

David Caplan

Given the new legal standard established by HB 2957, the pending legal challenge to the MDNS issued in January 2020, the large amount of new information that Cooke's application adds to the public record (including fish mortality data, a new fish escape prevention plan which may be further amended to add a "no recovery" option, and a new escape reporting and response plan which may be similarly amended), and the other new information described above that has come out recently, is expected in the near future, or that ought to be added to the record, and the substantial concerns that arise from when raising a native species as opposed to a non-native species, it would be appropriate to initiate SEPA review of this NPDES application, and potentially draft a new EIS after making a determination of significance.

Ecology's NPDES permit review should not begin until there has been thorough consultation with local, state, federal, and tribal governments. Many tribal nations submitted comments to the SEPA review requesting a full EIS, and initiated government-to-government consultations to express their grave concerns about the harm these pens do to the Sound. In addition, many counties and municipalities have established new rules since the net pens were installed, which would prohibit the construction of new net pens in their waters. While the existing pens are grandfathered in, these communities and nations should have a full and open opportunity to air their concerns and ensure that the continued operation of net pens in Puget Sound honors the concerns and needs of their neighbors.