

I have lived on Bainbridge Island near the net pens for 10 years and have experienced several owners. Since Cooke has taken ownership, their practices have been the worst of the lot. Our introduction to Cooke, as the new owner in May 2016, came with the non-permitted power washing of nets as a cost cutting measure in August 2016. This non-permitted activity got the company a “slap on the hand” (a warning letter). Over water power washing instead of net removal to an upland site for cleaning went on for weeks and left an awful stench in the neighborhood and nearby park. Someone walking through Fort Ward Park asked, “if a whale was rotting on the beach”.

I have personally witnessed Cooke’s water quality violations for which they have been fined \$8,000 and the incredible effort that was required to hold Cooke accountable for its actions. This mirrors the incredible effort by the State to hold Cooke accountable for Cypress Island disaster.

Cooke is not the local, sustainable, and good-neighbor company that they try to frame as their public image. They are a multi-billion-dollar company that exploits public water for profit. They are “hell bent” on expansion and take short cuts to achieve greater profits. Their product is not sold in Washington. Their product is trucked to places like California, Nevada, and Arizona. Their product is not differentiated from non-US sources using exploitive methods and medicated feed and, as such, would not be categorized as sustainable. The money that the Washington State receives from their presence does not cover the cost to regulate the industry or begin to offset the cost that Washington invests protecting and restoring native species. Cooke ignores the concerns of local residents both in Washington and other places it operates. *“As Cooke Aquaculture looks to expand its fish farming in Liverpool Bay, residents who oppose the project say the company is ignoring their concerns... Those opposed to the expansion have a number of concerns, including fish-waste pollution, the possibility of cage failures, the use of pesticides to control sea lice and potential negative impacts on sea creatures, like lobster”* (<https://signalhfx.ca/its-all-bad-opponents-denounce-expansion-of-fish-farm-in-liverpool-bay/>). This permit modification is not about jobs. **The NPDES permit is about Water Quality.**

Decisions to modify existing NPDES permits should not be pushed forward at this time due to the following concerns:

- Governor Inslee’s Stay Home, Stay Healthy proclamation has ended and Washington residents are afforded the opportunity to meet and to comment. Citizens have more important activities to focus on at this time.
- DFW approval is being appealed because substantial questions regarding Cooke’s application have not been fully answered and addressed.
- **Guidance has not been updated and is based on decades old science caveated with three major assumptions from NOAA: 1) the industry remains near the current size at the time of the assessment (2002), 2) the net pens only reared Atlantic salmon, and 3) no new Atlantic salmon stocks**

than already are present be farmed in the net pens.

- **An updated EIS has not been performed that takes into account dealing with biologically- altered, domesticated *O. mykiss* and Puget Sound's federally-listed steelhead population, different risks apply, and standards laid out in the 1990 EIS have not been met for these purposes.** In particular, the triploid error rate, female error rate, minimum distances of separation between farms and river mouths, and the behavioral response of wild steelhead to a large aggregation member of the same species may be different than it was to Atlantic salmon. The public generally opposes a change in species unless the State fully addresses the unknown impact on the State's public waters. **A well conducted EIS would lend creditability to the decision to allow or deny a change in species.**
- The State of Science on Net-Pen Aquaculture in Puget Sound, Washington guidance document appears, on the surface, to be just a restatement of the decades old guidance with little or no update and has not been both peer-reviewed and no chance for public study and comment has yet taken place. A credible document could not be produced without this step.
- The State of Science on Net-Pen Aquaculture in Puget Sound fails to include key stakeholders e.g. tribes, local government, residents impacted, and environmental groups. A credible document could not be produced without these constituents.

In summary, to date, the process for Cooke requesting a species change has been seriously flawed relative to the spirit of the law passed by the Legislature and signed by the Governor.

