

**From:** [BrownScott, Jennifer](#)  
**To:** [Stenvall, Charlie](#)  
**Subject:** Fw: [EXTERNAL] NMFS Shellfish PBO Verification - WCRO-2020-02560 Jamestown Shellfish Operations (NWS-2007-1213)  
**Date:** Monday, November 16, 2020 10:41:04 AM

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NMFS ESA approval below.

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Jennifer Brown-Scott  
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[~~Dungeness NWR](#)~[Protection Island NWR](#)~[San Juan Islands NWR](#)~[Copalis NWR](#)~[Flattery Rocks NWR](#)~[Quillayute Needles NWR](#)~~

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**From:** McReynolds, Ryan <[ryan\\_mcreynolds@fws.gov](mailto:ryan_mcreynolds@fws.gov)>  
**Sent:** Monday, November 16, 2020 10:21 AM  
**To:** Elizabeth Tobin <[etobin@jamestowntribe.org](mailto:etobin@jamestowntribe.org)>; hhals <[hhals@jamestowntribe.org](mailto:hhals@jamestowntribe.org)>; BrownScott, Jennifer <[jennifer\\_brownScott@fws.gov](mailto:jennifer_brownScott@fws.gov)>  
**Cc:** McReynolds, Ryan <[ryan\\_mcreynolds@fws.gov](mailto:ryan_mcreynolds@fws.gov)>  
**Subject:** Fw: [EXTERNAL] NMFS Shellfish PBO Verification - WCRO-2020-02560 Jamestown Shellfish Operations (NWS-2007-1213)

FYI (below).

Ryan McReynolds  
U.S. Fish and Wildlife Service, Lacey WA  
Consultation & Conservation Planning Division  
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*Working with others to conserve, protect, and enhance  
fish, wildlife, plants, and their habitats for the continuing  
benefit of the American people.*

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**From:** Jennifer Quan - NOAA Federal <jennifer.quan@noaa.gov>  
**Sent:** Monday, November 16, 2020 8:00 AM  
**To:** Sanguinetti, Pamela A CIV USARMY CENWS (US) <Pamela.Sanguinetti@usace.army.mil>;  
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**Cc:** McReynolds, Ryan <ryan\_mcreynolds@fws.gov>; Frankie Johnson <frankie.johnson@noaa.gov>;  
Scott Anderson - NOAA Federal <scott.anderson@noaa.gov>  
**Subject:** [EXTERNAL] NMFS Shellfish PBO Verification - WCRO-2020-02560 Jamestown Shellfish  
Operations (NWS-2007-1213)

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Ms. Sanguinetti,

Re: response to your September 15, 2020, correspondence (cover letter/Memorandum forfor the Service, project description, plan sheets/drawings, and other materials). The U.S. Army Corps of Engineers, Seattle District (Corps), proposes to issue a permit(s) or authorization to the Jamestown S'Klallam Tribe (Tribe) for commercial oyster cultivation (Pacific oyster, *Crassostrea gigas*) on a 50-acre Washington Department of Natural Resources (WDNR) aquatic lands lease area, and within the boundaries of the Dungeness National Wildlife Refuge (Refuge), in Dungeness Bay, Clallam County, Washington.

Pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA), the Corps has requested consultation on the proposed action and proposed permit(s), to address potential effects to ESA-listed species and critical habitat under National Marine Fisheries Service (NMFS). This message constitutes a complete response by the Service to the Corps' request for ESA consultation.

The Tribe proposes to cultivate 34 acres between +3 ft and -2 ft mean lower low water. Groundbased/on-bottom, intertidal oyster cultivation will include approximately 5 acres of culturing with (or in) anchored mesh bags, and approximately 29 acres of loose culturing directly on the substrate. All maintenance and harvest will be by-hand, and/or with hand tools. The Tribe has mapped and identified, and will establish and maintain an approximately 16-acre Eelgrass Conservation Area within the 50-acre WDNR aquatic lands lease area. The Tribe will maintain a minimum 16 ft horizontal distance (or buffer) between culturing and the eelgrass (*Zoster marina*).

The Tribe has prepared and will implement a culturing Gear Monitoring and Retrieval Plan (dated August 28, 2020). The plan describes specific protocols for monitoring and inventorying the cultured plots and WDNR aquatic lands lease area, for boat-based surveillance and removal of gear from tidelands outside the lease area, and for onshore surveillance and retrieval of gear. The plan has been developed with guidance and input provided by Refuge managers and staff. The plan includes notification and reporting requirements, seasonally-specific and area-specific requirements and protocols (i.e., for areas open to public use, for closed areas), and additional measures to ensure the protection of Refuge trust resources (e.g., measures to prevent and minimize the introduction or spread of invasive species).

NMFS has determined that the proposed action and proposed permit(s) are consistent with and meet the required conditions for coverage under the existing programmatic consultation and Programmatic Biological Opinion for Shellfish Activities in Washington State Inland Marine Waters (Programmatic Opinion) (Ref. No. WCR 2014-1502). The proposed action does not include any activity that is excluded from programmatic coverage, and the Tribe will fully comply with the required conditions for coverage, including implementation of the Conservation Measures

and compliance with the Reasonable and Prudent Measures (and associated Terms and Conditions) from the Programmatic Opinion. The Tribe's proposed Gear Monitoring and Retrieval Plan (dated August 28, 2020) meets the purpose and intent, and will reliably achieve the same or similar protections provided by Conservation Measure #22 from the Programmatic Opinion (regarding beach patrols and retrieval of gear). The Corps will include implementation of the plan as a special ESA condition for the permit(s) or authorization.

The Service has determined that the foreseeable effects of the proposed action, to ESA-listed species and critical habitat under Service jurisdiction, will not differ in type, severity, or physical or temporal extent from those already addressed by the Programmatic Opinion. No additional exposures or effects to ESA-listed species or critical habitat under Service jurisdiction are foreseeable or likely to result from the proposed action.

This message constitutes a complete response by the NMFS to your request for ESA consultation.

However, please be advised, the proposed action may require that the National Refuges Program and Dungeness National Wildlife Refuge make a compatibility determination and/or issue a special use permit to the Tribe.

If you have any questions please contact Scott Anderson.

Sincerely,

Jennifer

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