



WFWOComments, FW1 <wfwocomments@fws.gov>

WDNR Aquatic Lands HCP DEIS

1 message

David Smith <daversmith1229@hotmail.com>

Mon, Dec 1, 2014 at 7:40 PM

To: WFWOComments@fws.gov

Cc: paul.thorpe@comcast.net

To whom it may concern;

Attached is a response to the WDNR Aquatic Lands proposal. Please consider this email as an official response to the proposal and the Fox Island Yacht Club's objection to the proposal.

THANK YOU

DAVID SMITH

COMMODORE FOX ISLAND YACHT CLUB



Comments to WDNR Aquatic Lands HCP DEIS -1.docx

37K

Fox Island Yacht Club

P. O. Box 1
Fox Island, Washington
98333

December 3, 2014

Mr. Tim Romanski
U.S. Fish and Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

Mr. Scott Anderson
NOAA Fisheries
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

RE: Comments to "Draft Environmental Impact Statement To Analyze Impacts of Issuance by the National Marine Fisheries Service and the U.S. Fish and Wildlife Service of Two Incidental Take Permits under Section 10 of the Endangered Species Act for Implementation of the Washington Department of Natural Resources' Aquatic Lands Habitat Conservation Plan" Commonly known as the "WDNR Aquatic Lands HCP DEIS"

Dear Mr. Romanski and Mr. Anderson:

We are writing this comment letter on behalf of the 350 members of the Fox Island Yacht Club and the many of our brother yacht clubs especially those with marina or other docking/mooring facilities. We are also thinking of the literally millions of recreational boaters in the State of Washington.

While we appreciate the opportunity to comment on the subject DEIS we must state that we have significant concerns with the Draft EIS and the associated Habitat Conservation Plan. In general we feel the document is very incomplete, lacking any real analysis in many cases and expressing a great deal of uncertainty without any quantification. Most discussions of impacts are vague, qualitative presentations and there seems to have been very little real analysis. For example there is no quantitative cost-benefit analysis. Furthermore, the DEIS and the associated HCP (especially Chapter 5) raise a series of alarming questions as to how they might affect recreational boating in Washington and greatly increase costs of marina operators and yacht clubs. While the Fox Island Yacht Club moorage facilities are located on private land we have no doubt that stringent requirements would ultimately affect us (the DEIS admits this on page 4-2, line 6-8). Our assessment of HCP requirements leads us to conclude that if this were to happen the Fox Island Yacht Club and many of the other small and medium Yacht & Boating clubs would likely collapse.

We offer the following specific comments.

Insufficient Time for Public Comment

We urge you to provide more public comment time. The DEIS and HCP took nearly 12 years to develop and the public is given a mere 90 days to comment.

Arbitrary and Conflicting Requirements of Unknown Benefit

There are many requirements discussed in the DEIS that are related to Chapter 5 of HCP. Most of these seem arbitrary in that no analysis is presented as to their relative benefit. For example: why is a 7-foot depth of coverage prescribed to protect plants? What is the relative advantage of 7 feet over say, 4 feet? Why is a 1.5 foot distance prescribed for keeping structures from bottoming? What analysis was carried out to arrive at these numbers? An example of conflicting requirements is described in the bullet on page 4-104 at line 29. Here it requires that habitats be protected from artificial light at night by focusing all light on the dock surface. But in another section we learn that docks should have gratings to let light in. Along with these arbitrary requirements we find that the actual benefits to species is apparently very uncertain and of questionable significance. For example, on page 4-110, line 29 we read that “Reduced impacts to substrates and vegetation in marine areas may result in improved conditions for eggs, larvae, and juveniles of all three species” [i.e., Pacific Herring, Pacific Sand Lance, and Surf Smelt]. *May result in improved conditions?* So there is only some remote chance we will improve conditions and we don’t have any idea how many of these species will be preserved by such possible improvements. Then on lines 32 and 33 it says “reductions in water and sediment quality impacts in marine areas may result in improved conditions for all life stages, albeit to a slight degree”. So another benefit is some remote un-quantified possibility of improved conditions that are slight anyway. This same language (“may result”) can be found throughout the assessment of impacts on species.

In fact the DEIS makes a clear admission that there is no way to really know the effects (beneficial or otherwise) of imposing the draconian provisions of the HCP. On page 4-4, lines 18-20 is the admission of this: “It is not possible, therefore, to make definitive statements about the extent to which any individual measure would address the risk of adverse effects on a particular physical or biological resource.

The above are only a few examples of what is seen throughout the document: arbitrary and sometimes conflicting requirements that seem to have no quantitative bases and result in highly uncertain and un-quantified benefits that are sometimes admitted to be slight. This lack of quantification and lack of a cost-benefit approach is systemic in the DEIS. What is not uncertain in our minds is that these requirements will have significant and sometimes devastating financial impacts on operators of facilities.

Lack of Quantification of Social and Economic Impacts

We are very concerned by the lack of any quantitative assessment of the social and economic impacts of implementing the HCP. The DEIS dismisses the absence of such an analysis by stating in various places that “No information is available to evaluate the potential costs of modifying or moving facilities” (stated under impacts on Recreation on page 4-156, line 31). There is a similar statement to Commerce on page 4-157, line 14.

How is it possible that no information is available? Costs of materials are not available? Labor cost estimates of replacing or moving docks and other structures are not available? How about the loss of employment or income when a marina folds because they cannot afford to comply or there are other shoreline requirements that conflict with the ability to move facilities? We expect the costs, and impact, to be staggering. Some yacht clubs will collapse, their members resigning rather than bearing the cost of compliance. The indirect effects on the economy (boat marketing industries, boat manufacturing, boat yards) could be enormous. Yet no scenarios were evaluated. The closest admission of this problem can be found in the un-quantified statement in Table 4-1, Social and Economic Impacts, column under Alternative 3: “The potential for increased costs to lead to decreases in revenue, jobs, or income in the aquaculture, forestry, recreation, or commerce industries would be limited to counties in western Washington that border or include Puget Sound, the Pacific Ocean, or the lower Columbia River.”

