

October 23, 2023

RE: SHR 2023-00003- Taylor Shellfish's Motion for Reconsideration

To: Hearing Examiner

I am extremely disappointed Taylor is able to proceed with this project with only minor stipulations.

Color of Bags- I doubt blue or green bags will diminish the unsightliness front of our home. Clear would be my first choice with blue/green camo a second choice. It is interesting Taylor Shellfishor says there may be plastic degradation with the colors but not with black.

Monitoring of gear- I agree Taylor should monitor outside the lease area. I often find debris on shore and will appreciate it being labeled with it's owner.

Outside monitoring of Oakland Bay- Asking Taylor Shellfish to have an outside agency monitor the project makes complete sense. The bay is home to many shellfish farms and it is to everyone's advantage to have it monitored.

Taylor's Aquaculture will irrevocably alter our bay by interrupting the expanse of open water with acres of bags and lights blinking all night long into our homes. Please at least have them monitor their installation.

Thank you for your work.

Nancy Willner

1062 E Sunset Rd

RE: Taylor Shellfish Request for Reconsideration

- 1) Color of Gear: As disappointing as it was to hear about the decision to approve Taylor Shellfish's Lease, it was incredible that they now have objections to changing the color of the bags to green or blue to blend in to the water a bit better. From what I researched online, it depends on weather conditions as to the choice between blue or green. This is the information I garnered when researching color choices: "The best color to blend into water that is floating in a bay depends on the color of the water and the surrounding environment. If the water is greenish, then green would be a better choice. If the water is bluish, then blue would be a better choice. However, if you want to blend into both blue and green water, then you might want to consider using a color that is a mix of blue and green, such as teal or turquoise". I believe the color black would stick out and be particularly obtrusive.
- 2) Work Hours: In regards to emergency responses and activities, which may be conducted at any time on an as-needed basis. One would hope that emergencies would include situations that must be taken care of immediately, and **not** used for upping any deficiencies in production quotas.
- 3) 3rd Party Monitoring: Perhaps it would be prudent to have a state agency assign an independent 3rd party independent reviewer to put together a monitoring plan. The third-party reviewer would be the one to identify impacts subject to monitoring and set performance and reporting requirements. Installation of the proposal would not commence until all pre-installation baseline conditions are measured as found necessary by the third-party expert. Particular areas of concern: dissolved oxygen, increased nitrogen and potential algal blooms, impacts to whales & salmon navigating through the oyster bag farm and water quality testing due to disturbance of contaminated sediments. Would this 3rd Party individual also monitor for degradation of the large amount of plastic products to be used in this project, to help avoid microplastics sloughing off of into the waters of Oakland Bay?

Cordially,
Kathy Kent-Lanning

From: William Lanning <wlanning47@gmail.com>
Sent: Friday, October 27, 2023 5:24 PM
To: Luke Viscusi
Subject: Taylor Shellfish Application for Reconsideration

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In it's Application for Reconsideration , Taylor Shellfish has addressed three issues for reconsideration. These issues include; 1) the color of the floating oyster bags, 2) employee working hours, and 3) independent third-party monitoring of their business practices. Each of these three issues are addressed in my following comments.

1) Color of bags - Taylor's assertion that his company cannot afford the purchase of \$600,000 of blue or green oyster bags the Hearing Examiner has determined appropriate, is simply amazing to me. Most companies would consider this \$600,000 a business expense and would expect it to be part of their business plan. We now discover that Taylor has hundreds or thousands of black bags that they apparently have produced in anticipation of the approval of their to-be submitted permit applications. It would seem to me that the permit applications would have been made and awarded prior to any decisions regarding bag accumulation or production. This matter seems to be a poor business decision on the part of Taylor, who must have assumed the permits would be handed to them as candy handed to a child. Wrong assumption! If Taylor Shellfish can't afford required oyster bags, perhaps they need to find a new project in a new location, with a new Hearing Examiner!

2) Work Hours - Keep the reasonable work hours determined by the Hearing Examiner. Extended working hours would inherently increase the noise levels during the dark hours of each evening and require additional lighting requirements., both issues interrupting the peaceful character of the Bay and the surrounding environment. The company's request for unlimited work hours for working crews is woefully unreasonable. The Hearing Examiner needs to enforce the working hours he has set forth in his decisions related to those hours. The community doesn't wish to observe the lights and the noise produced by evening work hours for 12 hours each evening. Taylor is seeking "no rules" accommodations when it requests setting it's own working hours. The request that there be no restrictions on working hours because there may be "emergencies" and "other activities" that may arise is a very weak argument. What constitutes an emergency for one may not constitute an emergency for another! And who knows what "other activities" might there be? Again, stick to the working hours proposal the Hearing examiner has ruled on!

3) Monitoring - Taylor wants to monitor itself? That's not monitoring - that's "do what you must, but don't tell anyone!" There is no trust in giving Taylor carte blanche with OUR BAY! I hope the Hear Examiner will reflect on what Taylor is seeking and maintains his requirement of a third-party monitor. If Taylor can't afford this business cost, too bad! Go somewhere else!

Friends of Oakland Bay

*1020 E Sunset Road
Shelton, WA 98584*

Date: October 30, 2024

To: Mr. Phil A. Olbrechts
Mason County Hearing Examiner
615 W. Alder St.,
Shelton, WA 98584

From: Friends of Oakland Bay, c/o David and Virginia Douglas

Re: Opposition of Friends of Oakland Bay to Taylor Shellfish Company's Motion for Reconsideration, File No. SHR2023-00003

Thank you for the opportunity to respond to the Motion for Reconsideration. You can well imagine our disappointment reading your decision allowing Taylor Shellfish to move forward with their project, and now, our shock that Taylor has asked for reconsideration. Taylor's refusal to accept the conditions contained in your ruling reinforces our belief that Taylor has no real concern for the Oakland Bay environment and impacted neighbors and is unwilling to compromise.

