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BEFORE THE SHORELINES HEARINGS BOARD
OF THE STATE OF WASHINGTON

COALITION TO PROTECT PUGET
SOUND HABITAT, SUSAN
MACOMSON and LAURA
HENDRICKS

Appellants,

v.

THURSTON COUNTY and
NET@VENTURES INC.

Respondents.

NO.

PETITION FOR REVIEW

1. Identity of Appealing Parties

The appellants are:

Coalition to Protect Puget Sound Habitat
Susan Macomson, member
Laura Hendricks, member

The designated representative for the appellants is:

Laura Hendricks
Coalition To Protect Puget Sound Habitat
Box 228
Vaughn, WA 98494

Application and Permit Decisions

Attached hereto are the following documents as required by WAC 461-08-350:

Exhibit A Net@Ventures Inc. Application for a Shoreline Substantial Development

Permit, Project No. 2011-102333

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Exhibit B Thurston County Hearing Examiner Decision, originally issued January 18, 2013.

Exhibit C Thurston County Board of County Commissioners Decision, issued March 26, 2013

2. A Short and Plain Statement Showing the Grounds Upon Which the Appealing Party Considers the Decisions to be Unjust or Unlawful and a Clear Statement Upon Which the Appealing Party Relies to Sustain the Grounds for the Appeal

The Thurston County Board of County Commissioners (County Commissioners) erred in denying Appellants’ appeal and affirming the Thurston County Hearing Examiner’s decision on the shoreline permit at issue in this appeal. The County Commissions also erred in affirming the Hearing Examiner’s decision regarding mitigation and conditions attached to the permit.

A Shoreline Substantial Development Permit is required for aquaculture operations within Thurston County, SMPTR, Section 1.II.A. WAC 173-27-150 requires any substantial development permit to be consistent with the policies and procedures of the Shoreline Management Act and its implementing regulations and with the Thurston County Shoreline Master Program.

A. During the public hearings before the County Commissioners and the Hearing, the Appellants clearly demonstrated that the geoduck development violates the Shoreline Management Act (SMA) and the Thurston County Shoreline Master Program (TCSMP). These industrialized operations not only cause harm, damage and loss of ecological functions and values of the shorelines, both short-term and long-term, but create water/land marine plastic pollution. Recreational usage of the shoreline will be restricted and these operations pose safety risks for the

1 public. These impacts are viewed both in isolation and cumulatively. Impacts include, but are not
2 limited to the following:

- 3 • There will be harm, damage and loss of Puget Sound natural plant and animal life that
4 are integral components of the natural biodiversity and marine food web.
- 5 • There will be adverse impacts on forage fish and species that rely on forage fish
6 (including endangered salmon). The high intensity of the planted number of geoducks
7 and clams growing in this development will deprive juvenile forage fish of their
8 necessary food source. The geoducks also will consume or otherwise kill a multitude
9 of spawning species eggs and larvae in the intertidal project area including forage fish
10 eggs and larvae. In-water harvesting of geoducks will deplete prey resources and
11 create sediments that are harmful to juvenile salmon. These impacts, individually and
12 cumulatively, will be adverse to forage fish, endangered salmon, and other species.
- 13 • Degrading plastic debris, including small particles of plastic, will be released from the
14 facility into Puget Sound causing adverse impacts on various marine species
15 including, but not limited to forage fish.
- 16 • Degrading plastic netting will decrease biodiversity, increase siltation/sedimentation,
17 increase organic matter, entangle aquatic life as well as pose a safety risk for the
18 public.

19 Yet, despite substantial, scientific-based evidence demonstrating commercial geoduck
20 aquaculture degrades the ecological functions and values of the shoreline environment in direct
21 violation of the Shoreline Management Act, the Commissioners and the Hearing Examiner
22 approved the permit.

23 B. The County Commissioners and the Hearing Examiner erroneously based their
24 approval on unsubstantiated and/or inadequate information.

- 25 • Many of the impacts of a facility of this type on the environment are not well known
26 or studied. Faced with these important data gaps, the County Commissioners should
have required additional studies. Both the County Commissioners and the Hearing
Examiner made their decision before the data gaps were filled in violation of WAC
197-11-080(1).