To get an idea of the extent of effect on marinas as an example we looked at Table 3-1 and 3-3. Table 3-1 states that state-owned land in the Near-shore Marine area is 454,938 acres out of a total of 674,184 acres (67%). Table 3-3 states that 74% of state-owned near-shore marine land is used for marinas. This is 336,654 acres which comes to 50% of all near-shore marine land. Thus the HCP impacts marinas sitting on half of near-shore marine land in the State of Washington. That is a lot of marinas, a lot of boats and a lot of economic impact. We doubt there are many marinas in Washington that currently come even close to compliance with the HCP. These marinas are providing moorage for many thousands of vessels. Many of these marinas are providing permanent moorage to yacht club member boats. In some cases the existence of these clubs depends heavily on the fact that they provide such moorage. These yacht clubs are also endangered species in this DEIS.

This DEIS represents possible (currently un-quantified) staggering social and economic impacts to the state for what it admits are highly uncertain benefits. In nearly 12 years of preparation all this DEIS could come up with was “no information is available”. As stated on page 1-9, line 26-30 the purpose of an EIS is to determine the effects of an action on the human environment. This DEIS fails to do that.

This DEIS Over-Reaches the True Need

It seems to us that all of this is quite needless. In the discussion under “Purpose and Need” the criteria are listed for issuance of an ITP. Page 1-8, line 16 states: “The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking.” Webster’s dictionary defines “practicable” as “capable of being effected, done, or executed; feasible”. “Feasible” is defined as “capable of being utilized or dealt with successfully”. The provisions of the HCP are not feasible from an socio-economic standpoint. We are currently living with regulations that already provide ESA protection mechanisms. DNR is significantly exceeding the “do no harm” standard of underlying regulations with more stringent and costly proposed HCP regulations.

Summary

The Fox Island Yacht Club holds preservation of the environment to a very high level – in all we do. Our concern with your unquantified / unqualified plan is that you may not realize the benefits you seek, while compromising, indeed endangering and threatening, the very people who depend on marine commerce and recreation.

We urge that this DEIS and associated HCP be significantly revised so that reasonable alternatives can be provided to help responsible, safe, and law-abiding clubs and marina operators to meet ESA compliance. We urge quantification of the costs and benefits of conceiving such alternatives.

Sincerely,
David Smith, Commodore
Fox Island Yacht Club

David Wemmer, Vice-Commodore and Commodore-Elect
Fox Island Yacht Club



Bremerton Yacht Club

2700 Yacht Haven Way
Bremerton, WA 98312
Phone (360) 479-2662

DEC 03 2014

December 1, 2014

Tim Romanski
U.S. Fish and Wildlife Service
510 Desmond Drive S.E. Suite 102
Lacey, Washington 98503
RE: WDNR Aquatic Lands HCP DEIS

Dear Mr. Romanski:

Thank you for the opportunity to comment on the draft DNR Aquatic Lands Habitat Conservation Plan (HCP). Bremerton Yacht Club supports the need to protect habitats of threatened aquatic species. However, we believe many of the provisions in the draft HCP pertaining to marinas, if implemented as written, would have grave financial consequences and could threaten the long term viability of our marina, while accomplishing little to achieve important conservation goals. In the paragraphs that follow, we identify several provisions in the draft that we believe should be changed to achieve better balance between environmental gains and cost of compliance. First we address two important issues regarding implementation and enforcement of the HCP provisions.

We strongly support the statement in the first paragraph of section 5.2 of the draft HCP stipulating that measures required to meet the conservation goals and objectives be site specific. A one-size-fits-all approach to marina materials and configuration, without due regard for the unique environmental aspects of each marina, and a full recognition of compliance costs vs. benefits, would serve only to place undue financial and operational burdens on marina owners.

Also, where existing marina structures are not in critical habitats, we urge that the final HCP contain provisions explicitly allowing the continued use of existing floats, covered moorage, and boathouses, provided those structures are in good condition, are performing their intended function, and have a significant remaining service life. Our marina constitutes a multi-million dollar asset, and arbitrary requirements to alter its structure or placement, without regard to its current functionality and condition, would be a huge waste of resources and could place our club in financial jeopardy. Many of the provisions of the draft HCP would be acceptable for new construction, but should not be applied to existing structures except in unusually important environmental settings.

Section 5.2.1, Complex and multiple element structures, paragraph 4 of the draft HCP lists requirements for grated surfaces for piers and elevated docks in the littoral area. This paragraph goes on to specify grating requirements for floats, but does not specifically refer to those covering the littoral. We urge that any grating requirements for floats apply only to those covering the littoral area, and then only in instances where threatened species are present. Requiring grating on all floats, regardless of water depth or the presence of threatened species, imposes a large cost burden while achieving questionable environmental benefits. Also, it should be recognized that in certain settings concrete floats play a significant structural role that cannot be achieved with lighter-weight grated floats. In our case, concrete floats on the north part of our marina serve partly as a breakwater, protecting the rest of the marina from wave damage during strong northerly winds. If we were forced to replace existing concrete floats with lighter grated floats, wave protection would be significantly reduced, thus putting the rest of the marina at risk. We recommend that the final HCP allow the continued use of solid floats where they provide breakwater protection in areas outside critical habitats.



We believe paragraph 1 under Section 5.2.1, Complex and multiple element structures, which pertains to scouring by motorized vessels, is ambiguous as written. It appears the 5m buffer zone applies only in instances where aquatic vegetation is present, but the paragraph does not say so explicitly. We strongly recommend that this section be re-written to explicitly refer only to those areas where aquatic plants are present. No minimum water depths should apply to floats in areas where vegetation is absent, except for the requirement that floats or docked boats do not go aground at low tide.

We find Section 5.2.1, Covered moorage, covered watercraft lifts, and boathouses, particularly troubling where it refers to boathouses (or boat sheds in the case of Bremerton Yacht Club). As written, this section stipulates that “no side walls ... are allowed.” This requirement effectively eliminates boat sheds as we know them, as it is difficult to envision them without side walls. In many instances boat sheds derive significant structural support from their sides, not to mention protection for the boats stored inside. Boat sheds with steel or other rigid sides also provide a significant measure of fire protection. Fire in a boat shed with metal sides tends to burn up, not out toward neighboring sheds. Without sides, or with transparent plastic sides, fire could easily spread laterally from shed to shed, and even be fueled by plastic side panels if they were present. Eliminating side walls, or requiring plastic side panels for boat sheds could greatly increase the risk of catastrophic fire throughout the marina.

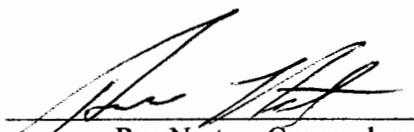
Also under section 5.2.1, the requirement for light transmission through 50% of roofs is acceptable, but compliance should be required only when roof repairs are undertaken by the shed owner, and not tied to expiration of existing authorization in areas not “identified as predicted habitat for covered species or their prey.” Re-roofing is a significant expense, and should not be required on an arbitrary time-line tied to lease authorization.