Motions for reconsideration are disfavored. For good reason—if the Examiner entertains and grants Taylor's motion for reconsideration, it will only encourage parties to move for reconsideration, even when their project is permitted by the Examiner. Taylor got almost everything it sought in the Examiner's decision, and now seeks even more.

“A motion for reconsideration is not simply an opportunity to reargue a case.” *Suquamish II v. Kitsap County*, CPSGMHB No. 07-3-0019c (Order on Motion for Reconsideration, September 13, 2007) at 3. Taylor had ample opportunity to argue its position during the public hearing in this matter. The Examiner even provided extended time to Taylor after the public hearing, leaving “the record open for the Applicant to respond to written public comment and additional information requested by the Examiner[.]” Aug. 23, 2023, Order Extending Post Hearing Comment Period.

The time for Taylor to argue and submit evidence was during the hearing and during the extended post-hearing comment period. To the extent that Taylor's argument and evidence in its motion for reconsideration were submitted prior to or during the hearing and post-hearing comment period, those arguments and evidence have already been considered by the Examiner and addressed in the Examiner's decision. To the extent that Taylor submits new arguments or new evidence that could have been submitted previously, those submissions are untimely. Either way, Taylor's motion for reconsideration should be denied.

The Examiner considered the evidence put forward for this project of unprecedented scale by Taylor, the county, and the neighbors opposed to the proposal and issued his decision. Now, Taylor seeks to reargue issues that have been considered and decided.

Taylor cites Hearing Examiner Rules of Practice and Procedure 2.30(b)(2)–(4), but does not adequately explain how any of the following grounds for reconsideration are met:

1. The Hearing Examiner’s decision is an erroneous interpretation of the law;
2. The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
3. The Hearing Examiner’s decision is a clearly erroneous application of the law to the facts.

There are three key points from your decision we believe are critical to retain and a fourth requirement that should be incorporated in your final decision:

1. *Operating Hours*: In the initial filings and hearing Taylor stated they would be operating a small crew and very limited hours (at first one day a week and with an initial statement in the SEPA application of one boat a week). During the hearings Ms. Ewald testified the operation would be conducted five days a week during normal business hours and would include two, and later, three operations vessels. That has now changed to a full seven day week by virtue of your decision which did not limit operations to Monday through Friday from 8 am to 5 pm.

The applicant’s request to modify your decision further eliminates any restrictions on operating hours by their requested addition of “*other than emergency responses and activities which may be conducted at any time on an ‘as-needed’ basis.*” There is no firm definition provided by Taylor to define an “emergency response,” and further, their requested addition of “activities” as another undefined term totally eliminates any restriction on operating hours and their impact on this portion of Oakland Bay. Also, in addition to the navigation lighting required, if Taylor is allowed to work in darkness at their own discretion, there will be a full lighting system needed for their work, illuminating a major section of the Bay and disrupting the ability of all homeowners on the Bay to enjoy a peaceful, dark, quiet environment at night. At some point consideration of this negative impact on the neighbors must prevail.

Your lack of restriction to the normal work week was extremely disappointing; a reconsideration decision that accepts the applicant’s proposed language would remove any compliance obligations by the applicant, effectively gutting this requirement. We

urge that you limit Taylor's operations to Monday through Friday from 8 am to 5 pm, matching Taylor's originally proposed schedule.

2. Bag Color: The applicant's suggestion the blue and green colored bags will be more expensive is merely another attempt to eliminate all conditions contained in your decision. This does not make a different bag color unfeasible; it is economically distasteful to Taylor. Ecology's 1986 Aquaculture Siting Study provided several recommendations for minimizing negative impacts on the environment and emphasized the need to minimize the aesthetic impact of aquaculture. Your decision is in keeping with this portion of the Siting Study and must stand.

You deemed bag color key to mitigating the aesthetic challenges of the project. You selected this criterion over increasing the distance from the shorelines or reducing the size of the project. Taylor objects to the change due to the increased costs they will incur and the fact the bags they already have on hand will not be allowed. Moreover, the applicant's statement that in manufacturing blue or green bags it is difficult to maintain quality control or durability of the bag is not supported by any credible third party documentation Taylor has presented for review. Because Taylor produced no documentation to support its assertion, we urge you to deny reconsideration.

The DOE response regarding bag color confirms they are accepting Taylor's statements without review of any study and accepting Taylor's position that the change is not feasible. "Feasible" is a subjective term. The 1986 study should be not be discounted. To our knowledge, Ecology's 1986 Aquaculture Siting Study is still the most relevant guidance available relating to aquaculture permitting decisions. DOE should not be allowed to ignore the study simply because Taylor does not want to use blue or green bags. DOE does not have an informed position or policy for this decision.

However, most interesting was the statement contained in the applicant's request for reconsideration that bag color will "*at most provide a minimal temporary benefit given that all oyster bags would become fouled by aquatic matter within a short period of time and take on a similar appearance.*" This statement has been made only after Taylor learned your decision required blue or green bags. This means Taylor is now confirming the operation will create organic waste and odor problems either totally ignored or not adequately addressed in the applicant submissions and testimony. This "aquatic matter" will effectively create a floating cess-pool, contributing to unknown environmental problems and objectionable odors wafting across Oakland Bay 24 hours per day 7 days per week, especially in the summer, providing a truly negative impact on the entire bay.

3. *Third Party Monitoring:* This requirement is by far the most critical restriction and must be upheld to protect the ecosystem of the bay. We understand Taylor is also fighting the same restriction for their Totten Inlet project. The third party monitoring company must be a qualified environmental aquaculture consultancy totally independent of Taylor, their shareholders, clients, customers, foreign or domestic, and should be approved by the Department of Ecology as a qualified service provider. Each monitoring report should be made public and posted to both DOE and Mason County websites and available for public review.

