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Reply to: Seattle Office

November 29, 2012

Mr. Brian Allen
Allen Shellfish LLC
PO Box 14669
Tumwater, WA 98511

Mr. Brian Allen
1363 Old Israel Road SW
Tumwater, WA 98512

Re: Allen Shellfish LLC Leasehold Operations – Johnson Point (Thurston County)

Dear Mr. Allen:

I am writing on behalf of my client, Susan Macomson, who resides in close proximity to Puget Sound tidelands located along Johnson Point in Thurston County on which you are conducting commercial aquaculture operations. It is our understanding, that you leased these lands back in 2006 from three property owners – Wakkure, Harmon, and Johnson. While we acknowledge that as a leaseholder of these properties you are entitled to utilize them for the purpose authorized by the lease, even a lawfully conducted business may constitute a nuisance if its operation unreasonably interferes with the use and enjoyment of property. Based on her past experiences, my client is concerned that the harvesting of these lands and the subsequent post-harvest cultivation will result in such an interference.

Even though Thurston County may not have required that you secure a shoreline permit in 2006, your activities are still subject to compliance with the Shoreline Management Act (SMA). With the passage of the SMA, Washington recognized that its shorelines were the most valuable and fragile of its natural resources. The SMA mandates that uses within the shorelines be designed and conducted in a manner that minimizes resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. Thus, while the SMA permits Washington's shorelines to be utilized, it seeks to protect shoreline ecological functions from degradation and loss.

Since the time of original cultivation, my client has noticed a dramatic change to the ecology of the shorelines within this area. When my client purchased her property a decade ago, there was a wealth of species inhabiting the near-shore environment. Today, there has been a near extinction

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of native flora and fauna within the area. My client believes that your expansive cultivation of the adjacent tidelands, the probable use of chemicals such as carbaryl, and the dispersion of sediment during harvest has adversely impacted the ecosystem of the area.

In addition, while currently not installed, the placement of thousands of PVC tubes and netting to contain and protect seedling geoducks during the initial year or two of their lifecycle impacted my client's use and enjoyment of not only her property but the public waters. These tubes became dislodged and broken, littering my client's property and creating hazardous conditions for those desiring to use both the beach and water areas. In addition, even intact PVC tubes restrict the navigational use of the public waters – something the SMA also seeks to protect.

Lastly, cultivation and harvesting activities that have occurred in the area have resulted in some additional disturbances to my client. Garbage originating from the aquaculture site has found its way to my client's property. Noise and light has interrupted the tranquility of the beach area and my client's use of these areas. In essence, your operations have the potential to be considered either a nuisance or result in a trespass under the law.

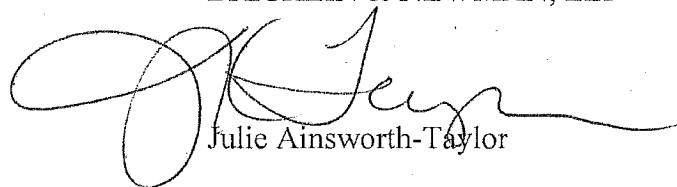
The adverse ecological and aesthetic effects that unreasonably interfere with my client's enjoyment of her property will undoubtedly remain as you continue this industrialized operation on the fragile shorelines of my client's community. Intensive commercial aquaculture operations are simply not appropriate in a residential community. The community's quiet use and enjoyment of their property is imperative to a high quality of life that they work hard to achieve and is the very reason they selected this area for their homes. Industrial operations such as yours surely result in a diminution of property values. Maintaining the ecological and aesthetic beauty of the community's shorelines and their utility to provide a natural respite for generations to come is the primary goal of the SMA, a law that is now more than four decades old.

The purpose and intent of this letter is to make you aware that my client will be closely monitoring your operations. If situations arise that amount to a violation of the Shoreline Management Act or any other local or state law or, could be determined to be a nuisance or trespass in regards to my client's property, we will not hesitate to seek an appropriate remedy.

Thank you.

Very truly yours,

BRICKLIN & NEWMAN, LLP



Julie Ainsworth-Taylor

JAT:pse

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cc: David Wakkure
James Harmon
Joan Johnson
Thurston County Planning Department
Washington Department of Ecology
Susan Macomson

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