

## Emma Helverson

The attached Our Sound, Our Salmon comments were drafted by Wild Fish Conservancy and supported by 17 additional organizations and businesses.

# OUR SOUND, OUR SALMON

## Comments on the draft **Guidance for Marine Net Pen Aquaculture in Washington State**

Our Sound, Our Salmon

*Our Sound, Our Salmon is a campaign coordinated and overseen by the Wild Fish Conservancy*

[www.oursound-oursalmon.org](http://www.oursound-oursalmon.org)

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Wild Fish Conservancy

These comments are supported by the following 17 organizations and businesses:

Orca Conservancy

Washington Council of Trout Unlimited

Center for Food Safety

Friends of the Earth

RE Sources

Friends of the San Juans

Olympic Forest Coalition

Protect the Peninsula's Future

Olympic Environmental Council

North Sound Trout Unlimited

Project Seawolf

North American Marine Alliance

Coast Action Group

Rich Passage Estates Homeowners' Association

Spottswode Winery

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Luminosity PR

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Mr. Dennehy,

We write to express our sincere disappointment with the fundamentally flawed public and technical processes surrounding the development of the draft ‘Guidance for Marine Net Pen Aquaculture in Washington State’ (here on referred to as ‘draft guidance’ or ‘management plan’). We are frankly shocked that Washington state agencies are comfortable presenting this document for public review, and defending it as a sincere effort to consult and use best available science to come to impartial conclusions. Throughout the document, there is a clear and evident effort to downplay and, in many cases, fundamentally ignore well-documented risks associated with commercial net pen aquaculture, while selectively cherry-picking information that would support the continuation and expansion of the commercial marine finfish aquaculture industry in Washington State.

After six years of development, this complete and utter failure to apply best available science to the management of an industry with a long record of environmental harm both in Puget Sound and throughout the world, either represents an insincere and/or incompetent effort, or intentional bias. Whatever the reason, through this poor effort Washington State agencies have further eroded the public’s trust in the government’s ability and interest in regulating the commercial net pen aquaculture industry in a transparent and precautionary manner, further engraining concerns that the economic interests of operators like Cooke Aquaculture Pacific are being prioritized over the protection of threatened and endangered species, tribal treaty rights, and the public’s best interest.

Given the degree to which the scientific record is absolutely incomplete and the document is obviously biased, it would be impossible and a disservice to the public to provide technical comments that treat this plan as a credible and impartial scientific document. Instead, our comments highlight the fundamental ways in which this draft guidance is fatally flawed and the public review process was wildly insufficient. In particular, these comments are intended to alert members of the legislature, who specifically requested this guidance be complete through HB2957, to the insufficiency of this effort and to express our concerns over the legislative recommendations which request additional funding from the public to further subsidize a billion-dollar corporation that threatens the health and vitality of wild fish, water quality, and Puget Sound. If the agency’s responsible for the development of this plan sincerely intend for management of commercial net pens to reflect best available science, we strongly encourage you not to move forward with this misinformed, biased, and already outdated draft guidance.

In 2015, when State agencies began working on this management plan, we were hopeful that this exercise would finally lead to a science-based approach to how commercial net pens are managed in Puget Sound. For this reason, we were happy to participate in the early development, present on our past research, and to share recommendations for how the state’s regulatory framework and understanding of the risks could be improved to better protect wild salmon and the marine environment from further harm.

Two years into the development of this plan, Washington experienced a catastrophic collapse event in 2017 that temporarily put the development of this plan on hold, while also highlighting the urgent need for further evaluation of the current management regime overseeing this industry. Catastrophic and chronic events have occurred throughout the over thirty-year period this industry has been permitted to operate in Puget Sound; however, the collapse skyrocketed the public’s concern over the risks associated with commercial net pen aquaculture and finally drew widespread attention to the fundamentally flawed and insufficient regulatory framework that will only continue to allow these events to occur.

