

MEMORANDUM

Clallam County Department of Community Development Planning Division

DATE: October 21, 2019
TO: Interested Parties
FROM: Greg Ballard, Senior Planner (360) 565-2616
RE: The Jamestown S'Klallam Tribe (JST) is proposing to re-establish oyster aquaculture in Dungeness Bay. This would entail the placement of on-bottom mesh bags containing oyster seed and growing oysters on the natural substrate. This activity would occur 25 feet from where eelgrass has determined through an eelgrass survey. This proposal requires a Shoreline Substantial Development and Conditional Use Permit (SHR 2017-00011). A 50 acre area is being leased from DNR at the northwest corner of Dungeness Bay near the Dungeness Spit.

NOTICE IS HEREBY GIVEN that the Clallam County Department of Community Development Planning Division (DCD) received an application for a Shoreline Conditional Use and Substantial Development application on December 29, 2017, and determined that the application was deemed complete on September 4, 2019. Shoreline Substantial Development and Conditional Use Permits are a Type III permit per Section 26.10.220(2) CCC. This proposal is subject to the criteria for a Shoreline Substantial Development found in WAC 173-27-150 and Conditional Use found in WAC 173-27-160.

*A public hearing has been scheduled for this application before the Clallam County Hearing Examiner at 1 p.m. on Thursday, **November 21, 2019** in room 160 of the Clallam County Courthouse, 223 East Fourth Street, Port Angeles, WA 98362.*

Location of the Proposal: The 50 acre leased area is located approximately 5.5 miles northwest of the City of Sequim. The leased area is 731 feet wide by 2,977 feet long and would start around the mean lower low water (MLLW) at the northwest corner of Dungeness Bay, south of the Dungeness Spit and the Dungeness National Wildlife Refuge (Latitude 48.024N, Longitude -123.004W).

History: Page 12 of the JARPA provides the history of the Oyster Farm at this site.

- The JST submitted an application to DCD on December 29, 2017 to re-establish oyster production using on-bottom bags.
- DCD scheduled hearings for this proposal, which were placed on hold to address the compatibility with the Dungeness National Wildlife Refuge; and individual Section 10/404 Permit from the Corp of Engineers.
- The government-to-government consultation between the JST and USFWS has been completed. On August 6, 2019 USFWS submitted a letter to the Army Corp of Engineers, which withdrew their February 27, 2019 and May 22, 2019 letters that expressing significant concerns regarding the JST Oyster Farm proposal.
- After the USFWS issues were resolved, the JST requested that DCD proceed with the processing of the permit.

Description of Proposal: The JST has a 50 acre Aquatic Lease from the DNR. A 25 foot buffer was provided from eelgrass beds determined through an eel grass survey. This eliminated 16 acres from being utilized for oyster production. For the 34 acres remaining, on-bottom bag culture methods will be used by anchoring lines of black mesh oyster bags to the substrate.

The bags would contain naturalized Pacific oyster seed. The applicant may spread mature oysters onto the natural substrate to achieve desired characteristics. The on-bottom bags would be approximately 2 ft. wide by 3 ft. long by 0.5 ft. high. There would be an approximate 6 feet of separation between each row of bags (based on visual representation). The applicant estimates that the bags would be located between a +1 and the -2 tidal elevation, and would only be visible from a close proximity (<100 yards) during minus tides. The Visual Analysis bags would be exposed on average 10 percent of the time during daylight hours, and only visible from a few viewing locations on the Dungeness Spit.

The on-bottom bag density is estimated to be approximately 4,000 bags per acre with a maximum number of 80,000 bags throughout the 34 acre farming area. The project would be development in 3 phases: Phase 1: (years 1 & 2) 5 acres of on-bottom bags; Phase 2 (Years 3 to 5) up to 10 acres of bags; Phase 3 (Years 5 and beyond) maximum of 20 acres of on bottom bags over the 34 acre area. If impacts to bird or eelgrass beds occur from the initial phases of the project, the placement of additional bags may be reduced as outline in the Monitoring and Mitigation Plan. Each bag would contain from 100 to 200 single oyster seed. The single oyster seed is intended for the fresh shucked oyster market, and would grow out for approximately 14 months in bags. The mature oysters may be spread onto the natural substrate to achieve desired characteristics. The applicant has estimated that the proposal would have 3 to 15 employees that would access the site by a small (~30 ft) marine vessel as addressed in the Operation Plan.

This proposal is located off the Dungeness Spit which is designated Natural per the Shoreline Master Program. This proposal does not meet criteria for developments exempt from Substantial Development permit requirements found in WAC 173-27-040, and therefore requires a Shoreline Substantial Development Permit. Because the use of sub tidal oyster bags is not a specific use addressed in the Natural section of the SMP, this activity also requires a Shoreline Conditional Use Permit per WAC 173-27-160(3).

Studies: A Critical Eelgrass Habitat Survey was prepared by the Jamestown S'Klallam Tribe (JST) dated November 13, 2017. An Archaeological Survey was prepared by Gary Wessen dated January 2017. Shellfish Aquaculture & Bird Interaction Report, and Dungeness Bay Field Report were prepared by Confluence Environmental Company and are both dated November 2018. A Mitigation and Monitoring Plan, Visual Analysis, and Bird Distribution Patterns in Dungeness Bay were prepared by the JST for this proposal.

Required Permits: A Section 10/404 will be required from the U.S. Army Corp of Engineers. The Corps will ensure compliance with the Endangered Species Act, and Section 106 of the National Historic Preservation Act (NHPA) for the regulated activities and area within Corps jurisdiction. An Aquatic Lease is required from the WA State Department of Natural Resources. An Aquatic Farm Registration and Shellfish Import/Transfer Permit will be required from the WDFW. A Shellfish Operation License will be required from the WA State Department of Health.

State Environmental Policy Act (SEPA): DCD is lead agency for this proposal and will be issuing a new SEPA threshold determination in the near future with a minimum 14 day comment period.

Public hearing and comment deadlines: *A public hearing has been scheduled for this application before the **Clallam County Hearing Examiner at 1 p.m. on Thursday, November 21, 2019** in room 160 of the Clallam County Courthouse, 223 East Fourth Street, Port Angeles, WA 98362.*

Any interested person may submit written or oral comments prior to the close of the open record hearing. The staff report will be available seven days before the hearing. Any person may request a notice of the decision from DCD.

The application and above referenced material is available at www.clallam.net/Permits, DCD On-Line Permit System web site SHR2017-00011, or at our offices at 223 E. 4th St., Suite 5, Port Angeles, WA 98362, Monday through Friday, between 8:00 a.m. - 4:30 p.m. Please contact Greg Ballard, Project Planner at (360) 565-2616, or by email at gballard@co.clallam.wa.us if you have any questions.

Appeals: The Clallam County Hearing Examiner Decision will be forwarded to the WA State Department of Ecology (Ecology) for review. Within 21 days of Ecology's Final Action determination of the matter, the Shoreline Permit and SEPA Threshold Determination may be appealed to the WA State Shorelines Hearing Board.