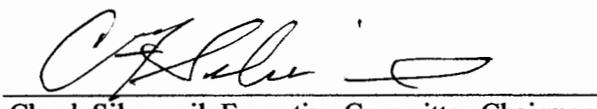
Finally, the requirement in section 5.2.1 that 100 percent of horizontal surfaces be rated by the manufacturer as having 85% light penetration is unclear as written. What surfaces does this refer to? Does this apply to covered moorage only, or also to boat sheds? Does it refer to decking on floats within covered moorage areas? Decking on floats within individual boat houses or sheds? Flooring on lofts within boat sheds? Work benches within boat sheds?

In conclusion, we support efforts to enhance and restore environments of threatened species. We believe, however, that all conservation measures must be selectively and thoughtfully applied on a site-specific basis. With respect to Chapter 5 in particular, we recommend that the timing of compliance in non-critical habitats be tied only to repair or replacement of structures at the end of normal service life. The HCP should recognize the considerable investment by marina owners in existing infrastructure, and we request that all requirements for change be balanced against the costs of implementation.

We would be happy to further expand on these comments or to answer any questions you may have. Again, thank you for the opportunity to give input.

Respectfully,


Ray Norton, Commodore


Chuck Silvernail, Executive Committee Chairman



WFWOComments, FW1 <wfwocomments@fws.gov>

WDNR Aquatic Lands HCP DEIS

1 message

Jim Mitchell <jim.mitchell@spectracf.com>
To: WFWOComments@fws.gov

Wed, Dec 3, 2014 at 3:53 PM

Please find attached comments regarding the above subject. Thank you.

—
Jim Mitchell
Commodore - Meydenbauer Bay Yacht Club
(w) 425-291-4280 (c) 206-399-4279

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 **WDNR Aquatic Lands HCP DEIS 12_14.pdf**
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ON BEAUTIFUL LAKE WASHINGTON

MAIL ADDRESS...PO. BOX 863
BELLEVUE, WASHINGTON 98009

December 3, 2014

Tim Romanski
U.S. Fish and Wildlife Service
510 Desmond Drive S. E. Suite 102
Lacey, Washington 98503
RE: WDNR Aquatic Lands HCP DEIS

Dear Mr. Romanski:

Thank you for the opportunity to comment on the draft DNR Aquatic Lands Habitat Conservation Plan (HCP). Meydenbauer Bay Yacht Club supports the need to protect habitats of threatened aquatic species. However, we believe many of the provisions in the draft HCP pertaining to marinas, if implemented as written, would have grave financial consequences and could threaten the long term viability of many boating clubs and marinas, while accomplishing little to achieve important conservation goals. In the paragraphs that follow, we identify several provisions in the draft that we believe should be changed to achieve better balance between environmental gains and cost of compliance. First we address two important issues regarding implementation and enforcement of the HCP provisions.

We strongly support the statement in the first paragraph of section 5.2 of the draft HCP stipulating that measures required to meet the conservation goals and objectives be site specific. A one-size-fits-all approach to marina materials and configuration, without due regard for the unique environmental aspects of each marina, and a full recognition of compliance costs vs. benefits, would serve only to place undue financial and operational burdens on marina owners.

Also, where existing marina structures are not in critical habitats, we urge that the final HCP contain provisions explicitly allowing the continued use of existing floats, covered moorage, and boathouses, provided those structures are in good condition, are performing their intended function, and have a significant remaining service life. Docks and marinas constitute multi-million dollar assets, and arbitrary requirements to alter their structure or placement, without regard to its current functionality and condition, would be a significant waste of resources and could place many clubs and marinas in financial jeopardy. Many of the provisions of the draft HCP would be acceptable for new construction, but should not be applied to existing structures except in unusually important environmental settings.

Section 5.2.1, Complex and multiple element structures, paragraph 4 of the draft HCP lists requirements for grated surfaces for piers and elevated docks in the littoral area. This paragraph goes on to specify grating requirements for floats, but does not specifically refer to those covering the littoral. We urge that any grating requirements for floats apply only to those covering the littoral area, and then only in instances where threatened species are present. Requiring grating on all floats, regardless of water depth or the presence of threatened species, imposes a large cost burden while achieving questionable environmental benefits. Also, it should be recognized that in certain settings concrete floats play a significant structural role that cannot be achieved with lighter-weight grated floats. In many cases, concrete floats in a marina serve partly as a breakwater, protecting the rest of the marina from wave damage. If forced to replace existing concrete floats with lighter grated floats, wave protection would be significantly reduced, thus putting the rest of the marina at risk. We recommend that the final HCP allow the continued use of solid floats where they provide breakwater protection in areas outside critical habitats.

We believe paragraph 1 under Section 5.2.1, Complex and multiple element structures, which pertains to scouring by motorized vessels, is ambiguous as written. It appears the 5m buffer zone applies only in instances where aquatic vegetation is present, but the paragraph does not say so explicitly. We strongly recommend that this section be re-written to explicitly refer only to those areas where aquatic plants are present. No minimum water depths should apply to floats in areas where vegetation is absent.

We find Section 5.2.1, Covered moorage, covered watercraft lifts, and boathouses, particularly troubling where it refers to boathouses. As written, this section stipulates that "no side walls ... are allowed." This requirement effectively eliminates boat houses or sheds as we know them, as it is difficult to envision these boat sheds without side walls. In many instances boat sheds derive significant structural support from their sides, not to mention protection for the boats stored inside. Boat sheds with steel or other rigid sides also provide a significant measure of fire protection. Fire in a boat shed with metal sides tends to burn upward, not out toward neighboring sheds. Without sides, or with transparent plastic sides, fire could easily spread laterally from shed to shed, and even be fueled by plastic side panels if they were present. Eliminating side walls, or requiring plastic side panels for boat sheds could greatly increase the risk of catastrophic fire throughout the marina.

Also under section 5.2.1, the requirement for light transmission through 50% of roofs is acceptable, but compliance should be required only when roof repairs are undertaken by the shed owner, and not tied to expiration of existing authorization in areas not "identified as predicted habitat for covered species or their prey." Re-roofing is a significant expense, and should not be required on an arbitrary time-line tied to lease authorization.