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## Failed Regulatory Framework

The first sections of the management plan provide a summary of this failed regulatory framework as described by local and federal law, and at first glance gives the appearance of rigorous and strict oversight. However, it is important to note that the plan does not include an assessment of how, if, and to what degree this system has worked over the past thirty years. Without this understanding, or a sincere effort to improve this understanding, stating the regulations does little to guide the management of commercial net pens. To our knowledge, there has never been an independent assessment over the past three decades evaluating how or if this regulatory system is sufficient and whether or not enforcement is possible. Before we invest more public dollars in the maintenance of the current regulatory system (as is recommended to the legislature in the conclusion of the draft guidance), we strongly encourage regulatory agencies to instead recommend the legislature fund an independent audit. This action would demonstrate a sincerity to science-based and precautionary natural resource management, while improving our understanding of how the current system works and whether or not it is sufficient to safely regulate this industry at a level necessary to protect threatened and endangered species, water quality, tribal treaty rights, and marine health.

For over two decades, Wild Fish Conservancy and many others have expressed serious concerns over this regulatory framework and permitting requirements, primarily the strong reliance on the industry self-monitoring and self-reporting their own violations. This is an obviously insufficient and failed management strategy that actually incentivizes the industry not to report violations, outbreaks, or issues. Much like the Cypress Island collapse or the outbreak of Piscine Reovirus (PRV) in Puget Sound net pens, this regulatory system continues to fail to identify if or when problems exist and is unlikely to prevent catastrophic events before they occur. Instead, agencies rely on retroactive punitive actions as the primary form of management, actions which are often appealed requiring expensive and unnecessary litigation funded by Washington taxpayers. We think many would agree these funds would be better spent on efforts to protect and restore wild salmon, orcas, and the health of Puget Sound. Even additional oversight requirements added to prevent future escape events following the Cypress Island net pen collapse, offer more of the same oversight that allowed this event to occur— self-monitoring and self-reporting.

Further, Washington State agencies responsible for managing the net pen aquaculture industry continue to argue there is little to no evidence that Puget Sound's large-scale commercial net pens pose significant harm to wild salmon, steelhead, or marine health. However, as a result of this hands-off management approach and the fact that agencies have taken no sincere initiative to investigate the impacts of this industry (except to respond retroactively to catastrophic events), officials cannot with any level of confidence claim to understand if, when, or to what degree problems have occurred. This dynamic has shifted the burden of monitoring and reporting violations, and at times enforcement (i.e., Wild Fish Conservancy's Clean Water Act lawsuit), onto local landowners, environmental organizations, Tribal Nations, and other members of the public.

We also think it is important to note that in contrast to the State's opinion, the Environmental Protection Agency (EPA) made a new determination in 2020 that found Puget Sound net pens are likely to adversely affect ESA-listed salmon, steelhead, and other protected fish species that are endangered or threatened with extinction. As a result of this initial finding, NOAA Fisheries is currently preparing a biological opinion to expand upon the EPA's finding and is expected to require modifications to existing regulations and oversight. This recognition of harm by federal agencies and mention of the upcoming new biological opinion are absent from the draft marine guidance.

We provide clear examples of how and why this regulatory environment is insufficient in the Our Sound, Our Salmon National Pollutant Discharge Elimination System (NPDES) permit comments submitted to Ecology

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on October 26, 2020. A key and primary concern continues to be the State's lack of authority to access, monitor, and test for viruses, diseases, or parasites in stocked Puget Sound net pens. The Washington Department of Fish and Wildlife (WDFW) maintains that during the grow out period (roughly 14-18 months), WDFW officials do not have authority to randomly monitor or conduct agency sampling or test for disease-causing agents in farmed fish within net pens and must rely on the net pen operator's self-monitoring and self-reporting to notify state officials when and if an outbreak or infection has occurred. Even in these instances, state officials must receive permission from the net pen operator before having access to the facilities. As a result of this fundamental breakdown in the regulatory oversight of this industry, known outbreaks or suspected risks of viral infections have been allowed to amplify and spread in Puget Sound commercial net pens with agency officials unable to intervene despite being aware of the threat. We think it is important for the legislature to be aware of this alarming and clearly insufficient regulatory gap.

