning in February, Cooke began hammering on nearby pens. Residents complained to the City of Bainbridge in May with what they believed were noise issues. In August, as many as three workers hammered for at least eight hours daily for a period of several weeks. Residents reported seeing workers pounding below the catwalks. Cooke confirmed that they were chipping off rust and painting.

Ecology responded to concerns in August with the explanation below that they received from Cooke's permit coordinator at that time:

"I spoke with our people down there yesterday and they are using tarps and plastic sheeting to keep material from entering the water. Collected materials are taken in to the pier and put into the dumpster for proper disposal. I will re-emphasize the importance of this with the project manager."



Ecology told an area resident in August that:

"Absent direct evidence of the discharge Ecology cannot impose Penalties or Administrative Orders."

Fair enough then that the public has to supply evidence that an infraction has taken place but, the net pen operator has no responsibility to provide evidence that containment measures are in place. Residents were left wondering how containment measures could take place below the catwalks in the swift moving waters of Rich Passage. To our knowledge, no inspection took place by Ecology to verify that proper containment measures were actually in place for activity that spanned from February to September. The permit coordinator seemed to have no advanced knowledge of the process until being contacted in August.

Recommendation: Notification to both Ecology and Cooke's permit coordinator when activities or maintenance by the net pen operator can affect water quality. Inspection or on-site verification of containment measures. Alternatively, video confirmation of processes could be utilized to demonstrate containment measures.

Other Concerns:

Why are fish mortalities pegged at 5%?

This brings to mind the IHN Virus that occurred in May 2012 that resulted in a million pounds of fish being destroyed. This event was never reported to the Department of Ecology but was widely reported by local newspapers and TV stations. The quote below from the Kitsap Sun illustrates our concern:

"We are concerned about the virus amplification that is occurring from the affected pens, and the length of time the amplifying event is occurring over," said Bruce Stewart, fish health program manager for the Northwest Indian Fisheries Commission. "American Gold reported increased mortalities starting in April. We now are at end of May and infected fish are still in those pens shedding virus."

Fish mortalities are reported to the Department of Ecology. It would appear that better monitoring or a different threshold is needed to protect water quality.

From Cooke's Pollution Prevention Plan:

SOLID AND BIOLOGICAL WASTE COLLECTION, STORAGE AND DISPOSAL (Cont.,)

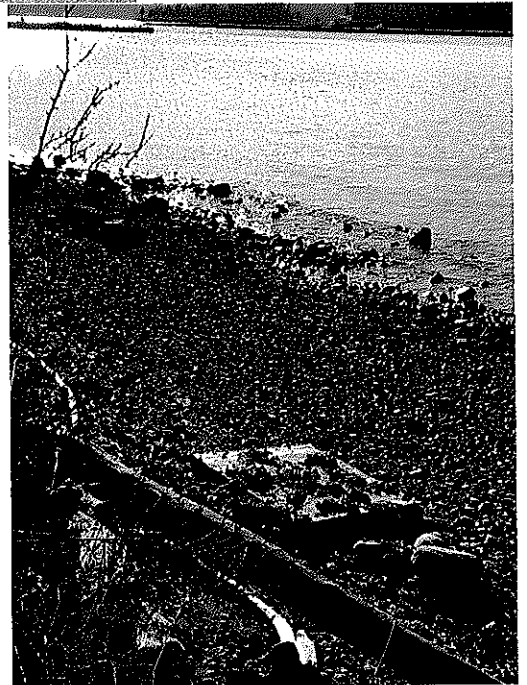
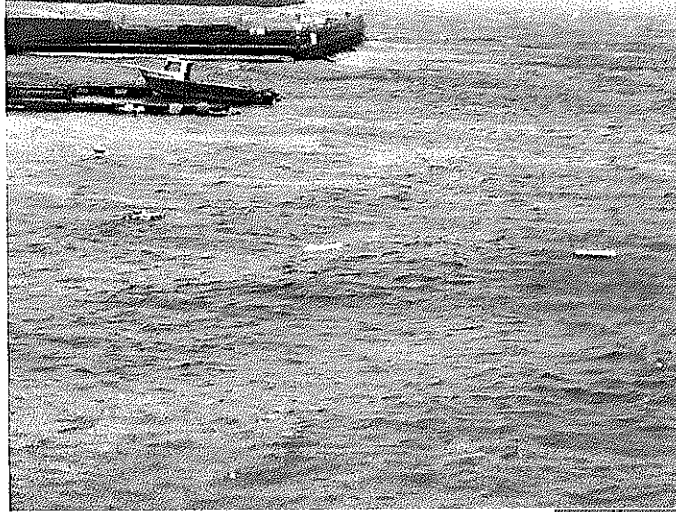
5. Solid wastes generated by the daily operation of the sites such as feed bags, wooden pallets and household wastes are to be routinely removed from the sites and transported to the land based support facilities for proper disposal and/or recycling. Proper containment, handling and storage of these waste materials are to be priority of all employees to ensure these materials do not enter the water.