The request that Taylor be allowed to self-monitor is laughable. In our estimation, it is like a “fox guarding the henhouse”. If this revision is accepted it demonstrates very clearly that Mason County endorses Taylor’s lack of concern for the Oakland Bay environment, for the individual Oakland Bay property owners, and for any county or state rule or regulation which may hinder Taylor Shellfish’s collection of more and more money and profits. Allowing self-monitoring in this instance is totally unacceptable.

4. *Regulatory Agency:* In our review of your decision, it is apparent there is no agency charged with determining Taylor Shellfish Company’s regulatory compliance. We urge you to require Mason County to task Mason County Public Health in conjunction with Mason County Community Development with regulation of the proposed use and annual review of the third-party monitoring reports.

In closing, it is imperative changes requested by Taylor are not accepted. By requesting reconsideration Taylor is publicly stating they are unwilling to comply with the preconditions established in your decision; therefore Taylor should move this proposed operation to another location outside Oakland Bay.

Thank you for your consideration.

Sincerely,

David and Ginny Douglas

From: dbarnett36@comcast.net
Sent: Monday, October 30, 2023 11:32 AM
To: Luke Viscusi
Subject: Taylor's Motion for Reconsideration

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Good morning,

The recent findings issued by the Hearings Examiner on the Taylor Shellfish Lease Application for Oakland Bay were a "conditional " approval to move forward with Lease Application "subject to certain pre-conditions". Those conditions were :

- (a) changing the color of the bags to be more in-line with the natural colors of the surrounding areas,
- (b) limiting the hours of operations and
- (c) independent monitoring waters to make certain that the oyster-project did not impede or alter the quality of the of the surrounding waters.

Taylor Shellfish has publicly indicated that it will not follow any of the pre-conditions established by the Hearing Examiner and should therefore be denied on its Lease Application.

The unique factors in considering any commercial activities in Oakland Bay are the facts that:

- (a) it is recovering from many years of log-booms and creosote pilings, and
- (b) the fact that the entire Bay does not circulate or "flush" well into the larger Puget Sound waterways.

This later point can be seen by the overall higher temperatures of the water in Oakland Bay since the water tends to shift back -and -forth rather than empty into Hammersley Inlet and into South Puget Sound. The entire Bay is surrounded by residential communities, and these waters need the protection of state and local government as opposed to large scale commercial activities. For those reasons the Taylor Application should be denied.

FRIENDS OF OAKLAND BAY

Devitt and Deborah Barnett

844 East Sunset Road on Oakland Bay

Monday, October 30, 2023

Dear Mr. Viscusi,

Could you please forward my comments to the Plans Examiner.

RE: Response to Taylor Shellfish request for revision to Condition 24 and 25

D. Condition 24

I believe this requirement as **originally** written is fair and a good solution to any unforeseeable environmental problems that could be caused by this project. The conclusions of the examiner and/or the conditions are supported by the record. I see no good reason to revise it as suggested. In order to maintain any semblance of propriety and impartiality the consultant for the monitoring project must be financially SEPARATE from Taylor Shellfish. That the project needs to respond to uncertain impacts makes a lot of sense as no shellfish have never been present in the proposed location of Oakland Bay and the quantity of them also suggests that there may be unknown consequences.

The fact that this decision imparts a semblance of impartiality is important. The original decision has the quality of fairness to all parties; achieving results uninfluenced and unbiased by monetary funding; and shows a regard for the public interest. A monitoring plan developed by a paid consultant for Taylor Shellfish will be criticized that the findings were controlled by financial interest and biases.

Why Taylor Shellfish is concerned about having an independent project monitoring plan is puzzling if, as they have stated, their interpretation is there will be no adverse effects from their project and that a third-party monitoring plan will be less thorough than Mr. Czieszla's monitoring plan. Although there is also nothing to stop his plan from being shared. Having a third-party monitoring allows the public to feel that their interests and the environmental concerns are being addressed. The Condition should be left as a third party chosen by the County.

D. Condition 25

As for the color, I would think that for the additional money paid to the company Taylor's buys their cages from that they should be able to provide a stable colorant and improve the UV resistance for the chosen color. Variation in color is actually preferable as most colors in nature are not uniform, -although a lime green would be unacceptable. Using the colors suggested by the examiner it will not be difficult to beat the aesthetics of thousands of black suitcases floating in Oakland Bay.

Sincerely,
Francesca Ritson

Luke Viscusi

From: Richard and Judy B. <930squirre SEND@gmail.com>
Sent: Monday, October 30, 2023 7:27 PM
To: Luke Viscusi
Subject: Taylor Shellfish Motion for Reconsideration

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I do not believe the restrictions should be modified. The Hearing Examiner put them in place for a reason. By adding/removing verbiage in Conditions 5, 13, and 16, Taylor Shellfish gives the appearance of wanting to operate at will with no responsibility to environmental safety or to the concerns of the neighborhood.

It is imperative to keep Condition 24 as it was written. Self monitoring NEVER works, and Taylor Shellfish has proven time and again that they care for nothing but themselves and their profit.

Respectfully submitted,
Judith Brumley-Bidwell
930 E. Sunset Road
Shelton, WA 98584

Luke Viscusi

From: Art Parker <art.parker20@gmail.com>
Sent: Tuesday, October 31, 2023 12:30 PM
To: Luke Viscusi
Subject: Taylor Shellfish aquaculture permit

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Luke Viscusi

As a Shelton resident and a participant in the original round of testimony, I would like to provide public comment on the latest posted proposal from Taylor Shellfish with regard to oyster bag color and follow up environmental monitoring.