## Examples include:

- In 2012, an outbreak of Infectious Hematopoietic Necrosis virus (IHNV) occurred in one of the three net pens located in Rich Passage near Bainbridge Island. Despite the net pen operator declaring "quarantine" of the infected pens (which does nothing to prevent the virus being shed from infected farmed fish into the water flushing through the pens), the virus quickly amplified and spread to open water facilities at two other locations in Rich Passage, including two net pens located within the Orchard Rocks Conservation Area. This outbreak occurred in April and May when outmigration of juvenile salmon was at its peak. WDFW's Fish Health Supervisor at the time requested access to the net pens to conduct testing and place sentinel cages to monitor viral exposures but was refused access throughout the duration of the outbreak by American Gold, the owner at the time. Under public disclosure, there is no agency record of this event nor was it disclosed in American Gold's annual report to the state, leaving no evidence for the public that an outbreak ever occurred, let alone what the impacts of the outbreak may have been to wild fish populations. This lack of transparency highlights another key issue related to the monitoring and recordkeeping of agencies and the industry around viruses and diseases that needs to be corrected and accounted for.
- Following the Cypress Island collapse in 2017, Wild Fish Conservancy conducted viral-testing and genetic sequencing of escaped farmed fish and published the results in *Virology Journal* (Kibenge et al. 2019) demonstrating nearly 100% of the over 250,000 fish that escaped were infected with an exotic virus originating from Iceland where Cooke purchased their Atlantic salmon eggs (this research was not considered or included in this draft guidance). Cooke never reported an outbreak of PRV and as a result the virus was never detected by agency officials. At the time, every other net pen in Puget Sound was planted with farmed fish from the same egg supplier in Iceland where the virus originated and were reared in the same hatchery facility. Therefore, it is highly likely, or at very least probable, that other net pens were also infected. This is particularly true for the two Cypress Island net pens located directly adjacent to the infected middle pen and which were most likely to be exposed to escaped infected farmed fish. However, when Wild Fish Conservancy and members of the Our Sound, Our Salmon coalition called for impartial, state-conducted testing of Cooke's other stocked net pens, WDFW reported at the time that they did not have the authority to test fish within the pens and no testing ever occurred. As a result, hundreds of thousands of potentially contaminated farmed fish remained in Puget Sound for months during juvenile outmigration, until they were finally harvested at full size for market.

It is both reckless and unacceptable for our state agencies to continue issuing permits and to justify the sufficiency of the regulatory system in the draft guidance when this fundamental regulatory gap exists. This is exactly the type of regulatory flaw that could and would be evaluated through an independent audit of the oversight regime and further informed by an environmental impact statement.

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## **Management Prioritizes Expansion Not Regulating Existing Net Pens**

Washington’s widely supported, landmark 2018 law banning nonnative net pen aquaculture in Puget Sound directed Washington State agencies to go back and consult with independent scientists, universities, Tribal Nations, and local governments to complete the guidance plan and ensure management would “eliminate commercial marine net pen escapement and to eliminate negative impacts to water quality and native fish, shellfish, and wildlife.”

For this reason, we, and likely many others, expected agencies had completed a comprehensive and thorough review of best available science in order to update and develop informed and precautionary best practices for managing Puget Sound’s existing commercial net pens. Unfortunately, this could not be further from the truth.

First, we think it’s important for the legislature to note that our state agencies openly admit in the draft guidance “that it is not possible to eliminate escapes from open net pens”, the core objective and principle behind the management plan.

Second, while agency officials continue to emphasize the core goal of this management document is to guide local and state governments with regulatory authority over the industry, it better represents a “how to” guide and roadmap for “proponents” (e.g., net pen operators) interested in expanding and siting *new* net pen facilities in Puget Sound. The separately developed State of the Science Report more clearly defines the plan as a “management recommendations document for future marine net-pen aquaculture activities.” Also, the fact that these local governments with authority over net pens were not adequately notified of this comment period, further questions the intent or purpose of the plan and who it was developed to guide. With a few exceptions, the best practices and risks considered, mainly focus on guiding management and siting of new net pen projects with little to no emphasis on managing or improving management of existing facilities. We also think it’s important to note that all of the existing sites fail to meet the criteria and best practices recommended for siting new net pens.