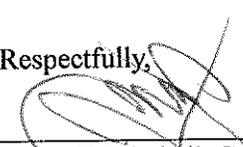
Finally, the requirement in section 5.2.1 that 100 percent of horizontal surfaces be rated by the manufacturer as having 85% light penetration is unclear as written. What surfaces does this refer to? Does this apply to covered moorage only, or also to boat sheds? Does it refer to decking on floats within covered moorage areas? Decking on floats within individual boat houses or sheds? Flooring on lofts within boat sheds? Work benches within boat sheds?

Overall, the financial burdens imposed on the operators of boating clubs and marinas by the implementation of this HCP as written will undoubtedly imperil the long term viability of these operations. For those marinas and clubs able to withstand these costs initially, these costs will eventually be borne by the boating public at large, the majority of whom are middle class and unable to afford such costs. The result will be that recreational boating will continue to price out all but the affluent.

In conclusion, we support efforts to enhance and restore environments of threatened species. We believe, however, that all conservation measures must be selectively and thoughtfully applied on a site-specific basis. With respect to Chapter 5 in particular, we recommend that the timing of compliance in non-critical habitats be tied only to repair or replacement of structures at the end of normal service life. The HCP should recognize the considerable investment by marina owners in existing infrastructure, and we request that all requirements for change be balanced against the costs of implementation.

We would be happy to further expand on these comments or to answer any questions you may have. Again, thank you for the opportunity to give input.

Respectfully,



James E Mitchell, Commodore
Meydenbauer Bay Yacht Club

POULSBO YACHT CLUB

18129 FJORD DRIVE, SUITE T, POULSBO, WA 98370



December 3, 2014

Mr. Tim Romanski
U.S. Fish & Wildlife Service
510 Desmond Drive SE Suite 102
Lacey, WA 98503

U.S. FISH & WILDLIFE SERVICE

WFWO

DEC 05 2014

LACEY, WA

RECEIVED

Mr. Scott Anderson
NOAA Fisheries
510 Desmond Drive SE Suite 102
Lacey, WA 98503

RE: Comments of concern from Poulsbo Yacht Club (PYC) and its affiliated marina managed by the PYC Marina Management Association (MMA) regarding Washington Department of Natural Resources (DNR) Habitat Conservation Plan (HCP) – "WDNR Aquatic Lands HCP Draft Environmental Impact Statement" (DEIS)

Gentlemen:

We are a private, non-discriminatory, boating organization supporting recreational boating for all ages in our home waters of Liberty Bay, greater Puget Sound and beyond. We comply with and actively support good aquatic environmental practices based on existing federal and state regulations. Our marina is maintained to high standards with state of the art systems for waste control/disposal and with emergency spill containment.

Our comments on DEIS and ultimate HCP will undoubtedly echo those you've received from other boating organizations and marinas. The comments are generated from a general feeling of alarm by our members and their families – alarm that the proposed DEIS and following HCP will cause the DNR to devise and enforce new onerous regulations through their tidelands lessor position or through other boating/boat moorage regulations.

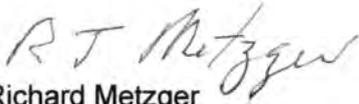
We understand that DNR has a mission to promote marine (boating) commerce and to secure revenue for the State by leasing tidelands. Our reading of the DEIS leads us to believe that DNR will use it as authority to impose a HCP on our club marina and our recreational boater members – one that will severely restrict our activities primarily by imposing environmental regulations that would be virtually impossible to meet financially.

We are more than ready to comply with environmental regulations that are documented as science-based and that take into account the financial limitations of non-profit recreational boating in Washington.

If DNR continues to expand out of its stated mission and purpose to pursue extreme and economically un-tenable environmental regulations – it will ultimately result in the demise of organizations such as ours and the loss of lease, excise tax and other boating related income to the State. Hundreds of boating families participating in our club's boating activities will likely leave the sport for good.

We ask that the final DEIS be based on documented and applicable aquatic science and that the final HCP allow recreational boating organizations such as ours, alternatives to meet reasonable environmental regulations.

Sincerely,



Richard Metzger

Commodore

Poulsbo Yacht Club



Gary Kohler

President

Poulsbo Yacht Club Marina Management Association



WFWOComments, FW1 <wfwocomments@fws.gov>

WDNR Aquatic Lands HCP DEIS

1 message

Dick Jansen <rsjansenconstruction@gmail.com>
To: WFWOComments@fws.gov

Wed, Dec 3, 2014 at 7:52 PM

Mr Tim Romanski
US Fish and Wildlife Service
510 Desmond Drive SE Suite 102
Lacey, WA 98503

Mr Scott Anderson
NOAA Fisheries
510 Desmond Drive SE Suite 102
Lacey, WA 98503

Gentlemen,

My name is Richard Jansen, I am Chairman of the Board for Tyee Yacht Club in Seattle. This Club owns two properties one on Lake Union and one on Eagle Harbor in Bainbridge Island. Our properties are affected by the proposals you have proffered and we feel like there is much to discuss.

At this time, we simply ask for more time to understand the long range impact of the proposals you have put forward. My understanding from RBAW is that you have had years to make this proposal... we feel that 90 days for input does not do this issue justice.

In the interest of expediency, I have signed a copy of the RBAW response to you both and lent our Clubs support to further study and greater understanding. We all share that same love and interest to preserve our Northwest waterways. That is common enough ground to make further study.

I appreciate you hearing me out and would welcome your further comments.

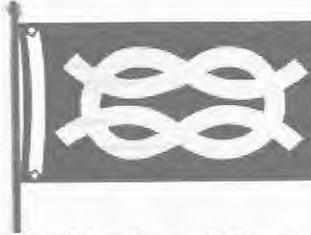
Regards,

Richard S Jansen
Tyee Yacht Club
Board Chairman

206-793-0167
rsjansenconstruction@gmail.com

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1137K

RECREATIONAL BOATING ASSOCIATION of WASHINGTON



Voice of Northwest Boating

*We support this
Letter - Seattle
R. Spang
Tree Yacht Club - Seattle
Chairman of the Board
12-3-14*

November 26, 2014

Mr. Tim Romanski
U.S. Fish & Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

Mr. Scott Anderson
NOAA Fisheries
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

RE Comments and concerns from Recreational Boating Association of Washington (RBAW) on Department of Natural Resources Habitat Conservation Plan – "WDNR Aquatic Lands HCP DEIS"

Dear Mr. Romanski & Mr. Anderson:

We are writing this comment letter on behalf of RBAW, which has been providing service to recreational boaters in the state for 58 years and acts as voice for some 30,000 Washington boaters through both individual memberships and memberships by some 50 boating clubs.