Bag color:

Please require the use of blue or green bags to reduce visual impact.

Follow up environmental review:

Please require periodic independent environmental reviews. As Taylor Shellfish assures the public of no adverse impact, I would think they would welcome the opportunity to confirm.

Best regards

Art Parker
271 E Orchard Lane
Shelton Wa 98584
206-697-8147

Date: October 31, 2023

To: Phil Obrechts, Mason County Hearing Examiner

cc: Luke Viscosi, Mason County Planner (Lviscusi@masoncountywa.gov)

Re: Response to Taylor Motion to Reconsider HE Permit approval conditions for SHR2023-00003

I urge the hearing examiner to retain the Independent Monitoring requirement for this project.

The Independent Monitor is important because it will measure and monitor the health of the Oakland Bay ecosystem, not just the project site. It will do so in a way that will expose and quantify any expected or unexpected impacts from the permitted industrial-sized aquaculture installation. The goal of reporting and analyzing anomalies is to trigger effective avoidance or mitigation strategies to be deployed in time to avoid dire consequences to the bay's ecosystems and its wildlife – i.e., to protect the bay.

The Independent Monitor, paid and controlled by local government will also produce public information. All their data, assessments, recommendations, etc., will belong to the public domain, so should be easily accessible to anyone who wants to see them.

In contrast, a Taylor consultant would perform only those tests and distribute only those results that Taylor decides to share. Taylor is a financial enterprise, not a public service, so, as their counterproposal demonstrates, they will only perform monitoring at levels they feel is safe/limits their legal liability, garners additional good-will for their company from the local residents or benefits their oyster farm directly. The scope, timing, and precision of the monitoring they propose may serve these company interests but is inadequate to actually monitor bay health. In addition, this proposal relies on self-reporting of all environmental consequences, including those that might expose the company to legal/financial claims. Finally, Taylor would control what data is released and when. This counterproposal thus does not serve the public interest or the broader ecosystem health of the bay, so it's insufficient to meet the goals of the permit constraint.

For example:

- Scope: Confluence describes potential impacts to water circulation and flushing include scour/erosion and material (biodeposits) deposition. ⁱ Yet their "monitoring" for this only looks at velocity changes to the surface water circulation in the immediate vicinity of the installation. They don't propose any actual measurement of scour, erosion, or dispersal of biodeposits.
- Precision: Taylor's proposal for monitoring organic contaminants (dioxins, furans) is to monitor the anchors via GPS/video for movement and [they will] look for benthic changes.ⁱⁱ This monitoring has potential only to establish whether or not anchors have moved. The polluting contaminants of concern are toxic on an order of magnitude of parts per million, so are far from visible to the naked eye. They will accumulate in the sediment, but they will also accumulate on plastic gear, and accumulate in tissue, so there are multiple transport mechanisms for these contaminants to enter the food chain. Visually assessing anchor movement is a triggering mechanism only; this proposal does not measure or monitor those toxics directly.

- Timing: Their reporting of impacts on submerged aquatic vegetation (SAV)ⁱⁱⁱ would only be a post-hoc assessment after the end of the lease – which is not monitoring at all. In contrast, ongoing monitoring would identify invasive plants/organisms as they emerge, allowing Mason County or state agencies to take effective action before they become a massive problem.

For these reasons, I urge you to retain the Independent Monitor requirement for approval of the shoreline permit SHR2023-00003. This constraint is needed to protect the health and welfare of Oakland Bay - its wildlife, its ecosystems, and its human residents.

Thank you.

Betsy Norton
Olympia, WA 98502

ⁱ Confluence's addendum, filed online as SHR2023-00003-Appendices-A-C-10192023.pdf, section 2.1.

ⁱⁱ Confluence's addendum, filed online as SHR2023-00003-Appendices-A-C-10192023.pdf, section 2.3.

ⁱⁱⁱ Confluence's addendum, filed online as SHR2023-00003-Appendices-A-C-10192023.pdf, section 3.3.

From: BILL FIERST <prbill110@comcast.net>
Sent: Tuesday, October 31, 2023 4:32 PM
To: Luke Viscusi
Subject: Taylor Shellfish Motion for Reconsideration

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Luke:

We have reviewed the Taylor Motion for Reconsideration. Our response is listed below. Please forward to the Hearings Examiner.

1. Regarding Conditions 5 & 13 Evening Work. Taylor wishes to allow work in non-daylight hours for "emergency responses and activities". Yet they do not define what "emergency response and activities" are! This effectively gives Taylor a green light to operate at all hours. Work in Evening hours will certainly be a disruption to residents. Remembering that this is an industrial operation in a residential area. There will likely be substantial noise and light up the whole bay. This will disturb residents during relaxing or sleeping hours and a significant detriment to aesthetics.

Certainly, there needs to be a better definition of what constitutes an "emergency response and activities". We also request to comment on that definition before being accepted. The fact that the company may have done a poor job of planning harvesting or not hiring enough people that requires 24 hours operations (to catch up) should not be allowed. Any operation in non-daylight hours should be approved by a third party as outlined in Condition 24),

Conditions 5 and 13 revisions should not be approved,

2. Condition 24 Applicant shall pay for a third-party qualified expert hired by the County to formulate a monitoring plan.

Our government systems are built on a system of checks & balances. We would like to assume that everyone does as required by the law & other agreements. That is not always the case as attested by our courts.

Again, this is an industrial farming operation installed in & impacting a residential area. We need third party monitoring to ensure compliance to environmental and other concerns.

There may be impacts that are significant and reasonably uncertain at this time "due to gaps/deficiencies in scientific literature, regulation and/or the unique environmental conditions of the proposal". Taylor has stated many opinions that have not been verified.