We believe the title of the plan and the stated intent is misleading and that the public, as well as our elected officials, will be outraged to know agency officials spent six years developing a roadmap for the industry to use to expand in Washington’s public waters. This makes it all the more concerning that the public notification process surrounding public review of this document opportunity was fundamentally-broken, and whether intentional or by mistake, gave the appearance of agency officials intentionally working to prevent the public from being aware of, or participating, in this review process.

## **Failure to Consult Best Available Science**

The Washington agencies responsible for this plan should be truly professionally embarrassed to present this review document to the public under the guise of best available science. The scientific record consulted to develop best practices and identify risks is woefully incomplete, outdated, and obviously cherry-picked. Of the over 300 references included, less than a third were published after 2014 giving the appearance that when agencies resumed development of the plan following the Cypress Island net pen collapse and at the direction of the legislature, they made an incompetent and/or insincere effort to update the scientific record to include the wealth of existing new research and best available science. In particular, studies published after 2014 investigating risks net pens pose to wild fish populations in the Pacific Ocean are entirely absent. In contrast, the authors did choose to add and reference non-peer-reviewed publications from aquaculture industry blogs and websites, as well as economic aquaculture studies (i.e., investigating how to grow larger fillets) in the risks and best practices sections.



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Peer-reviewed research conducted in Puget Sound and British Columbia within the past decade is fundamentally absent. Studies that suggest net pens may pose negative environmental impacts are only included and referenced if they are inconclusive, outdated, or were conducted in the Atlantic Ocean or other ecoregions (i.e., Norway, Chile, Italy, Kenya) and therefore cannot be easily or directly applied (even in cases where more recent and applicable data exist for the Pacific coast). Even studies and arguments WDFW included in documents related to the State Environmental Policy Act (SEPA) review of Cooke's steelhead proposal are excluded from the guide. This is notable because the more complete SEPA environmental review is already being challenged in Washington Supreme Court for not adequately consulting best available science.

There is zero research and no discussion of the risk posed by the virus Piscine Reovirus (PRV) or best practices for eliminating this risk. This is a shocking omission given new research published this year by government, university, and nonprofit scientists in British Columbia that proved the aquaculture industry is responsible for introducing this nonnative virus to the Pacific Ocean, and proving the virus is now being continuously amplified and spread from farmed populations to wild fish (Mordecai et al, 2021). The study also found PRV-infection in hatchery fish from Washington, even those that are never exposed to net pens throughout their migration, such as Columbia River stocks, suggesting that Washington hatchery facilities may also be amplifying and spreading this exotic PRV, again, originally introduced by the net pen industry. Similarly, Wild Fish Conservancy's 2019 peer-reviewed and published research documenting PRV in Puget Sound net pens is absent (Kibenge et al, 2019). The agency's decision to not even discuss this virus or the threats it poses is a truly astonishing omission. The single reference to PRV is outdated and incorrectly suggests non-Atlantic Ocean variants exist, an assumption WDFW has long held without proof and was recently disproved by the study referenced above.

Similarly, consideration of climate change impacts are completely absent. This is extremely concerning given climate change is likely to impact and increase the risk of every aspect of commercial net pen management and will only get worse over time. While obviously unacceptable, this omission is also unsurprising given WDFW failed to include, consider, or address climate change impacts and risks during the SEPA review of Cooke's steelhead proposal, even after the Department of Natural Resources (a jurisdictional agency to the SEPA process) submitted two sets of comments highlighting this omission and recommending climate change be a key consideration. This is also a primary argument in Wild Fish Conservancy's legal challenge of that SEPA review currently being considered by the Washington Supreme Court. Similarly, last month a Washington appellate court rejected the Department of Ecology's (Ecology) updates to Concentrated Animal Feeding Operation (CAFO) permits largely over Ecology's failure to account for climate change risks and impacts. While it shouldn't have to be stated, it is completely unacceptable for natural resource managers to ignore climate change impacts and for the public to have to litigate in order for best available science to be applied.

