



COUNTY COMMISSIONERS

Cathy Wolfe
District One
Sandra Romero
District Two
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District Three

RESOURCE STEWARDSHIP DEPARTMENT

Creating Solutions for Our Future


Cliff Moore
Director

MEMORANDUM

TO: Shorelands Permit Coordinator
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775

AND TO: Washington State Attorney General
Ecology Division
1125 Washington St. SE
Olympia, WA 98504-0100

AND TO: Parties of Record

FROM: Cami Petersen 
Land Use Clerk

DATE: November 19, 2012

SUBJECT: **Project No. 961372, Sequence No. 12-116690 VE, Taylor Shellfish, Inc.**

Attached is a copy of the Decision of the Board of Thurston County Commissioners regarding Shoreline Substantial Development Permit (SSDP) # 961372.

Any person aggrieved by this decision may seek review from the shorelines hearings board by filing a petition for review pursuant to RCW 90.58.180.

Please contact me at (360) 754-3355 extension 6348 if you have questions regarding this Decision.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
THURSTON COUNTY, WASHINGTON

In Re the Matter of,

Taylor Shellfish Co., Inc

Project No. 961372

DECISION

THIS MATTER came before the Board of County Commissioners (Board) on November 14, 2012 as a result of an appeal filed by Taylor Shellfish Co., Inc (Taylor) of the hearing examiner's decision dated July 19, 2012, and supplemental decision dated September 14, 2012, which denied the request of a Shoreline Substantial Development Permit (SSDP) to construct and operate a mussel facility consisting of 58 rafts anchored off-shore along the eastern shoreline of north Totten Inlet, in Thurston County. The hearing examiner's decisions denied the SSDP because he concluded that the evidence submitted did not properly consider the cumulative impacts of existing mussel facilities, including this proposal, in Totten Inlet on dissolved oxygen, benthic life and potential Gallo mussel dissemination. Taylor argues that the hearing examiner erred in requiring a cumulative impact analysis in this case.

The Board reviewed the hearing examiner's decisions, and the evidence, presented to the hearing examiner. In addition, each Board member made a declaration pursuant to the Appearance of Fairness Doctrine that since the time this appeal was filed with the Board, that they have had no ex-parte contact with any of the parties and that they could fairly and impartially judge this case on the record and pursuant to applicable law. No party challenged any of the Board members' participation in this case.

The Board finds that none of the factual findings in the hearing examiner's decisions were challenged, and the findings are supported by substantial evidence in the record. The Board further finds, for the reasons stated in the hearing examiner's decisions that the law requires an adequate analysis of cumulative impacts before a SSDP permit may be issued in this case. The legislature enacted the State Shoreline Management Act of 1971 (SMA) to "prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." RCW 90.58.020. The Supreme Court recognized that "[l]ogic and common sense suggest that numerous projects, each having no significant effect individually, may well have very significant effects when taken together" and concluded that "[t]he SMA recognizes the necessity for controlling the cumulative detrimental impact of piecemeal development through coordinated planning of *all* development. RCW 90.58.020." Emphasis supplied. *Skagit County v. Department of Ecology*, 93 Wn.2d 742, 750 (1980). Furthermore, our Shorelines Hearing Board understands that "consideration of potential cumulative effects and *precedential effects* is warranted in *any* case where there is proof of impacts that risk harm to habitat." Emphasis supplied. *Fladseth v. Mason County*, SHB No.

05-026 (2007); *Coalition to Protect Puget Sound Habitat v. Pierce Co. and Longbranch Shellfish, LLC*, SHB No. 11-019 (2012).

IT IS HEREBY ORDERED AS FOLLOWS:

The hearing examiner's decisions are affirmed.

DATE:

November 14, 2012

ATTEST:

Chami S. Petersen
Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington

Gary Stapp
Chair

Karen Valenzuela
Vice-Chair

Joshua Powers
Commissioner