While we appreciate the opportunity to comment on the DNR's Aquatic Lands HCP Draft Environmental Impact Statement (EIS), we must convey that we have significant concerns with the Draft EIS as it now stands. The document, especially the Chapter 5 provisions governing the "Operating Conservation Program," raise a series of alarming questions and concerns in our minds, and would dramatically increase the costs of boathouses and overwater structures. Our concerns are as follows:

- There is insufficient time being given for public comment: We understand the DNR has spent the better part of 12 years working on this HCP, which will have major ramifications and will serve as the first HCP of its kind in the nation. Yet the public is being given a mere 90 days to comment on the document. We would like to reinforce earlier requests you have fielded and urge that the comment period be extended at least two months.
- As a landmark document, this HCP needs to be kept focused on the task at hand – endangered and threatened species: Again, given the precedent-setting nature of this HCP, it is critical it be done right and that it be focused on the task at hand – measures that help protect endangered and threatened species. That is not the case with this Draft EIS. As we understand it, this EIS outline measures to protect 29

species overall, only 14 of which are listed. In other words, more than half the species covered by this Draft ES are not listed as threatened or endangered.

- The new requirements for overwater structures will have a devastating impact on the cost and viability of upgrades or replacements: The practical effects of Chapter 5 will prohibit sidewalls or barriers in boathouses under any circumstances, will enforce new standards based on arbitrary reauthorization dates, and will mandate implementation of new standards even for simple maintenance, repair, or replacement. This will have dramatic and extremely costly impacts. The elimination of boathouse sidewalls, for example, will likely be structurally incompatible with existing boathouse construction, will eliminate lateral fire protection, and will destroy the storage, privacy, and investments made to existing boathouses.
- The implications of requiring boathouse and marine projects to be moved to deeper waters are not well-defined and are not well-known: The natural result of this Draft ES will be to require boathouses and marina facilities to be constructed in deeper waters, and yet the HCP does not define why that is necessary, state what it will achieve, or provide any cost-benefit analysis of this requirement. This will place a significant financial hardship on marina operators throughout the state, many of whom have been operating safely and responsibly for decades.
- Are there less costly and stringent standards that can still allow for ESA compliance?: This document lays out a wide array of very stringent and very costly measures, but gives us very little understanding of whether there are alternatives that can still allow for ESA compliance thresholds to be met.
- Are there already underlying regulations that can afford ESA protection?: From information we have recently received, it is our understanding that there are ESA protection mechanisms within current regulatory structures and that the DNR is significantly exceeding the “do no harm” standard of underlying regulations with more stringent and costly proposed HCP regulations. The proposed HCP aims to recover and restore habitat to un-impacted pre-development condition through blanket prescriptions, a goal that exceeds existing federal and state habitat management goals and regulations.
- DNR may be going beyond its legal authority by factoring these provisions into existing lease renewals and permits: We need to do more follow-up on specific examples provided to us, but we are concerned the DNR may be going outside and beyond its legal authority by taking the provisions from Chapter 5 and making them lease and/or permit conditions with existing Yacht Club renewals. We would like to be shown the authority for DNR as a state agency to enforce provisions from a document that is still in “Draft” status. We are told that the agency is currently implementing conservation measures but we have not seen these, we are not aware of when or how they were developed, and we are not aware of any public process for them.
- DNR is requiring “life span” improvements that extend several decades for Aquatic Lands leases that typically run 12 to 15 years: We question the authority of the DNR to lay out a series of “life span” improvements to overwater structures that will need to be made and that will cover periods of 20-30 years, when in fact the aquatic lands leases the DNR enters into with private marinas and yacht clubs typically run 12-15 years.
- The seven-foot depth requirement at low low water in this HCP is arbitrary, and does not recognize that impacts are minimized when boaters approach overwater structures: This HCP does not provide any clear definitions or rationales for the seven-foot depth requirements in the ES. Nor does it recognize that

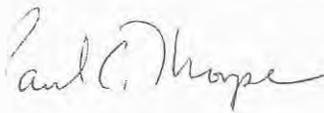
boaters coming into marinas, docks, and boathouses are typically approaching at idling speed and thus causing very minimal impacts.

- Additional greywater management and separation seems to be implied: In at least two places, this document appears to leave the implication that additional greywater management and separation will be required of operators in the future. It is not at all clear to us where DNR has authority to impose such requirements, or why they are necessary. The Department of Ecology, not DNR, has jurisdiction over water quality.
- It is not at all clear how this HCP impacts existing operational and day-to-day activities with operational work windows, or what mitigation requirements will be placed upon operators: It is not at all clear to us what this HCP will do to affect day-to-day operations of marina facilities with operational work windows. Nor are we given clarity as to what mitigation requirements if any will be placed upon longtime marina or boathouse owners who have been operating and acting responsibly in the water for decades.
- Existing operators will be required to complete a survey of forage fish spawning in the area – What triggers such a survey? What will be done with it? This is not at all clear in the document.
- Lack of definition regarding implementation Best Management Practices (BMPs): These are among many provisions that are not well-defined.

In summary, we have major concerns regarding this HCP and what it will mean for overwater structures and breakwaters. We would respectfully urge that more time be afforded the public to comment on such a far-reaching and precedent-setting document. We also urge that the DNR work with us on reasonable alternatives rather than imposing a series of extremely costly standards upon responsible and law-abiding boat clubs and marina operators.

Any questions on details or experiences regarding this issue can be directed to the email function on www.rbaw.org. Thank you for your consideration of our input.

Sincerely,



Paul Thorpe, President

RBAAW



Wayne Gilham, 1st Vice President

RBAAW



WFWOComments, FW1 <wfwocomments@fws.gov>

DNR letter

1 message

ALEX WILSIE <awilsie@msn.com>

Thu, Dec 4, 2014 at 2:54 PM

To: WFWOComments@fws.gov

Mr. Romanski and Anderson, please find attached our letter of concern over the proposed HCP. Thank you....



