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BEFORE THE SHORELINES HEARINGS BOARD
OF THE STATE OF WASHINGTON

COALITION TO PROTECT PUGET
SOUND HABITAT and CASE INLET
SHORELINE ASSOCIATION,

Petitioners,

v.

PIERCE COUNTY and LONG
BRANCH SHELLFISH, LLC,

Respondents.

NO. 11-019

**RESTATEMENT OF PROPOSED
LEGAL ISSUES**

Shoreline Management Act Issues

1. Was the County’s approval of the Longbranch Substantial Development Permit inconsistent with and in violation of the goals and requirements of the Shoreline Management Act (SMA), including RCW 90.58.020 and 90.58.140, the SMA guidelines, including WAC 173-27-140 and 173-27-150, the goals and policies of the Pierce County Shoreline Master Program (PSMP), including the Aquacultural Practices Element, Element 5B, and the Pierce County Shoreline Management Use Regulations, PCC Title 20, including PCC 20.24 Aquaculture Practices, because it authorizes aquacultural operations which are not conducted in a manner that precludes damage to specific fragile areas and existing aquatic resources?

2. Was the County’s approval of the Longbranch Substantial Development Permit inconsistent with and in violation of the goals and requirements of the Shoreline Management Act (SMA), RCW 90.58.020 and 90.58.140, the SMA guidelines, including WAC 173-27-140 and 173-27-150, the goals and policies of the Pierce County Shoreline Master Program (PSMP),

1 including the Aquacultural Practices Element, Element 5B, and the Pierce County Shoreline
2 Management Use Regulations, PCC Title 20, including PCC 20.24 Aquaculture Practices,
3 because it authorizes aquacultural operations without requiring those operations to maintain the
4 highest possible level of environment quality?

5
6 3. Was the County's approval of the Longbranch Substantial Development Permit
7 inconsistent with and in violation of the goals and requirements of the Shoreline Management Act
8 (SMA), RCW 90.58.020 and 90.58.140, the SMA guidelines, including WAC 173-27-140 and
9 173-27-150, the goals and policies of the Pierce County Shoreline Master Program (PSMP),
10 including the Aquacultural Practices Element, Element 5B, and the Pierce County Shoreline
11 Management Use Regulations, PCC 20.24 Aquaculture Practices, because the Hearing Examiner
12 erred in eliminating a conditions of approval requiring identification markings on tubes and
13 screens and compliance status/monitoring reports?
14

15 4. Was the County's approval of the Longbranch Substantial Development Permit
16 inconsistent with and in violation of the goals and requirements of the Shoreline Management Act
17 (SMA), RCW 90.58.020 and 90.58.140, the SMA guidelines, including WAC 173-27-140 and
18 173-27-150, the goals and policies of the Pierce County Shoreline Master Program (PSMP),
19 including the Aquacultural Practices Element, Element 5B, and the Pierce County Shoreline
20 Management Use Regulations, PCC Title 20, including PCC 20.24 Aquaculture Practices,
21 because the Hearing Examiner failed to include a condition precluding in-water harvesting?
22

23 5. Was the County's approval of the Longbranch Substantial Development Permit
24 inconsistent with and in violation of the goals and requirements of the Shoreline Management Act
25 (SMA), RCW 90.58.020 and 90.58.140, the SMA guidelines, including WAC 173-27-140 and
26 173-27-150, the goals and policies of the Pierce County Shoreline Master Program (PSMP),

1 including the Aquacultural Practices Element, Element 5B, and the Pierce County Shoreline
2 Management Use Regulations, PCC Title 20, including PCC 20.24 Aquaculture Practices,
3 because the permit authorizes aquaculture operations without considering significant detrimental
4 effects on adjacent water areas and are not in conformance with the most current local, state, and
5 federal regulations for water quality, such as RCW 90.48 Water Pollution Control and WAC 173-
6 201A?
7

8 State Environmental Policy Act Issues

9 1. Should the Mitigated Determination of Non Significance be reversed and a
10 Determination of Significance be issued because the proposed geoduck operation does, in fact,
11 have probable significant adverse environmental impacts, viewed both in isolation and
12 cumulatively, relating to the following issues on which an EIS should have been prepared as
13 required by RCW 43.21C.031 and, for which, cumulative impacts should have been addressed as
14 required by WAC 197-11-060(4):
15

- 16 a. Significant adverse impacts on forage fish and other species that rely on forage fish,
17 including endangered salmon populations, within Puget Sound;
- 18 b. Significant adverse impacts on the Puget Sound ecosystem due to equipment debris,
19 including various forms of plastics.

20 2. Should the Mitigated Determination of Non Significance (MDNS) be remanded
21 because it was based on inadequate information in violation of WAC 197-11-080?
22

23 Dated this _____ day of September, 2011.

24 Respectfully submitted,

25 COALITION FOR THE PROTECTION
26 OF PUGET SOUND HABITAT

CASE INLET SHORELINE
ASSOCIATION

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By: _____
Laura Hendricks

By: _____
Curt Puddicombe

CISA\SHB\2011\Restatement of Proposed Legal Issues