The introduction states that the plan "takes away guesswork and assumptions, and establishes a consistent approach for proponents [net pen operators] and the public." However, in addition to the woefully outdated, incomplete, and biased scientific record, the plan consistently uses vague language such as "minimize", "when appropriate", "it may be necessary", "needs to be considered" and includes no thresholds, quantitative standards, methodology to determine uncertainty, industry standards that should be applied throughout sites, or definitions of specific actions to determine if and to what degree harm to native species and the environment has occurred. Without any clear guidelines at all, this plan is a useless tool for guiding management.

Most concerning, the risks and best practices sections are so obviously biased in tone and supporting science that it almost appears as if they were written by industry representatives and advocates (and given the authors



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have not been disclosed to the public, this could be true). This concern is heightened by the fact that emphasis on the urgent need to protect wild fish and other threatened natural resources is virtually absent, except in the context of overcoming and avoiding barriers that could complicate the siting, permitting, or operating a new net pen site.

## Public process

We think it's important to point out that the public process surrounding public review of the draft guidance was fundamentally-broken and prevented the public from effectively meeting the true intent of public review— providing thorough, well-informed, and thoughtful recommendations to agency officials.

Notification of this opportunity to comment was woefully insufficient with most members of the public learned about the existence of the draft guidance and the opportunity to comment over halfway into a short 21-day comment period. While the plan is written more as a “how to guide” for net pen operators who want to expand, a key stated purpose of the management plan is to serve as a tool for local governments. Throughout the guide there is an emphasis on the critical role that cities and counties have in authorizing commercial net pen facilities located within their shoreline jurisdictions. For this reason, it is concerning and perplexing that local governments for whom this plan was apparently intended were not notified of the opportunity to comment. Similarly, we are concerned that Tribal Nations with commercial net pens in their traditional waters were not adequately consulted. Organizations that submitted comments to Ecology on marine net pen aquaculture as recently as November 2020 or participated in the early phases of the development of this very guidance plan, were not directly notified by Ecology that a draft had been developed and was available for public review. Beyond Ecology's press release on the agency website, the only public notice was published four days into the original comment period by a single news site serving a small, local community.

To make matters worse, the public was not granted adequate time to review and provide comments commensurate to the scale of these important documents, especially given clear evidence that this document was heavily influenced by the industry and/or in favor of the industry. This plan took six years for four Washington state agencies and an independent consultant to develop, yet the public was originally provided a mere 21-days to review the 142-page draft guidance plan and the 230-page State of the Science Report. After the public called attention to this broken public process, Ecology provided an extension at the last minute that provided less than half of the 90-day period requested by various organizations and members of the public. As a result, Wild Fish Conservancy's technical staff, still have not had sufficient time to review or understand concurrency issues with the Science of the State Report and why Washington agencies were unable to successfully work with this third-party to develop a single document. We also have not had sufficient time to confer with other experts, especially those whose research is absent and would contradict the draft guidance recommendations. With adequate time, we would have been able to provide more thorough and informed public comments to agency officials.

Whether intentionally or by mistake, this broken public process gives the appearance of state agencies attempting to limit public participation on an issue of known public interest and concern. This appearance of malfeasance is only heightened when considering the plan reads as a roadmap for the aquaculture industry to site and build new net pens, the plan's clear bias toward science that is supportive of the aquaculture industry, and the agency's fundamental failure or choice not to use best available science.

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## **Inconsistent with the Shoreline Management Act (SMA)**

The environmental, social, cultural, and economic impacts of commercial marine finfish aquaculture (largely ignored in the draft guidance) are clearly inconsistent with the philosophy and core policy areas of the Shoreline Management Act (SMA).