We request that the requested change to this condition not be accepted.

3. Equipment, structures and materials shall not be abandoned in the shoreline or wetland area. condition 16

Taylor is of the opinion that "Taylor Shellfish anticipates that those inspections will not identify any gear that is missing and has left the lease boundary". Again, another opinion of Taylor Shellfish. If they are as certain on this opinion as other opinions they have provided, then they should be taken as fact and this section should not be rewritten.

If their opinion cannot be taken as fact, then they should provide weekly patrols, provide a phone number for residents to call when gear washes up on shore, provide a penalty (fine) if not removed within 48 hours. A third party should be appointed for residents to confer with, and a phone number provided. That third party shall ensure that a penalty (fine) is imposed when applicable. It must be significant to ensure compliance.

4. Regarding color Condition 25. All through the Hearings (and alluded to in #3 above) we were told that bag & equipment degradation was not an issue. Now it suddenly is, whether the color is blue, green or black? No evidence is provided that color makes a difference to degradation, only opinion.

There may be added expense, but recognition should be given to aesthetics. The fact that we are allowing an industrial operation in a residential setting, then aesthetics should be a consideration. Opinions (that are shifting) must not be accepted as facts.

Taylor does not provide any evidence that blue or green bags would cause increased costs of \$600,000. I do find it hard to believe that adding dyes to the manufacturing process would result in this large expense, without evidence. Those must be very expensive dyes.

Taylor consistently references their rendering. In the request for reconsideration, they attempt to make claims of what the project might look like with different color bags & gear with varying the color of sky. As I previously stated in my responses, the rendering is only someone's idea of what it looks like & not reality. Now they are trying to extrapolate that opinion further to what this person thinks that it might look like with different color bags and sky! Does this ever stop?

Throughout the Taylor discussion of Condition 25, Taylor provides opinions that this might not be commercially available, might not be feasible, might cost more money, might not perform well, etc. They only provide opinion, but not facts. Most of these opinions should be easily verifiable by consulting with the manufacturer for facts, unless they cannot be confirmed & are opinion only.

We request that the Hearings Examiner not revise his position regarding bag or hardware color.

5. The Hearings Examiner has placed very small number of conditions for approval to the detriment of homeowners on the Bay. Given that Taylor may be unwilling to accept these conditions, perhaps they should locate at an alternate sight.

Bill & Florence Fierst
1080 East sunset RD
Shelton, WA

October 31, 2023

TO: Mr. Phil A Olbrechts
Mason County Hearing Examiner
615 W. Alder Street
Shelton, WA 98584

From: Melissa Kennedy, Homeowner on Oakland Bay

RE: OPPOSITION OF FRIENDS OF OAKLAND BAY TO TAYLOR SHELLFISH COMPANY'S
MOTION FOR RECONSIDERATION, FILE NO. SHR2023-00003

Though disappointed in your decision to allow Taylor Shellfish to move forward with their large scale, industrial shellfish experiment in Oakland Bay, I as an impacted homeowner, appreciated the placement of lanes that Taylor Shellfish would be required to operated within.

Taylor Shellfish Company's motion for reconsideration and desire to throwout all of your requirements speaks to their disregard for the community they impact and the natural resource they are exploiting.

Telling in this motion for reconsideration are the statements surrounding the bag color requirement. Taylor was silent in acknowledging that their process would create bags that are fowled by organic matter. We have all smelled the stench of Taylor's "fowled bags at the end of the bay as we kayak by in the heat of the summers. The smell of rotting sea life keeps you well away.

During the hearing Taylor stated they would be working 5 days a week, at the most. This reconsideration would give them unregulated access to working in the bay 24 hours a day. We are already having our night sky impacted by constantly navigation flashing lights. This reconsideration puts scene lighting and the sounds of working generators and equipment potentially operating 24 hours a day, 7 days a week, and 365 days a year.

To eliminate oversight and/or allow Taylor oversight of their own project would be a statement that this entire process and recommendations made were merely a game that had already been decided in the backroom. I truly don't believe that is the case. The time and effort you placed in the project indicated a level of concern for the families impacted.

I implore that you keep the to the requirements you set forth in your initial decision. The monitoring addressed our concerns for the health of the bay. You attempted to lesson the visual impact on our views by ensuring a color that was less offensive, and I ask that you limit operating hours to Monday through Friday, 8:00 - 5:00. Our bay should not be operated as a 24-hour industrial facility. Allow the home owners guaranteed times to enjoy our homes outside and sleep quietly at night.

DATE: 10/31/2023

TO: Mr. Phil A. Olbrechts Mason County Hearing Examiner 615 W. Alder St., Shelton, WA 98584

FROM: Thomas and Melanie Nevares, 1170 E. Sunset Road, Shelton, WA. 98584 (Friends of Oakland Bay)

SUBJECT: Mason County Hearing Examiner Reconsideration Letter Taylor Shellfish Company's Motion for Reconsideration, File No. SHR2023-00003

