

**From:** [BrownScott, Jennifer](#)  
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**Subject:** Briefing Statement v1.2  
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**Attachments:** [Joint ES-NWRS RD Briefing\\_080620v1.2.docx](#)

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Second draft... Two comments included. I am going to take a few minutes to deal with a migraine. I'll turn my green Teams light on, when I am back at my computer if you need to chat.

-jennifer

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

## INFORMATION/BRIEFING FOR THE REGIONAL DIRECTOR

### SUBJECT

Jamestown S’Klallam Tribe’s (Tribe) proposed commercial aquaculture gear retrieval and surveillance within the boundary of Dungeness National Wildlife Refuge (Refuge).

### BACKGROUND

In 2015, the Tribe began the process to reestablish a commercial shellfish operation on 50 acres within the boundary of the Refuge. Commercial shellfish cultivation has not occurred within the Refuge since 2005. The lease tidelands are incorporated into the Refuge by a Use Easement Deed (Deed) from WA Department of Natural Resources. The Deed grants the right to manage the tidelands as a wildlife refuge and allows the Service to assert limitations on aquaculture leases that may make aquaculture unprofitable or impractical, as long as they are tied to refuge purposes. Clallam County (County) and WA Department of Ecology have provided a 5-year approval for commercial operations using 20,000 oyster bags on five acres and spreading of oysters directly on an additional 29 acres of substrate.

The US Army Corps of Engineers (Corps), is currently reviewing the Tribe’s application for commercial aquaculture permit, and has requested the Refuge work with the Tribe to allow access to monitor and pick up debris generated by this commercial operation. The Tribe provided a recommended retrieval strategy, in their letter dated July 30, 2020

### DISCUSSION

Compatibility and Appropriateness determinations for this secondary use must be completed as required by the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd - 668ee, et seq), as amended. Due to jurisdictional constraints, we cannot ensure compatibility of the general lease operation. However, a gear retrieval impact assessment must include disturbance from commercial operations within the lease area, to fully understand and minimize cumulative Refuge impacts.

Conservation Measure #22 of the Programmatic Consultation for Shellfish Activities in Washington Waters (BiOp) requires patrol and retrieval of aquaculture-associated debris from the shorelines “at least once every three months”, and “after weather events”. Unsecured gear will accumulate on Refuge shorelines adjacent to the proposed commercial aquaculture lease. If forage fish are present in the area, surveys are also required by BiOp Conservation Measures 9 and 10. These shorelines are located in the Refuge’s highest use area for migrating and overwintering waterfowl and shorebirds. It provides locally, regionally and, in some cases, internationally important protected feeding and roosting sites for these species. To minimize disturbance to this important area, the shoreline is closed year round with seasonal closures on the tidelands. Although disturbance in any season can negatively impact habitats and species, human disturbance from August 1 – May 14, especially after storm events, is exceptionally impactful due to the high energetic requirements of shorebirds and waterfowl during their migration and wintering periods. Disturbance during this time can lead to reduced fitness, productivity or increased mortality.

**Commented [BJ1]:** Considering deleting this language. It is a hold-over from another briefing and I believe it was language from Frank. It might set Robyn in the mind set that we are suggesting limitations that would make aquaculture unprofitable or impractical - which I do not believe we are.

The Tribe's general strategy of recording gear loss during normal lease operations from within the lease area and coordination for gear surveillance and retrieval on Refuge lands, modified with special conditions to ensure compatibility (e.g., timing constraints), could minimize impacts to Refuge Purposes. A Compatibility Determination and Appropriate Use Review would most likely identify benefits from removing aquaculture-generated debris. These benefits may outweigh human disturbance impacts from May 15 – July 31. It is unlikely that benefits of gear removal would outweigh negative impacts to Refuge Purpose August 1 – May 14, due to the high concentrations of migrating and overwintering birds.

We recognize that limiting gear removal to May 15 – July 31, does not fully meet the requirements of Conservation Measure #22. However, this approach would meet the needs of Endangered Species falling within the Service's jurisdiction (i.e., marbled murrelet and bull trout).

**Commented [TS2]:** Placeholder for ES input.

**NEXT STEPS**

Washington Maritime NWRC will complete an Appropriate Use review, Compatibility Determination and associated NEPA documentation to identify an approach that minimizes impacts to Refuge Purposes.

The Service will provide coordination on Endangered Species Act, Section 7 consultation, if requested by the Corps (federal lead).