

From: [Hansi Hals](#)
To: [BrownScott, Jennifer](#)
Subject: RE: [EXTERNAL] RE: 8/21/20 Discussion Follow-up
Date: Wednesday, August 26, 2020 1:47:32 PM

Yes, thank you for taking the time. I think Liz' working on incorporating the timing and reporting specifics to gear plan now and you will probably receive a cc later today as part of submittal to ESA compliance office.

Hansi Hals

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From: BrownScott, Jennifer <jennifer_brownScott@fws.gov>

Sent: Wednesday, August 26, 2020 1:44 PM

To: Hansi Hals <hhals@jamestowntribe.org>; Elizabeth Tobin <etobin@jamestowntribe.org>

Cc: McReynolds, Ryan <ryan_mcreynolds@fws.gov>; Teachout, Emily <emily_teachout@fws.gov>

Subject: Re: [EXTERNAL] RE: 8/21/20 Discussion Follow-up

Thought a summary might be helpful, especially since Emily will be out of the office and Ryan was not on the call. Thank you for the clarification.

-jennifer

Jennifer Brown-Scott

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From: Hansi Hals <hhals@jamestowntribe.org>

Sent: Wednesday, August 26, 2020 1:36 PM

To: BrownScott, Jennifer <jennifer_brownScott@fws.gov>; Elizabeth Tobin <etobin@jamestowntribe.org>

Cc: McReynolds, Ryan <ryan_mcreynolds@fws.gov>; Teachout, Emily <emily_teachout@fws.gov>

Subject: [EXTERNAL] RE: 8/21/20 Discussion Follow-up

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Jennifer,

Thank you for following up with the USFWS-requested additions for our Dungeness Bay aquaculture gear monitoring and retrieval plan. We will incorporate your recommended timing of surveillance and retrieval into the plan and submit directly to Emily with a cc to Ryan, as Emily indicated she would be out this week. We agree that any gear retrieved from a known EGC location should be decontaminated before reuse and will include this for clarity. We will also include the reporting specifics related to the gear monitoring and retrieval plan, as you requested.

As far as your summary of the conversation – I'm not sure what your purposes were for that – however, since you asked for confirmation of understanding, I am providing some clarification from my notes. I agree that the initial few minutes of the call were dedicated to the Tribe providing context for our call: the Tribe's return to its commercial shellfish farm in Dungeness Bay and status of federal permit process. The Tribe has secured local and state approval for shoreline permits; the federal process is reaching sect 7 consultation step. The Tribe's shellfish operation in Dungeness Bay could be covered by a Programmatic ESA consultation, provided we meet the terms and conditions of all applicable conservation measures of the Programmatic Biological Opinions for Shellfish Activities in WA State Inland Marine Waters (USFWS Reference number 01EWF00-2016-F0121, and NMFS Reference number WCR-2014-1502). While all other applicable conservation measures can be satisfied within our jurisdiction as leaseholder and farm operator, conservation measure #22 requires beaches in the vicinity to be patrolled. Because the DNWR Comprehensive Conservation Plan closes the vicinity beaches to most activity from October 1- May 15, the USACE has deemed it necessary for us to get explicit permission from USFWS to assure that we can fulfill conservation measure #22, which states:

At least once every three months, beaches in the project vicinity will be patrolled by crews who will retrieve debris that escape from the project area. Within the project vicinity, locations will be identified where debris tends to accumulate due to wave, current, or wind action, and after weather events these locations shall be patrolled by crews who will remove and dispose of shellfish related debris appropriately. A record shall be maintained with the following information and the record will be made available upon request to the Corps, NMFS and USFWS: date of patrol, location of areas patrolled, description of the type and amount of retrieved debris, other pertinent information.

As you know, Jamestown submitted an adapted proposal for gear monitoring and retrieval plan to Director Thorson. Director Thorson communicated that we were on the right track and that Jamestown staff should work directly with you and Emily Teachout for ESA compliance review and compatibility determination. Our phone call was to communicate any additions or revisions to satisfy either ESA compliance or DNWR management/ compatibility. You requested that we provide specificity regarding timing of surveillance and retrieval; that we include a condition that if any gear is retrieved from known European Green Crab site, that it is decontaminated before re-use; and provide additional reporting in the event there is any gear retrieval. You agreed to provide the specificity for timing and the reporting requirement to us. You explained that compatibility determination needs are being synchronized with the ESA compliance review, so that USFWS can assure a DNWR special use permit can be obtained, if needed, for gear retrieval (basically, that the

plan is 'implementable').