The primary reason that the State of Science needs to be updated is there is little documented or known experience of raising Steelhead in saltwater net pens in the United States and elsewhere for that matter. Most of the science and industry practices deal with raising Rainbow Trout in fresh water. River based practices are better suited for containment from escapes and pollution. Much of the research on both salmon and steelhead is inconclusive and based on small sample. **Although the science of using triploid fish has been well established, using triploid fish for raising saltwater fish in net pens is a practice that has not been embraced by the aquaculture industry even though it was advocated in NOAA guidance as a mitigation measure since the 1990s.** Other than in New Zealand, it is not a permitting requirement. The use of Triploid fish has primarily been used for freshwater recreational fishing or for freshwater commercial fish.

So why is there a change in heart by Cooke all of a sudden? In its application to DFW:

- Cooke claims no experience of using triploid fish anywhere in its operations, on the scale that they are proposing for Washington.
- Provides a seriously flawed study on triploid rate based on an unscientific sampling technique with a significant number of sample results missing.
- Cooke does claim any experience with Steelhead in salt water.
- Cooke only makes assumptions that raising Steelhead will be the same as Atlantic Salmon.

This is a large-scale experiment, never tried on this scale, based on the flawed experience of raising non-native Atlantic salmon with unknown impacts on the wild population. The experiment that should be progressed is the raising of salmonids in land-based containment systems a.k.a “a clean fishbowl”.

Switching species does not reduce pollution and water quality risks posed by net pen aquaculture. Switching species only poses new and different risks. The mitigation requirements in the NPDES permits fails to fully address the risks associated with fish effluent, fish waste, amplification and discharge of pathogens, and the discharge of antibiotics and medical effluent. The additional monitoring requirements as part of WDFW SEPA are not spelled out and are not transparent such has a feed conversion ratio, which is critical for determining the amount of pollution in public waters.

Guidance and best industry practices are often ignored for profit and cost cutting reasons. Therefore, any guidance document needs to be codified in State Law to have a true impact to guide and control any natural resource exploitive industry. As I learned from the Department of Ecology as they began their guidance update in 2015, the 1988 Guidance was never codified fully into law.

It has been more than two years since the net pens have been inspected and no decision to modify the current NPDES permit should be made until all of the pens have been inspected and deficiencies addressed. When Cooke is either is required to or decides to replace its entire net pen infrastructure which is at the end of its regulated or manufacture specified life, a Shoreline Substantial Development Plan is required to ensure that any replacement meets all requirement to prevent escapes, specifies regular maintenance, and ensures local jurisdictions concerns are addressed. This SSDP should include engineering data on the new pen structures in order to assess the adequacy of those pens for Puget Sound’s dynamic conditions.
Replacement, in the scope that is required, is not routine maintenance. Many aspects of the SMA and SMPs have been bypassed by the industry claiming routine maintenance and are grandfathered under a decades old permit.

I am extremely concerned that the company is allowed to self-report and that there is little or no oversight and audit by state agencies. There currently are no audit on the accuracy of Cooke’s plans in practice or their data that is reported to the agencies. The public cannot see the results of monitoring,

only the raw input, which leads to their mistrust. You cannot manage what you cannot measure. Specific concerns are:

- The reliability of training and emergency response protocols
- A need for proof such as photo evidence or videos to document that containment measures are in place for activities related to structural maintenance that have the potential to impact water quality
- It is not clear from DMR reports that Bio Mass and Feed are actually be monitored or analyzed.
- The monitoring around excessive use of medicated feed and timing of application relative to stocking and harvesting
- Strict adherence to provisions related to the net cleaning requirement that at the end of the growing cycle, after the fish have been harvested out, that nets are removed from the water and transported to a land-based cleaning and repair facility. Nets, after removal, have been stored on the dock and trucked over city roads in the past. Ecology can prevent unwanted discharges to Washington State waters by requiring that they be removed directly by barge.
- Inspections are seldom performed and when they are, are preannounced
- Escape prevention and the adequacy of Cooke's escape prevention and escape response plans must be carefully considered in this permit process.
- There emergency contact response has been proven inadequate in several recent incidents and not tested on an ongoing basis
- Underwater video is unavailable for comparison purposes.