DNR letter.docx

20K



December 4, 2014

Dear Mr. Tim Romanski and Mr. Scott Anderson,

We are writing this letter on behalf of Tacoma Yacht Club which has been providing membership to recreational boaters for over 100 years in the State of Washington. We appreciate the opportunity to comment as we have significant concerns over DNR's Aquatic lands HCP draft EIS. We specifically would like to address Chapter 5 provisions governing the "operating conservation program" which have the possibility to dramatically impact our members, our club, and our partner clubs in the Puget Sound region. Our concerns:

- There is insufficient time for public comment and many of the required notifications were not made so that entities were aware of this comment period.
- The new requirements for overwater structures will have a devastating impact on the cost and viability of upgrades or replacements. For instance, the removal of boathouse sidewalls will increase the possibility of fire damage, which, could possibly mean the loss of human life and devastating impacts to the environment by having multiple burned, sunken boats.
- The implications of requiring boathouses and marine projects to be moved to deeper waters are not well defined and are not well known based on information in the document.
- There has been no collaboration with recreational boaters and facilities to come to an alternative that meets all party interests. Please also refer to our first concern.
- The HCP is exceeding existing federal and state habitat management goals and regulations. Again, we would like to work collectively.
- Our partner clubs have specific concerns that DNR may be going beyond it's legal authority by factoring these provisions into existing lease renewals and permits.
- The seven foot depth requirement at low low water in the HCP is arbitrary and does not recognize that impacts are minimal when boaters approach overwater structures.

-Greywater management is addressed in the document, which, is under the jurisdiction of DOE—not DNR.

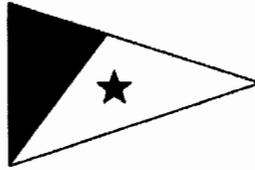
In summary, there are many issues within this HCP document that are very unclear. The impacts to existing, responsible boathouse owners and marina operators that have been operating responsibly for decades, and in our case centuries, is disturbing. We have great pride that our club and marina is a 5 star clean and green marina. We are aware that our basin will not be affected as it is not a DNR leased land but, we support our partner clubs and have interest as 2 of our outstations have minimal DNR leased land under portions of our docks. We look forward to a longer comment period and would urge DNR to work with us and other clubs/organizations to come up with reasonable alternatives. Thank you.

Sincerely,

The Tacoma Yacht Club Board of Trustees

DEC 04 2014

LACEY, WA
RECEIVED



OLYMPIA YACHT CLUB
201 SIMMONS STREET NW
OLYMPIA, WASHINGTON 98501

December 1, 2014

Mr. Tim Romanski
U.S. Fish & Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

Mr. Scott Anderson
NOAA Fisheries
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

RE: Comments and concerns from the Olympia Yacht Club on Department of Natural Resources Habitat Conservation Plan – “WDNR Aquatic Lands HCP DEIS”

Dear Mr. Romanski and Mr. Anderson:

This comment letter is being sent on behalf of the Olympia Yacht Club, the southernmost yacht club in Puget Sound for over 100 years. We have some significant concerns regarding the HCP and what it will mean for overwater structures and breakwaters. This letter will outline those concerns and request that more time be afforded for comment and urge DNR to work with boating communities and organizations in finding reasonable alternatives rather than imposing a series of extremely costly standards for boat clubs.

While we appreciate the opportunity to comment on the DNR’s Aquatic Lands HCP Draft Environmental Impact Statement (EIS), we have significant concerns with the Draft EIS as it now stands. The document, especially the Chapter 5 provisions governing the “Operating Conservation Program”, raises a series of alarming questions and concerns in our minds, and would dramatically increase the costs of boathouses and overwater structures. Our concerns are as follows:

- **There is insufficient time being given for public comment:** We understand the DNR has spent nearly 12 years working on this HCP, which will have major ramification and will serve as the first HCP of its kind in the nation. Yet the public is being given only 90 days to comment on the document. We would like to reinforce earlier requests you have fielded and urge that the comment period be extended at least two months.

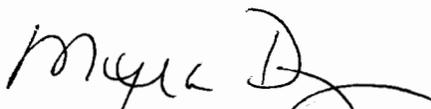
- **As a landmark document, this HCP needs to be kept focused on the task at hand – endangered and threatened species:** Again, given the precedent-setting nature of this HCP, it is critical it be done right and that it be focused on the task at hand – measures that help protect endangered and threatened species. That is not the case with this Draft EIS. As we understand it, this EIS outline measures to protect 29 species overall, only 14 of which are listed. In other words, more than half the species covered by this Draft EIS are *not* listed as threatened or endangered.
- **The new requirements for overwater structures will have a devastating impact on the cost and viability up upgrades or replacements:** The practical effects of Chapter 5 will prohibit sidewalls or barriers in boathouse under any circumstances, will enforce new standards based on arbitrary reauthorization dates, and will mandated implementation of new standards even for simple maintenance, repair, or replacement. This will have dramatic and extremely costly impacts. The elimination of boathouse sidewalls, for example, will likely be structurally incompatible with existing boathouse construction, will eliminate lateral fire protection, and will destroy the storage, privacy, and investments made to existing boathouses.
- **The implications of requiring boathouse and marine projects to be moved to deeper waters are not well-defined and are not well-known:** The natural result of this Draft EIS will be to require boathouses and marina facilities to be constructed in deeper waters, and yet the HCP does not define why that is necessary, state what it will achieve, or provide any cost-benefit analysis of this requirement. This will place a significant financial hardship on our members, who have been operating safely and responsibly for decades.
- **Are there less costly and stringent standards that can still allow for ESA compliance?:** This document lays out a wide array of very stringent and very costly measures, but gives us very little understanding of whether there are alternatives that can still allow for ESA compliance thresholds to be met.
- **Are there already underlying regulations that can afford ESA protection?:** From information we have recently received, it is our understanding that there are ESA protection mechanisms within current regulatory structures and that the DNR is significantly exceeding the “do no harm” standard of underlying regulations with more stringent and costly proposed HCP regulations. The proposed HCP aims to recover and restore habitat to un-impacted pre-development condition through blanket prescriptions, a goal that exceeds existing federal and state habitat management goals and regulations.
- **DNR may be going beyond its legal authority by factoring these provisions into existing lease renewals and permits:** We need to do more follow-up on specific examples provided to us, but we are concerned the DNR may be going outside and beyond its legal authority by taking the provisions from Chapter 5 and making them lease and/or permit conditions with existing Yacht Club renewals. We would like to be shown the authority for DNR as a state agency to enforce provisions from a document that is still in “Draft” status. We are told that the agency is currently implementing conservation measures but we have not seen theses, we are not aware of when our how they were developed, and we are not aware of any public process for them.