From Ecology's Draft O&M Manual Components:

- t. The Permittee must keep items associated with the operation of the net pens secured on the net pen structures and associated service areas, such as docks and barges, in order to prevent debris from entering the water.*
- u. The Permittee must recover floating debris which enters the receiving water as soon as it is safe to do so.*

The problem with the word "routinely" in the draft Pollution Prevention Plan is that the industry defines what is routine instead of the Department of Ecology. At present, that is an increment of **at least 220 pallets**. The current frequency for removal is three to four-plus weeks. On collection day, there have often been more pallets than will fit in that eighteen-wheeler. (A full eighteen wheeler contains 380 pallets.) Unsecured pallets which are stacked over eight feet high have been known to enter the water during windstorms, washing up on the beaches of residential homes and the nearby Fort Ward Park.

Rich Passage Estates Homeowners' Association Testimony



Recommendation: Define the increment for removal of these items as weekly or alternatively, a maximum of 220 pallets instead of “routinely” in both the Pollution Prevention Plan and O&M Manual. This could be facilitated by any of the almost daily eighteen-wheelers delivering food. Implementation at the farm of measures to secure recyclables prior to impending storms and inspection after a storm to be sure these types of materials have not entered the water as stated in both the Pollution Prevention Plan and O&M Manual.

Also from Cooke’s Pollution Prevention Plan:
Routine Visual Inspections of Mooring Points

1. *The Site Managers and site personnel are to routinely inspect exposed mooring components for signs of excessive wear. Any defective components are to be replaced promptly.*
2. *Below water mooring components are to be inspected and/or replaced periodically in order to maintain them in the best condition practical.*

On the evening of May 25, 2017, farm workers brought in emergency equipment via a flatbed eighteen-wheeler for what we were told was an “equipment failure” here on Bainbridge. A farm manager confirmed to us that a boat held the pens in place while repairs were underway. This equipment failure was not reported to the Department of Natural Resources by Cooke nor the Department of Ecology to our knowledge.

New chains and anchors were delivered to the farm on May 28, 2017. DNR explained in an email that, “According to Cooke Aquaculture, the new anchors and chain that were delivered to Rich Passage will be used for routine maintenance and replacement of existing mooring equipment at the Fort Ward and Orchard Rock Facilities.” **No mention was made of the Clam Bay facility where the equipment failure is believed to have occurred.**



Recommendation that the words “routinely” “promptly”, and “periodically”, be replaced with more specific language related to the inspections of mooring components both above and below the water. The net pen operator should report any failures of the mooring points and anchor structures to Ecology which could reveal a pattern of deficiencies. Manufacturer recommendations for suggested maintenance were found for the Cypress Island pens, for example, in the Appendix 1: Cypress Island Net Pen Failure Engineering Review (December 29, 2017)

https://www.dnr.wa.gov/sites/default/files/publications/agr_cypress_investigation_appendices.pdf?bpxze&g0ewylo29

The Department of Ecology should play a strong role in defining “routine” maintenance to ensure that all pollution prevention and containment measures are applied and verified.