Ecology should absolutely consider Cooke's poor record of Clean Water Act violations both in Washington and elsewhere in its decision to modify NDPES permits. Cooke's failures to comply during its short tenure, since June 2016, has been well documented. During this time, they have misled the state agencies and sought to avoid the relatively miniscule penalties levied against them. Their behavior elsewhere shows a wider corporate pattern

- Three Cooke executives - including CEO and founder Glenn Cooke - faced federal felony charges for dumping gallons of deadly insecticides near their salmon cages in the Bay of Fundy in 2012
- Cooke has admitted in a New Brunswick courtroom to illegally using a pesticide known to kill lobsters for treating salmon off an island that abuts the Maine border for a second time in five years (May 17, 2018)
- As part of a consent agreement with the Maine Department of Environmental Protection, Cooke Aquaculture has agreed to pay \$156,213 to fund the Marine Rearing Atlantic Salmon Machias River Project, which aims to breed and restore native populations of Atlantic salmon in the Machias River. Cooke violated its operating permit by having too many fish in one or more pens, failing to conduct environmental sampling, and failing to follow a variety of clerical procedures that include timely filing of complete and accurate pollution sampling reports and timely submissions of fish spill prevention plans. The infractions violated the

terms of Cooke's operating permit, DEP rules and state law. (October 16, 2019)

There is another very interesting pattern of behavior in both Washington and elsewhere. Cooke tried to appeal the \$332,000 fine for the negligent release of thousands of Atlantic salmon in August 2017, "but in a legal settlement with Ecology, agreed to pay the full penalty." Per King5, this agreement occurred on April 29, 2019. Ecology issued permits to four net pen facilities on July 19, 2019. In Maine: "Just weeks after Cooke Aquaculture agreed to pay the state more than \$150,000 to settle numerous violations at several of its salmon net pen sites in eastern Maine, the Department of Marine Resources is asking for public comment on the company's application for a 20-year lease renewal. The renewal is of a lease to grow salmon, other finfish and blue mussels on a 15-acre site located between Black Island and Placentia Island south of Bass Harbor and Great and Little Gott islands." (October 30, 2019, <https://www.mdislander.com/maine-news/cooke-aquaculture-seeks-renewal-of-salmon-pen-lease>) It would appear that Cooke is quick to pay its legally assessed fines when it wants something from the government agencies that grant them license to operate in public waters.

The above does not even begin to address their failed record to prevent fish escapes and the pattern of lack of transparency about numbers, reasons for escapement, deferred maintenance, and inadequate emergency response. For example:

- French Creek on Mid-Vancouver Island (August 2017)
- Hermitage Bay Salmon Farm on Newfoundland's south coast (July 2018)
- Deer Island Bay of Fundy (August 23019)

Cooke continues to demonstrate that they have not fully incorporated the lessons learned from Cypress Island both in its operations in Washington and elsewhere. Based on their behavior both here and elsewhere I seriously doubt they ever will. Their behavior speaks to their corporate culture.

While not part of the ND PES process for water quality, there are other significant nuisance issues that also must be addressed. Noise, odors, and visual blight are not being addressed. Current SMA and SMP by local communities have been bypassed with few conditions under a permit from 1988. With a change in species allowing for the continuance of net pen aquaculture, policies need to be updated to address these issues. They should no longer be allowed to hide development as "ongoing maintenance" as they replace their aging net pens and with disregard for communities where they operate. They need to be held accountable to the communities in which they operate. They are not a good neighbor.

I reiterate my concerns surrounding the lack of available updated science, resistance by Ecology to modify certain aspects of the permit conditions in the last NPDES permit, the company's failure to fully incorporate the lessons learned from the Cypress Island net

pen disaster, issues related to transparency, and Cooke's poor record of Clean Water Act violations both in Washington and elsewhere.

There is no rush to shortcut the approval process from the needed coordinated and carefully deliberated science-based process, with appropriate guidance by all state agencies, local government, tribes, and the citizens of Washington. Cooke can continue to operate under its current permits while this process plays out. I oppose the modification of their permit modification request.