1 C. The County Commissioners, in affirming the Hearing Examiner, authorized the
2 issuance of a shoreline permit that violates: the Shoreline Management Act, Shoreline Master
3 Program Section 2, V, Regional Criteria (B), Aquacultural Practices Element of the Thurston
4 County Shoreline Master Program and the related development guideline in the Shoreline
5 Management Use Regulations, Section 3 (II), Policy (B) 8. All of these provide that aquacultural
6 operations must be conducted in a manner that precludes damage to specific fragile areas and
7 existing aquatic resources and that such operations must maintain the highest possible levels of
8 environmental quality. While aquaculture may be considered a preferred use of the shoreline
9 according to the SMA and TCSMP, every preferred use shall be permitted only when consistent
10 with control of pollution and prevention of damage to the natural environment.
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14 D. The County Commissioners, by affirming the decision of the Hearing Examiner,
15 failed to properly mitigate for impacts to the shoreline area as to ensure no harm, no loss of
16 ecological function and minimize insofar as practical, any resultant damage to the ecology and
17 environment of the shoreline area and any interference with the public's use of the water.
18

19 E. The County Commissioners erred by approving the Hearing Examiner's decision to
20 not require a condition that should have required the applicant to: Perform a pre-harvest forage
21 fish egg site survey and no harvesting would be allowed when eggs of forage fish were found to
22 be present at or adjacent to the site.
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25 F. The County Commissioners erred by approving the Hearing Examiner's decision to
26 not include a permit condition precluding in-water harvesting. Sediment generated during in-

1 water harvesting is very harmful to juvenile salmon, in particular. The Washington State
2 Department of Natural Resources has prohibited in-water harvesting in areas with less than eight
3 feet of water because of the sediment impacts in shallow water. Harvesting will occur in waters
4 less than this depth.
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7 G. The County Commissioners erred by ignoring cumulative impacts that would arise
8 from this permitted operation that is a natural species rich site. This permit along with permit
9 numbers 2010-100421, 2010-100420 and 2011-104210 were handled as if the environmental and
10 operational issues were nearly identical. While the property leaseholders may be separate, their
11 impacts will be cumulative. Puget Sound shorelines of this proximity do not operate in isolation,
12 the waters, sediment, chemicals, etc to not respect property lines. The impacts of one
13 development will spill outside of its borders. Aquatic life eradicated or displaced from one farm
14 will experience a similar fate at the adjacent farm-pushing them into other areas of the shoreline
15 with domino effects in those areas.
16

17 In Eld Inlet, intensive aquaculture operations for oyster, clam and geoduck have been occurring
18 for decades along the entire shoreline. The Hearing Examiner decision states on page 5 that:
19 “surrounding parcels that range from one to two acres in area; many of them have been
20 developed with residences for at least twenty years.” However, none of the existing aquaculture
21 operations were ever subjected to any type of environmental review so as to determine if the
22 activity would have a detrimental effect on the ecological functions and values of the shoreline.
23 Thus, the historic and future impacts of these operations are simply unknown, especially when
24 these sites are no longer just oysters on a beach, but high intensity geoduck developments. The
25 aquaculture industry within Thurston County continues to convert natural shorelines into
26 intensive operations and unnaturally high shellfish densities with no limit in sight.

1 While these operations are now individually subject to the Shoreline Management Act's
2 regulatory provisions, their cumulative impact, both in relationship to the historic, un-permitted
3 operations and to newly sought operations, must be analyzed to fully understand the effect on the
4 shoreline environment. The Shoreline Management Act recognizes that harm can arise from the
5 cumulative effects of many projects, especially smaller projects in close proximity.

6
7 The Shoreline Management Act makes it clear that there is a need to “prevent the inherent harm”
8 that comes from “uncoordinated and piecemeal development.” RCW 90.58.020. It is this type of
9 development-piecemeal, incremental development-that degrades the shoreline ecosystem by
10 allowing impacts to go unnoticed when they are viewed in isolation. Thus, Ecology’s regulations
11 recognize the interconnectedness of the ecosystem. WAC 173-26-201(2) (c) and require policies
12 and regulations to address the cumulative impacts on shoreline ecological functions. WAC 173-
13 26-201(d) (iii). These same considerations need to be given during the permit approval process
14 and Thurston County failed to adhere to this primary mandate of the Shoreline Management Act.
15 By allowing for review in isolation, the County Commissioners are permitting the degradation of
16 its shorelines on a piecemeal basis-a death incurred by a “thousand cuts”-farm by farm.

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21 Relief Requested

22 The Appellants’ request that the Shoreline Hearing Board rescind the permit because the
23 project, as proposed by applicant and conditioned by Thurston County, does not preclude damage
24 to fragile areas and existing aquatic resources and, thus, violates the policies of the Shoreline
25 Management Act, RCW 90.58.020, Thurston County’s SMP Regional Criteria Section 2, (V) (B)
26 and Thurston County’s Aquacultural Practices Element of the SMP and Development Criteria in
Thurston County’s Shoreline Management Use Regulations, Section 3 (II), Policy (B) 8.

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Dated this 15th day of April, 2013.

COALITION TO PROTECT PUGET SOUND HABITAT,
SUSAN MACOMSON, LAURA HENDRICKS

By: _____
Appellants Representative: Laura Hendricks