- **DNR is requiring “life span” improvements that extend several decades for Aquatic Lands leases that typically run 12 to 15 years:** We question the authority of the DNR to lay out a series of “life span” improvements to overwater structures that will need to be made and that will cover periods of 20-30 years, when in fact the aquatic lands leases the DNR enters into with private marinas and yacht clubs typically run 12-15 years.
- **The seven-foot depth requirement at low low water in this HCP is arbitrary, and does not recognize that impacts are minimized when boaters approach overwater structures:** This HCP does not provide any clear definitions or rationales for the seven-foot depth requirements in the EIS. Nor does it recognize that boaters coming into marinas, docks, and boathouses are typically approaching at idling speed and thus causing very minimal impacts.
- **Additional greywater management and separation seems to be implied:** In at least two places, this document appears to leave the implication that additional greywater management and separation will be required of operators in the future. It is not at all clear to us where DNR has authority to impose such requirements, or why they are necessary. The Department of Ecology, not DNR, has jurisdiction over water quality.
- **It is not at all clear how this HCP impacts existing operational and day-to-day activities with operational work windows, or what mitigation requirements will be placed upon operators:** It is not at all clear to us what this HCP will do to affect day-to-day operations of marina facilities with operational work windows. Nor are we given clarity as to what mitigation requirements if any will be placed upon longtime marina or boathouse owners who have been operating and acting responsibly in the water for decades.
- **Existing operators will be required to complete a survey of forage fish spawning in the area – What triggers such a survey? What will be done with it?** This is not at all clear in the document.
- **Lack of definition regarding implementation Best Management Practices (BMP):** These are among many provisions that are not well-defined.

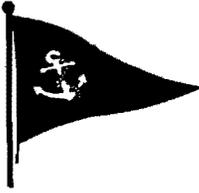
In summary, we have major concerns regarding this HCP and what it will mean for overwater structures and breakwaters. We would respectfully urge that more time be afforded the public to comment on such a far-reaching and precedent-setting document. We also urge that the DNR work with us on reasonable alternatives rather than imposing a series of extremely costly standards upon responsible and law-abiding boat clubs and marina operators.

Thank you for your consideration of our input.

Sincerely,



Myra Downing, Commodore



Port Orchard Yacht Club

POST OFFICE BOX 3
PORT ORCHARD, WA 98366-0003

U.S. FISH & WILDLIFE SERVICE

WFVO

DEC 12 2014

LACEY, WA

RECEIVED

December 17, 2014

Tim Romanski
U.S. Fish and Wildlife Service
510 Desmond Drive S. E. Suite 102
Lacey, Washington 98503
RE: WDNR Aquatic Lands HCP DEIS

Dear Mr. Romanski:

Thank you for extending the opportunity to comment on the draft DNR Aquatic Lands Habitat Conservation Plan (HCP). Port Orchard Yacht Club supports the need to protect the environment of threatened aquatic species and has a history and ongoing relationship in working with the Department of Natural Resources to meet current requirements while maintaining our existing authorized structures. We additionally operate both fixed and portable vessel pump out systems to further ensure that our local waters remain clean. That said, we believe many of the provisions in the draft HCP pertaining to marinas, if implemented as written, would have serious financial consequences and could threaten the long term viability of our yacht club member owned non-profit marina, especially if not factoring in the life cycle of the existing infrastructure, while accomplishing little to achieve important conservation goals.

In a general sense the current permitting processes invoked by the DOE and WDFW take into consideration the federal and ESA concerns and it is unclear why or with what authority the HCP expands or exceeds those technical specifications or adds double the species covered beyond those listed in the ESA. Additionally it appears that the HCP invokes specifications across all structures without consideration for site specific mitigation. For example, the arbitrary depth requirement specified is identified as a buffer to scouring and light transmission for vegetation. The substrate in our marina, both those areas open or shaded, including the adjacent shoreline properties, is a mud bottom with no aquatic plants. After years of operation, bottom areas with vessels and structure are the same as those open to the sky. Little will be achieved through implementation of expensive measures. Also, past permitting has not indicated that our existing marina structures are in critical habitat area, other than migratory and protected through work windows, and that extraordinary measures are not necessary to protect or improve ESA listed species. We strongly recommend that Chapter 5 be re-written to explicitly refer only to those areas where aquatic plants are present. No minimum water depths should apply to floats in areas where vegetation is absent, except for the requirement that floats or docked boats do not go aground at low tide.

Our marina constitutes a multi-million dollar asset, and arbitrary requirements to alter its structure or placement, without regard to its current functionality and condition, would be a huge waste of resources and could place our club in financial jeopardy. Some of the provisions of the draft HCP would be acceptable for new construction, but should not be forcefully applied to existing structures except in unusually important environmental settings not previously defined at our location.

The draft HCP lists requirements for grated surfaces for piers and elevated docks in the littoral area. It goes on to specify grating requirements for floats, but does not specifically refer to those covering the littoral. Our marina utilizes concrete floats that provide a significant structural role in supporting a large common covered area as well as anchoring over 100 boathouses. It should be recognized that in this setting concrete floats play a significant role that may not be achieved with lighter-weight grated floats. Engineered design alternative floats, not considered at this time by the club nor recognized in the HCP to retain the same flotation and lateral structural rigidity, will likely have to be larger and even with grating produce no more light transmission at depth than the existing structure. Any grating areas beyond the littoral area will impose a large cost burden with questionable environmental benefit. Also, in our case, concrete floats on the north part of our marina serve partly as a breakwater, protecting the rest of the marina from wave damage during strong northerly winds. If we were forced to replace existing concrete floats with lighter grated floats, wave protection would be significantly reduced, thus putting the rest of the marina at risk. We recommend that the final HCP allow the continued use of solid floats where they provide breakwater protection in areas outside critical habitats.

Of particular concern to our marina is the HCP provision for boathouses. As written, this section stipulates that "no side walls ... are allowed." This requirement effectively eliminates boat houses as we know them, as it is difficult to envision them without side walls. In many instances boat houses derive significant structural support from their sides, not to mention protection for the boats stored inside. Boat houses with steel or other rigid sides also provide a significant measure of fire protection. Fire in a boat house with metal sides tends to burn up, not out toward neighboring houses. Without sides, or with transparent plastic sides, fire could easily spread laterally from house to house, and even be fueled by plastic side panels if they were present. Eliminating side walls or requiring plastic side panels for boat houses could greatly increase the risk of catastrophic fire spread throughout the marina and the attendant significant increase in resulting hazardous materials and pollution to the waterway.