The SMA is intended to protect shoreline natural resources including the land, vegetation, wildlife, and aquatic habitats against adverse environmental effects and to promote public access to publicly-owned areas and encourages the preservation and enlargement of recreational opportunities. The ecological risks and harm associated with commercial net pen aquaculture are well-documented in the scientific record (though not included in this draft guidance) and in Puget Sound we have seen these risks manifest repeatedly over three decades to the detriment of water quality, wild fish, and the greater ecosystem (events also largely ignored throughout the draft guidance. Over that time, with the approval of Ecology and other agencies, the public has been prevented from accessing over 130 acres of Puget Sound, including conservation areas and marine reserves, that have been restricted and degraded for private profit by the commercial net pen industry for over three decades.

The management plan state's that "The authority to develop policies and regulations ultimately rests with local jurisdictions – specifically, municipal and county governments. However, all [Shoreline Management Plans] must meet certain standards and receive Ecology's approval." We believe the authority local municipalities hold in making decisions around commercial net pen aquaculture is overstated in the management plan. For decades, local governments throughout the state have attempted to limit and prevent the devastating environmental impacts of commercial net pen aquaculture when developing Shoreline Master Programs, only to be blocked by Ecology who maintain that commercial net pen aquaculture is an appropriate use of public waters and shorelines under the SMA.

In particular, Ecology has long argued that net pen aquaculture is a water-dependent use and therefore must be prioritized by the SMA. However, under the terms of RCW 79.105.060, this practice is no longer water-dependent. Innovations in fully recirculating closed-containment land-based aquaculture are now more affordable and practical since these pens were first installed in Puget Sound thirty years ago, and land-based facilities are being built throughout the U.S. and world, representing a steadily growing industry and an environmentally-responsible farming practice. Further, even if these responsible alternatives did not exist, water-dependency is only one consideration of a multi-faceted policy and therefore should not supersede all of the other policy objectives.

Under the current business model, the net pen aquaculture industry is using the public's waters and resources to subsidize their expenditures and profits. Moving these facilities out of public waters shifts the responsibility and financial burden of oversight, monitoring, emergency response, and management of effluent and pollution away from the public and onto the company. As long as Washington agencies and governments around the world are willing to continue leasing and approving public waters for use by this industry, companies have little to no incentive to invest and transition to sustainable and ecologically-safe alternatives.

What's more, by endangering the health and productivity of Puget Sound ecosystem services, large-scale commercial net pen aquaculture has the potential to harm *actual* water-based uses that cannot exist without access to healthy and productive marine and freshwater environments in the Puget Sound region.

Even the management plan acknowledges land-based facilities offer a viable and preferred alternative stating: "Operators should be incentivized to move to closed-containment or offshore systems" and "other governments are considering a move to closed containment, offshore, or land-based aquaculture to minimize

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or eliminate the risks of escapes (Liu et al. 2016, Yip et al. 2017, Canada 2018, Gorle et al. 2018, Nilsen et al. 2019).” If this is truly the goal of Washington state regulatory agencies, it is confusing and contradictory that commercial net pen management as described in this plan is focused entirely on expansion of marine commercial net pens.

For all the reasons stated in this section, commercial net pens are no longer water-dependent and are not consistent with the SMA. We would encourage Ecology to finally acknowledge this moving forward and begin to sincerely work to help transition this industry to fully recirculating/ closed-containment land-based, sustainable alternatives that already exist.

## Legislative Recommendations

At the conclusion of the management plan, the authors make four key recommendations for additional legislative support. A summary of these recommendations is below:

- Funding to ensure best practices in the management guide are being applied and additional funding for regulatory oversight
- Agencies should compile and submit a progress report to the legislature in 2030, including lessons learned in implementing the new guidance and how guidance has been applied to new net pens
- Funding an economic study into net pen engineering and technology solutions
- Funding to fill data gaps in knowledge of how marine net pen aquaculture may affect the environment and natural resources and includes a list of research needs

Given the rate to which the public is already responsible for subsidizing the commercial aquaculture industry, we cannot in good faith recommend that the legislature spend additional resources for the recommendations above. Funding required to monitor this industry, and especially for technological research that will economically benefit the industry, should be funded by commercial net pen operators themselves, not public taxpayers. Reasonable oversight costs could easily be included in the cost of the operators’ leases. Also, we would be interested to better understand how funds requested to implement the best practices in this plan would be applied, given these best practices almost entirely apply to siting and permitting new net pen operations. Are agency officials asking the legislature and public to subsidize the growth and expansion of this industry?