These recommendations correlate with the S9. Fish Escapement Plan in your NPDES draft

- E. Specific description of what constitutes routine repairs and major or emergency repairs**
- F. Procedure for notification of Ecology and/or other state agencies of major repairs or mechanical or structural issues.**

Rich Passage Estates Homeowners' Association Testimony

Our group is supportive of additional protective measures that include:

- Increasing underwater video monitoring of net pens
- Conducting inspections to assess structural integrity of the net pens and submit inspection reports certified by a qualified marine engineer to Ecology
- Improving net cleaning and maintenance procedures to prevent fish escape
- Requiring the Permittee to develop site specific response plans in the event of a fish release, and the conduct and participate in preparedness trainings
- Requiring improved maintenance of the net pens
- Maintaining and contact information to notify tribes in the event of a fish release
- Improved DO monitoring and reporting
- Improved training and documentation

Our concerns related to the above items:

1. Cooke often runs generators to address Dissolved Oxygen levels outside the reportable August 15th to September 30th period. Why aren't they be required to monitor and report whenever they are running their generators to address DO?
2. How will Ecology ensure that refresher training does in fact occur and that new employees are trained in a timely manner? An employee once admitted that he didn't know there was a Plan of Operations as part of their DNR lease for example.

We look to the Department of Ecology to provide safeguards along with other state agencies. As one Bainbridge city planner explained,

"The aquaculture facility predates the City, so there is no conditional use permit. They are essentially "grandfathered" and many of the City's SMP do not apply to the facility."

According to Cooke's application materials, the shoreline permit in place was issued by the Kitsap County Department of Community Relations (Permit 503) on 6/13/88...over thirty years ago.

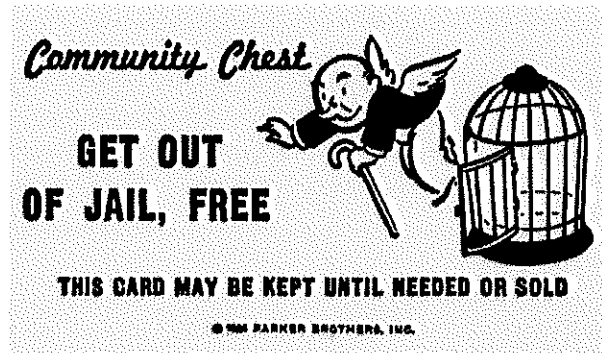
2.5 Has a shoreline permit been issued for this project? yes no

If yes, what is the permit number? 503 Date of permit? 06/13/88

Shoreline permit issuing agency: Kitsap County Dept. of Community Development

Despite the accolades that you might read about Cooke on their webpage, residents here agree that Cooke is the worst operator ever beginning with their introduction to the neighborhood with three weeks of unpermitted power washing of stock nets and discharges into the waters of Rich Passage and subsequent hand slap of a warning letter from Ecology. This was followed by an anchor failure that no one, not even DNR seems to acknowledge, and a year or more of cleaning equipment, power washing and scraping boats over Washington's waters.

With this in mind, we must re-emphasize the need for Ecology to establish strict controls instead of guidelines to ensure that Cooke follows an updated pollution prevention plan and complies with their NPDES permits. Unlike the game of Monopoly, there should be no more get out of jail free cards.



The Pollution Prevention Plan that is included in the application is dated April 2017, before Cypress Island and the inspections that followed of other net pen facilities. We are asking that the Pollution Prevention Plan be updated to include the requirements in Ecology's NPDES Permit Draft and to include the recommendations that we outlined here that impact water quality.

FACT SHEET FOR NPDES PERMIT WA0031534

COOKE AQUACULTURE PACIFIC, LLC

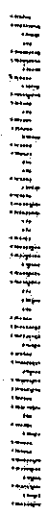
FORT WARD SALTWATER II

The descriptions and requirements of this permit are intended to solely address commercial rearing of Atlantic salmon in marine net pens.

We are also recommending that any future consideration related to the rearing of native fish be viewed as a substantial modification to the NPDES permit. WDFW stated in testimony last year that they are much more concerned about the escapement of native fish and its effects on wild populations.

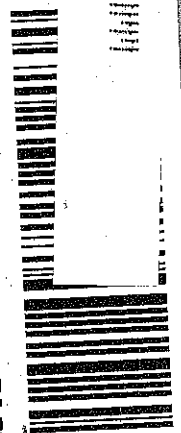
Finally, we understand that the purpose of this comment period is to gain input for Cooke's NPDES permit. Like other commenters however, we wish to add that marine pen industry has demonstrated, with a long history of fish escapes, viruses and pollution that it cannot and should not be allowed to operate in the waters of the State of Washington at the expiration of their current leases.

CERTIFIED MAIL



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