1. Below are our response and recommendations to Taylor's Shellfish Co. Motion for Reconsiderations. **Also, based on discovery in Taylor Shellfish reconsiderations, we recommend that the requirements be enhanced.**
 - A. First and foremost, Taylor Shellfish reconsideration requests are based on "Profit" with little to no consideration to the adverse impacts to this fragile small Estuary, Public and Habitat Health & Safety, Shoreline Management, Endangered Species, etc.
 - B. TAYLOR'S RECONSIDERATION OF **CONDITION 5 AND 13 (EMERGENCY RESPONSES)**: RECOMMEND MODIFICATION. Allow for Emergency Responses ONLY! Not for the purpose of shellfish operations and farming.
 - C. TAYLOR'S RECONSIDERATION OF **CONDITION 16**:
 - a. DENY RECONSIDERATION. **Again, based on discovery regarding Taylor Shellfish reconsideration motion, we recommend that the requirements be enhanced as follows:**
 - b. UNSECURE DEBRIS OR GEAR OUTSIDE THE DNR LEASE BOUNDARY: DO NOT delete the following "or allowed to enter waters outside of the DNR Lease boundary (Exhibit 9)." Removing this requirement would further put Public Safety, Habitat, Shoreline, etc. at much greater risk to injury, death, or damage.
 - c. RECOMMEND ADDING: "Within the DNR's Boundary Lease Footprint", ADD a NON-USE 360-degree 1000-foot buffer (1000-foot at minimum) to mitigate the dangerous risk of unsecure debris and gear from getting outside of this Footprint. Unsecure debris or gear is extremely dangerous to Public Safety and the Habitat.
 - d. RECOMMEND ADDING: Taylor Shellfish must inspect project gear and all materials at the beginning of each workday, and prior to the end of each workday (at a minimum). Documented Inspection reports must be submitted to the County Weekly for review. NOTE: Based on Taylor Shellfish reconsideration of inspection of gear once per week and response time of 48 hours would allow for extremely harmful debris and gear to be unsecure for 9 days or longer, or never found and recovered. This would be extremely dangerous to the public, sea life, wildlife,

habitat, boaters, etc.; Thus, dramatically increasing the risk of injury, death, or damage.

- e. Taylor's reconsideration to respond to unsecure debris and gear in 48 hours would put the public and habitat at even greater risk to injury, death, or damage. RECOMMEND THAT all unsecure debris and gear within or outside the DNR lease boundary be recovered within 8 hours at a minimum. All incidents of unsecure debris and gear need to be reported and recorded as public record, and the County should investigate or intensely examine causes, remedies, and solutions. FURTHERMORE: Taylor's need to respond to unsecure debris and gear complaints within 2 hours of notification.

- D. TAYLOR'S RECONSIDERATION OF **CONDITION 24**. RECOMMEND DENY. **Based on discovery regarding Taylor Shellfish reconsideration motion, we recommend that the requirements be enhanced as follows:** With the unprecedented size, magnitude, complexity, and dangers associated with this massive project in a small fragile Estuary, it must be intensely regulated to prevent incidents, injury, death, or damage. The potential adverse impacts are more likely than not to occur if not intensely regulated and monitored. Thus, it requires a 3rd Party subject matter expert hired and controlled by the County and funded by Taylor Shellfish Co. Based on the risk of injury, death or damage, there cannot be any lapse on inspections, monitoring, reporting, and compliance. Therefore, we strongly recommend that TWO 3rd party subject matter experts be hired by the County and funded by Taylor Shellfish Co. Again, it's imperative and critical that there are no gaps in inspections, monitoring, and compliance enforcement!
- E. TAYLOR'S RECONSIDERATION OF **CONDITION 25**. RECOMMEND DENY. We cannot further compromise and increase risk to the Public, Habitat, Sealife, Wildlife, Shorelines, etc. in the name of Corporate Profits. Taylor Shellfish is going to make Millions of Dollars of profit at the expense of the forementioned yet are complaining about a potential \$600,000 dollar bill to meet this critical requirement. Protection codes, regulations, and laws should not be relaxed or compromised to support irresponsible and unethical projects.

2. CONCLUSION:

- A. Although we appreciate the opportunity to address this action, we do NOT concur with the approval of this project or with the Reconsiderations submitted by Taylor Shellfish Co.
- B. We strongly recommend that you not only deny Taylor Shellfish reconsideration but add and enhance the requirements based on discovery in Taylor's efforts to further degrade the inspections, responses, processes, requirements, and compliance.
- C. To ensure adequate inspections, monitoring, transparency, reporting, compliance, and resolution, TWO 3rd Party subject matter experts should be hired by the County and funded by Taylor Shellfish Co.

- D. No unsecure gear or debris should be outside the DNR Lease Boundary thus a NON-USE 360-degree 1000-foot buffer “within the DNR Lease Boundary” should be required to mitigate incidents, injury, death, or damage. The Taylor Shellfish suggested Weekly inspection and 48 hours recovery conducted by Taylor Shellfish are irresponsible and dangerous at best. We CANNOT allow unsecure debris or gear to exit the DNR Lease Boundary period, let alone for 9+ Days. This would be extremely hazardous. Any unsecure debris and gear that is not recovered needs to be reported to County immediately.
- E. Emergency response times need to be 2 hours at minimum to decrease the risk of incident, injury, death, or damage. Before approving any permits, emergency response tests should be conducted by Taylor’s and validated by the County to ensure Taylor Shellfish has the ability and capability to meet all timelines and requirements in preventing ALL unsecure debris and gear from leaving the DNR Lease Boundary.
- F. As stated earlier, for whatever reason Federal, State and County Codes, Regulations and Laws are being relaxed and compromised in favor of this unprecedented, irresponsible, and unethical Project in the name Corporate Profit, and at the demise and expense of Public, Safety, Habitat, Environment, Sea Life, Wildlife, Shoreline etc.

THANK YOU! Tom and Melanie Nevares, 253-732-0505

Luke Viscusi

From: Bernadette olson <bernadetteolson@hotmail.com>
Sent: Wednesday, November 1, 2023 3:03 PM
To: Luke Viscusi
Subject: Comments regarding Taylor Shellfish request for a motion of reconsideration on 10/19/23. Taylor Shellfish shoreline application, SHR2023-00003

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Mr. Viscusi,

I am writing to urge the Hearing Examiner and Mason County to keep all conditions attached to the permit issued to Taylor Shellfish on 10/9/23 (SHR2023-00003).

These conditions are essential to ensure that Taylor Shellfish adhere to the best practices of aquaculture they claim to be so proficient at.