Further, given the failure to competently and impartially develop the current management plan over a six-year period and produce a useable tool that can effectively guide commercial net pen management, we strongly question whether it is a wise investment to fund these same agencies to do additional research. Much like this plan, the research priorities identified are completely inconsistent with what best available research suggests are the biggest threats. For example, there is no emphasis on research into potential climate change impacts such as rising water temperatures or research to better understand the threat and prevalence of Piscine Reovirus (PRV). While we strongly support further research to better understand the risks presented by commercial net pens in Puget Sound, we believe funding an independent third-party would be a much better use of the public’s resources and provide the public with a high level of confidence that this research will not be biased by the commercial net pen industry.

The recommendation not to reexamine the effectiveness of the management guide until 2030 after the seemingly insincere effort that went into developing the current plan, at very least gives the appearance of agencies “kicking the can”. If finalized in its current form, agencies will be allowed to continue ignoring urgent issues like climate change impacts including rising water temperatures and the threat of PRV for another decade in commercial net pen management.

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Finally, as stated earlier in this document we believe the only justifiable funding and research need is an independent, third-party audit of the regulatory framework in place to manage this industry. Before we even begin to consider permitting new commercial net pens, it should be a top priority to understand if the regulations in place are effective and if enforcement is possible. This would be a much better use of the taxpayer dollars than funding agency officials to produce a progress report on the current management plan that is already outdated, provides zero quantitative guidance, is not based on best-available science, and therefore should never be finalized.

## Conclusion

Whether intentionally or by mistake, the draft guidance gives the appearance that Washington State agencies either did not make a sincere effort to identify and apply best available science, fundamentally failed due to incompetency, or there was an intentional effort to downplay the risk of net pen aquaculture and benefit the industry.

Whatever the reason, the failure to include best available science has resulted in the management plan failing to address even the most obvious and urgent risk factors presented by commercial net pen aquaculture. The plan contradicts itself by clearly stating a transition to land-based aquaculture facilities is a priority to limit environmental harm, while serving primarily as a roadmap for the expansion and siting of new commercial net pen facilities in public waters.

These concerns are only heightened by the broken public process that limited participation in this public review and the complete failure to emphasize the urgent need to protect natural resources. Instead, throughout the management plan wild fish, water quality, and the health of Puget Sound are treated as barriers that could complicate the siting, permitting, and operation of new commercial net pen facilities.

In its current draft form, the plan is already outdated, misinformed, and as a result, fundamentally useless. Again, if Washington State agencies sincerely intend for management of commercial net pens to reflect best available science, we strongly encourage you not to finalize this guide as it will only work to further erode the public and legislature's trust in Washington agencies to effectively and safely manage this industry.

We do not support the legislative recommendations made in this draft guidance that would require the public to further subsidize this industry to restrict public waters for private profit and degrade Puget Sound. Agencies admit that meeting the legislature's policy objective of eliminating escapes and risks associated with commercial net pens is impossible. Therefore, if it is in the legislature's intent to provide funding to improve the management of commercial net pen aquaculture, it is precautionary and prudent to prioritize a third-party, independent audit to determine whether or not the current regulatory framework is sufficient to safely regulate this industry at a level necessary to protect threatened and endangered species, water quality, tribal treaty rights, and marine health.

Finally, this exercise continues to emphasize the need for Washington state agencies to conduct a comprehensive environmental impact statement, as requested by Tribal comanagers, the Our Sound, Our Salmon coalition, elected officials, and thousands of members of the public. This type of review, governed by a clearly defined technical and public process, would reinstall public confidence that Washington agencies are taking a precautionary, science-based, and transparent approach to the management of commercial net pens in Puget Sound. Together, an environmental impact statement and a regulatory audit would provide a responsible approach to developing guidance for the management of commercial net pen aquaculture.