Thank you for your additions to the gear monitoring and retrieval plan – and for your ongoing interest, Hansi

Hansi Hals

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From: BrownScott, Jennifer <jennifer_brownScott@fws.gov>

Sent: Tuesday, August 25, 2020 4:46 PM

To: Elizabeth Tobin <etobin@jamestowntribe.org>

Cc: Hansi Hals <hhals@jamestowntribe.org>; McReynolds, Ryan <ryan_mcreynolds@fws.gov>; Teachout, Emily <emily_teachout@fws.gov>

Subject: 8/21/20 Discussion Follow-up

Thank you for last week's valuable discussion regarding aquaculture gear retrieval from Dungeness National Wildlife Refuge. Sorry for the length of this email, but I thought it might be helpful to include a quick summary of our discussion, in addition to the recommendations we discussed. Please let me know if I misinterpreted any of the conversation.

Discussion Summary

Jamestown S'Klallam Tribe's (Tribe) permit application for a Dungeness Bay commercial oyster operation using up to 20,000 mesh bags is currently under evaluation with US Army Corps of Engineers (USACE). Due to the proximity of the lease area, it is likely that some loose aquaculture gear will accumulate on Dungeness National Wildlife Refuge (Refuge). As part of the permitting process, the Tribe is required to write a gear management plan (to include surveillance and retrieval) that is logistically feasible (e.g., access and ESA compliance). Completion of the plan would be aided by Refuge agreement that future access can be permitted for gear surveillance and retrieval, and USFWS recognition that the plan will not cause concerns related to Endangered Species.

We discussed that the identified strategy reduces disturbance created by gear surveillance and retrieval by requesting Refuge access only if loss is recorded. We also discussed that additional detail would be needed to ensure that Refuge access would meet National Wildlife Refuge System Improvement Act requirements.

The Refuge agreed to provide recommendations to reduce disturbance and increase compatibility of on-Refuge gear surveillance and retrieval. Those recommendations will be incorporated into the gear management plan, as the Tribe deems appropriate. The Tribe will provide an updated gear management to USFWS (i.e., Refuge and Ecological Services) for feedback regarding feasibility of access and impacts to Endangered Species. We agreed that this approach would streamline the gear management planning process.

Requested Recommendations

While gear removal strategies cannot eliminate impacts from type of commercial aquaculture operation, the following recommended plan additions will increase the likelihood of meeting National Wildlife Refuge System requirements for future gear surveillance and retrieval activities. These recommendations attempt to reduce impacts from gear surveillance and retrieval and do not address potential impacts from other aspects of the aquaculture operation.

1. Timing

Gear accumulation on Dungeness NWR is most likely to occur in areas closed seasonally or year-round to protect the highest use area for migrating shorebirds and wintering waterfowl. While disturbance at any time of the year is impactful, disturbance to migrating shorebirds and wintering waterfowl is our highest concern. We recommend surveillance and removal during the following

time periods when these species are present in lower concentrations.

- Boat-based surveillance and removal of gear from the tidelands from May 15 to September 30 on tidelands open to public use.
 - Protection of eelgrass should be considered during boat operations and gear removal
- On-shore gear retrieval from May 15 to July 31.
 - Notify Refuge prior to access for surveillance and retrieval.
 - To minimize impacts to July shorebird migrants, access during appropriate tides and avoiding periods immediately following stormy weather.
 - Avoid nesting areas of black oystercatchers and terns to minimize impacts to nesting.
- To reduce the likelihood of gear loss during periods of limited access, perform farm setup only from May 15 to July 31.

2. Invasive Species

Aquaculture debris will likely accumulate in areas with known European green crab infestations. European green crab could enter empty oyster bags, or use the structure provided by oyster bags within the lease area (if translocated). To reduce the potential for translocation and subsequent impacts to adjacent eelgrass, we provide the following recommendation:

- Equipment retrieved from European green crab infested shoreline should either not be reused in the lease area, or be decontaminated prior to reuse.

3. Reporting

We very much appreciate the willingness to share information with the Refuge. We have a few additional reporting recommendations related to gear surveillance and management.

- Notify Dungeness NWR staff as well as WDFW of any stranding or entanglement within 24 hours. Photograph and record the event.
- Report to Dungeness NWR any mortality (species and number of individuals) or habitat damage (area and vegetation effected) associated with debris observed on Refuge lands through visual surveys or upon gear retrieval.
- Report results of forage fish spawning surveys, if necessary, to the Refuge Manager upon completion.
- Report any newly identified invasive species to the Refuge Manager within 24 hours.
- Report the overall weight of discarded and reused/recycled gear to meet Refuge annual reporting requirements.

When National Wildlife Refuge System Improvement Act requirements are completed (e.g., Compatibility and Appropriateness), additional stipulations may be identified (e.g., specific points of access). We do not believe any future stipulations will alter the general gear management strategy or compliance with ESA.

Jennifer Brown-Scott

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