It is appalling that such a permit was issued in the first place, but then to request for essential conditions to be removed is beyond conscionable.

Respectfully,

Bernadette Olson
2460 Tekiu Rd NW
P.O. Box 655
Seabeck, WA 98380
360-710-4165

From: Bill Morisette <bmorisette@gmail.com>
Sent: Wednesday, November 1, 2023 1:51 PM
To: Luke Viscusi
Cc: Steve and Mary Liston; Dave Hodges; Pen Hodges; Mary Hacker
Subject: Response to Taylor's Motion for Reconsideration

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Comments Regarding Taylor's Motion for Reconsideration

I can see absolutely no reason why any of Taylor's requests for reconsideration should be granted. If this project should go through, I'm sure Taylor's financial gains will be significant as will the public's losses in the forms of environmental, recreational, and aesthetic impacts. Photos are worth an infinite number of words. Following are some from this past summer:





Now imagine the same photos with a myriad of black blobs scattered across them. Nothing that Taylor can do or say would excuse such a colossal disfigurement.

Thank you,

Bill Morissette

From: Susan Gonzales <susanbetterproperties@gmail.com>
Sent: Wednesday, November 1, 2023 12:40 AM
To: Katie.Allen2@dnr.wa.gov; Thomas.Gorman@dnr.wa.gov; Luke Viscusi
Subject: PLEASE Keep Puget Sound's Stunning Oakland Bay SAFE AND BEAUTIFUL

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As a public utility worker and teacher, both for over 40 years in our professions, we could have purchased a dream home anywhere in the world. However, we chose our home on Oakland Bay, three years ago. Gene retired last year, Susan is retiring this year. We have both worked since we were 13 years old to arrive at this stage of life!

Washington State History and beauty is very important to us. Susan's ancestors arrived on the Oregon Trail, she is a Daughter of the Washington Pioneers. Chapter #9. As a Science Teacher, this home is the ultimate dream come true!! Sealife abounds, peaceful waters enjoyed by kayakers, sailboats, waterskiers, orca whales, seals, sealions, jellyfish, osprey, bald eagles and a trash free beach, right in front of our windows. Susan just looked on her phone/camera, in our three years here, Susan has taken over 1,700 photos of sunrises, sunsets, wildlife, beach walks, photo shoot with Mrs. Washington, many forms of public recreation, our own events with friends visiting from all over the United States, a wedding held on the beach during Covid when weddings weren't allowed and birthday BBQ's with our first grandchildren.

This dream home is not debt free. We will pay a large monthly mortgage for the next 27 years. When we purchased, we knew the mill existed and we knew Taylor Shellfish was all the way at the end of the Bay. In our wildest dreams, we never dreamed a COMMERCIAL entity could "rent" 50 acres of the middle of the bay to make more money, right in front of our dream home!

99 years, 12 years, 5 years or even 99 days is too long to allow the unknown ramifications of a never done before 50 ACRE floating farm with 33,000 bags in the MIDDLE of a beautiful bay.

PLEASE do not let commercialism become more important than our beautiful state waters. If Taylor is allowed to take over this body of water, they will look for the next. PLEASE STOP THEM, they have enough income and other locations to make their desired increases in income, without the State making it easier for them to make even more profit and not consider those who live near their oversized, fully lit, noisy, trash producing projects.

Thank you for demanding more information, requiring real projected drawings, collecting more data on wildlife and plankton, requiring data and pictures of any existing projects that are this big, and just plane getting the real picture of what this super nova oyster project is all about!!

Isn't it DNR's responsibility to PROTECT the beauty of the Evergreen State. NATURAL is your middle name. This project is NOT NATURAL. We are counting on you to keep our wildlife and beautiful waters of Puget Sound, safe and pollution free to be enjoyed for generations to come!!

Gene and Susan Gonzales, Shelton, Washington

**Here for YOU, seven days per week!
Have a GREAT day!!**

Susan M. Gonzales

Better Properties Real Estate

Cell 360 304 9609

FAX 360 748 7225

Mark Herinckx
860 E Sunset Rd
Shelton, WA 98584
November 1, 2023

Mr. Phil A. Olbrechts
Mason County Community Development, Taylor Shellfish Proposal
615 W. Alder St.
Shelton, WA 98584
Sent Via Email to LViscusi@MasonCountyWA.gov and to erine@taylorshellfish.com

Dear Mr. Olbrechts,

This is to affirm that I am in full support to the statement submitted by Friends of Oakland Bay sent in October 30th, 2023. Although the fight will continue to protect this beautiful bay, it is critically important that the hours of operation be limited and clearly defined and any allowed activity in variation of these hours be clearly defined as well.

Completely independent transparent and publicly posted monitoring by a qualified third party is an absolute necessity for the safe operation and ecological impact of this massive industrial operation. This should include testing of the oysters farmed at this site for any bioaccumulated toxins that could be dangerous to the consumer.

Please do not allow this operation to be conducted without these guardrails in place. Without clearly defined restrictions, this company will do as it pleases with no regard to the public impact.

Thank you,
Mark Herinckx

615 W. Alder St., Shelton, WA 98584

Re: Opposition to Taylor Shellfish Company’s Motion for Reconsideration, File No. SHR2023-00003

Thank you for the opportunity to respond to the Taylor Shellfish Company’s Motion for Reconsideration.

We are surprised that you are accepting Taylor’s motion, and that you are now allowing new evidence in conflict with your October 9 Final Decision that “As conditioned, the proposal will not significantly and/or substantially detract from the aesthetic qualities of the surrounding area, including shoreline scenic and aesthetic qualities.”

