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I write to you regarding Cooke Aquaculture's application to "produce" steelhead in net pens:

1) Ecology should not authorize Cooke's modified NPDES permits until the ongoing lawsuit challenging the State Environmental Policy Act (SEPA) environmental review process and determination is complete.

2) There is substantial new information that was not considered during the SEPA process.

The SEPA determination issued in January, 2020 (Mitigated Determination of Nonsignificance (MDNS)), requires Cooke to prepare and submit a plan for marking steelhead (clipping the adipose fin) in ways that will distinguish fish from their pens from hatchery-raised fish swimming freely in Puget Sound. That plan is not part of this record, and review of the NPDES permit application should await that filing.

The MDNS also requires Cooke to submit a plan for a "no-recovery response" to escapes. That plan is not part of the escape plan submitted in Cooke's application, and it is impossible to assess the adequacy of Cooke's pollution prevention plan until that plan is included in the application.

During the emergency response to the Orchard Rocks partial sinking, Cooke told DNR that they planned to replace some existing net pens in Puget Sound. If indeed that plan is under way, the NPDES review should include engineering data on the new pen structures in order to assess the adequacy of those pens for Puget Sound's dynamic conditions, and the escape risk and other risks the new pens might pose to Puget Sound.

The SEPA review led by the Washington Department of Fish and Wildlife which produced the MDNS, is currently being appealed (see #1). Given the potential for a Court ruling requiring additional environmental review under SEPA and this new information described above, Ecology should delay drafting any NPDES permit until the evidentiary record and ruling can be incorporated.

3) Ensuring compliance of rules set by NPDES permits is crucial.

Cooke's history of CWA violations is important to consider in this process, if nothing else to ensure that the permits are drafted to ensure that violations are detected before catastrophe ensues.

Incidents like the partial sinking of the Orchard Rocks pen in October, 2019 demonstrate that the risks of additional escapes are very real, given the state of the existing pen structures. The response to that incident was conducted by several Washington State agencies, including Ecology, and the records from that incident and state agencies' documentation of Cooke's inadequate emergency response should be included in this record to ensure that emergency plans incorporate lessons learned, and acknowledge the degraded state of the surviving pens as identified by state inspectors and Cooke's own contractors.

4) Washington's landmark 2018 law, HB2957, created a new and stricter regulatory regime for marine net pen aquaculture.

In 2018, Washington's passed a law, HB 2957, banning Atlantic salmon net pens on the grounds that the practice placed too great a risk on the ecosystem, created a new and stricter regulatory regime for marine net pen aquaculture.

As such, it is not sufficient to say that conditions of the current NPDES application are similar to those of past permits. HB 2957's new standards require re-examining past decisions to hold Cooke Aquaculture to that higher standard of eliminating these risks.

In reviewing Cooke's submissions and other materials submitted through this public process, the standard of review should be specifically on whether the policies in place achieve the state's goal to "eliminate...escapement and to eliminate negative impacts to water quality and native fish, shellfish, and wildlife."

5) Switching species does NOT reduce the rampant daily pollution and water quality risks posed by open water net pen aquaculture. Ecology should not limit the scope of their review to risks associated with a change of species.

Decades of experience shows real effects on water quality in a plume around the net pens, which the terms of Cooke's current permit application does not eliminate. This NPDES review should re-examine existing data on effluents from industrial products, medicines, feed, fish waste, and dead and rotting fish to assess whether the current plans eliminate all of those risks.