Although new evidence is being limited to “color of the oyster bags”, any reconsideration of the October 9 findings, conclusions, and decision substantially undercuts credibility of your decision. We are greatly disappointed with your Final Decision, but we honor your intention to base findings on evidence from the existing record, and to place great reliance upon DOE guidelines prepared in 1986 to assess aesthetic impacts of floating aquaculture. Specifically, the Final Decision *requirement* for green and/or blue gear for the proposal has a credible foundation in fact. The existing record demonstrates clear and logical reasoning, as well as support from the Department of Ecology for relying on the Aquatic Siting Study. We urge you to not allow the introduction of new evidence by Taylor Shellfish Farms, or any other interest, for the bag color requirement or any other condition of the Final Decision.

We also urge you to reject the Taylor Shellfish Farms Motion for Reconsideration with respect to a third-party expert formulated monitoring plan (Fact No. 5P). Taylor Shellfish Farms proposes that the County dispense with the requirement for such a monitoring plan and alternatively to apply “the October 19, 2023, monitoring plan developed by Confluence Environmental Company for the Project”. The Taylor monitoring plan is *new evidence*, assumed to be disallowed by the Motion for Reconsideration and should be rejected from consideration for that reason alone. Taylor failed to provide evidence of a meaningful monitoring program on the record during the public hearing process. An August 16 PowerPoint presentation demonstrates the inadequacy of Taylor’s monitoring intention in comparison with the requirements described by Finding of Fact No. 5P. The public has had no reasonable opportunity to review or consider the adequacy of an alternative.

Monitoring

- Taylor Shellfish completed a Habitat Management Plan which includes a comprehensive analysis of environmental interaction concluding “no net loss of ecological functions”.
- Taylor Shellfish will conduct a robust set of monitoring including:
 - All measures identified in the Programmatic Consultation
 - Herring spawning
 - Debris patrols
 - Fish or wildlife inspections
 - Anchor placement

A preliminary review (see Mr. Pattillo’s expanded background as a qualified expert, appended to this letter) of the October 19, *new evidence* from Taylor shows it is of substantial volume compared to the existing record of evidence, including the address of monitoring contained within the “well documented and analyzed” Habitat Management Plan. However, the *new evidence*, Taylor monitoring plan is inadequate with respect to fundamental elements for monitoring and estimation of reasonably uncertain

environmental impacts attributable to the proposal. The *new evidence*, Taylor monitoring plan fails to include substantial and adequate quantitative performance standards that would be the basis for triggering mandatory conditions of the proposal. Without such quantitative performance standards, the capacity of planned monitoring to identify significant environmental effects of the proposal cannot be assured.

Another fundamental element of a monitoring plan that would satisfy the Final Decision's intentions for monitoring is measurement - prior to installation of the proposal - of baseline conditions. The Applicant's intention seems to support implementation of a never-before tried or tested, 50-acre, 30,000 bag floating oyster project, and look for significant effects of the project after the impact has occurred. Baseline measurements need to be made prior to installation of the proposal for water circulation/flushing, dissolved oxygen, nitrogen, algal blooms, contaminants, and occurrence of potentially displaced fish and wildlife. Baseline measurements should also reflect the need for sampling that encompasses seasonal variation.

We urge you to reject the Applicant's request to allow the *new evidence*, Taylor monitoring plan as an alternative to the Finding of Fact No. 5P, stressing the importance of employing a third-party, independent expert for maintaining objectivity and ensuring intended outcomes.

Thank you for your consideration of our comments,

Patrick and Erin Pattillo

* **Patrick Pattillo** (Professional Resume excerpts provided in response to your comment in the Decision: "*In assessing reasonable conflicting opinions on project impacts, Mr. Czesla's opinion often proved to be the most compelling because he is the most qualified, to the extent documented in the record, to provide an opinion.*")

Education

University of Washington School of Fisheries

February, 1978 • [Bachelor of Science](#)

Major - Quantitative Methods in Fishery Management & Experimental Design

Major Professional Accomplishments

- Pacific Salmon Treaty agreements, 1999 & 2009- member of US negotiating delegation;
- Puget Sound Chinook Fishery Management Plans under ESA, 1999- 2014- Lead Washington State negotiator and writer for state-tribal agreements;
- Pacific Fishery Management Council, - Council member for State of Washington 2011-2014 & Salmon Technical Team member, 1983-1989;
- Chinook and Coho Salmon Mass Marking and Selective Fishery Plans, 1998-2014- Washington State policy lead for implementing new, hatchery selective fisheries in the Pacific Ocean & Puget Sound;
- Pacific Salmon Commission (PSC) Chinook Technical Team Member, 1989-1997;
- NOAA Southern Resident Killer Whale Workshops Investigating Prey & Survival, 2012-2013- Lead for WDFW policy & scientific team.
- Scientific/Technical Skills- Examples: Extensive application of complex quantitative methods for estimating impacts of fisheries on fish populations and for evaluating effects of modified gears and rules intended to selectively harvest healthy fish populations, species or sizes; development and application of computer models employed by salmon management agencies for fishery decision making.

Luke Viscusi

From: Sue Campbell <sacampbe51@gmail.com>
Sent: Wednesday, November 1, 2023 11:39 AM
To: Luke Viscusi
Subject: Friends of Oakland bay versus Taylor shellfish Company

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How many of the Taylor family live around Oakland Bay? Looking at their website. There other farms have tides to move the oysters around. Did Taylor do any research for the tides of Oakland bay? Did they do any research at all? It appears to me that all they want to do is rush this "oyster farm" for their benefit
THEY WANT IT ALL WITHOUT ANYONE TELLING THEM OTHERWISE!
There are a lot of loopholes in what the examiner proposed. Did Taylor look into what Mason county requires and Federal requirements concerning this? This "farm" is a detriment to the community.
Please consider what Tyler wants to do!
Susan Campbell