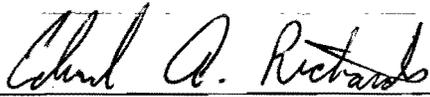
The requirement for light transmission through 50% of roofs although in excess of past permitted modifications is more achievable and less burdensome, but compliance should be required only when complete roof repairs are undertaken and not tied to expiration of existing authorization in areas not "identified as predicted habitat for covered species or their prey." Re-roofing is a significant expense, and should not be required on an arbitrary time-line tied to lease authorization. This is also an example of a standard that is and can be easily applied through existing permitting processes without the additional layer of the HCP.

In conclusion, Port Orchard Yacht Club supports efforts to enhance and restore environments of threatened species through on-going permitting and specifications that are selectively and thoughtfully applied on a site-specific basis and that add no additional harm to the environment.

With respect to Chapter 5 in particular, we recommend that the timing of compliance in non-critical habitats be tied only to major repair or replacement of structures at the end of normal service life and then evaluated and negotiated on a deliberate cost versus benefit basis. The HCP should recognize the considerable investment by marina owners in existing infrastructure, and we request that all requirements for change be balanced against the costs of implementation.

We would be happy to further expand on these comments or to answer any questions you may have. Again, thank you for the opportunity to give input.

Respectfully submitted on behalf of the Port Orchard Yacht Club Board of Trustees



Edward A. Richards, Commodore



Seattle Yacht Club

Established in 1892

U.S. Fish & Wildlife Service

2014

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2014

December 23, 2014

Mr. Tim Romanski
U.S. Fish & Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

Re: Comment on Draft DNR Aquatic Lands Habitat Conservation Plan

Dear Mr. Romanski:

Seattle Yacht Club is writing to express our concerns with the draft HCP regulations that have been issued by the Department of Natural Resources.

Seattle Yacht Club is a large and well established recreational boating presence in the Pacific Northwest. The Club was established in 1892 and has had its Mainstation at the present location on Portage Bay since 1919. The Club, with approximately 2,500 members, maintains a 19,690 square foot clubhouse, together with a separate junior member area and shop building, and a 261 slip marina on Portage Bay. In addition to the Mainstation on Portage Bay, the Club has an auxiliary facility at the Elliott Bay Marina, five outstations with marinas in Washington State, and four outstations with marinas in British Columbia.

The Mainstation is on the National, State, and City registers of historic buildings and its activities include support of traditional cultural practices.

The Club strives to respect and preserve the marine environment and has an enviable record of stewardship. It is designated a Clean Marina of Washington and holds an EnviroStars 5-Star rating.

We support DNR's efforts to improve the quality and economic return of the aquatic lands under its stewardship, but suggest that the draft regulations may have unintended consequences that can be avoided with further review.

Many others affected by the subject draft plan have written to you about their concerns, objections, and constructive suggestions for improvement to the Draft. SYC shares many of those concerns. Additionally we would point out that the proposed requirements regarding such matters as grating, skirting, drainage, sewage, lighting, piling, herbicides, gray water discharges, roofs, water depths, etc., would have major impacts on marina and outstation

operations and capital expenditures, and may dramatically reduce the value of DNR's land. This letter will primarily address two of our most significant issues.

First, what is the effective date of compliance for existing Overwater Structures that are not the subject of proposed improvements or renovations? It needs to be clearly stated. If it is the intention that these proposed rules apply only at the time of lease renewal, origination, improvements, or renovation the applicability of the proposed rules needs to be explicitly spelled out for each circumstance.

Additionally, if DNR contemplates circumstances in which different compliance dates would apply, we need to know what these are. To illustrate the importance of this last point, SYC has plans, years in the making, for major improvements in the immediate future to the pier that rests on DNR bottom lands at the Portage Bay Mainstation. These improvements include code required, Seattle-mandated fire breaks and roof blow out vents. Also, we have planned and budgeted for new roofs, routine piling maintenance and replacement, dock reconfiguration at the west end of the pier, and invasive species suppression, as part of ongoing operations and scheduled capital improvements. The expected cost of these works is in excess of one million dollars and *cannot proceed without certainty about the costs of compliance and the dates of implementation of DNR's proposed rules.*

Applying just one of the marina-related requirements set forth in the Draft HCP to the DNR leased property at the Club would have serious revenue and property value implications for both SYC and DNR. (See Chapter 5, page 5-15, "Covered moorage, covered watercraft lifts, and boathouses") The pier is an aging, covered pier built in the late 1950s on DNR property. Conscientious maintenance and repairs have preserved the value and appeal of the covered structure to the 85 moorage holders.

As mentioned above, we are planning to install code-required fire vents and draft curtains, the work to begin in 2016. Obviously, if the fire code improvements trigger the requirement to remove the slip covers, we would not proceed with the code improvements and would be forced to remove the slip covers by the Seattle Fire Department. Since the rental rate for open slips is less than that for covered slips the revenue stream to the Club would be sharply reduced. This loss of revenue would cause a reduction in the value of the DNR land and necessarily lead to rent reductions. The resulting loss of income from the lease is not consistent with DNR's stewardship responsibilities to the people of the State.

The second point of major concern is the unaddressed economic impact of the draft HCP regulations. The economic impacts on lessees such as the Club are plainly visible and dollar values can be at least approximated. But, have the impact of imposing such rules on the value of DNR's aquatic lands and the sharp reduction of revenues that will inevitably result been considered? Every dollar that a prospective new or renewal tenant must spend to meet a landlord's requirements reduces dollar for dollar what it is willing to pay in rent: ask the owner

of any rental property what goes into a lease negotiation. Does the statutory balance of interests referred to in the draft plan take into adequate account the fiduciary duties that DNR has to the people of Washington State, its public schools, state institutions, and county services? Is this decision about the proper balance between the environment and the financial needs of Washington citizens entirely at the discretion of DNR?

While not saying it is necessarily true of the Club's leased DNR property, the proposed regulations create a risk that current lessees will choose not to renew their leases. In cases where the current lessee is the upland owner, no third party will have overland access to the pier. This will leave DNR with orphaned property, no revenue, and likely saddle DNR with the costs of removing or maintaining those improvements.

One response to this last problem would be to couple with the Conservation Plan authority for DNR to sell aquatic lands to the former lessees or others. Those sale proceeds could then be dedicated to funding the implementation and operation of the Conservation Plan.

It is the Club's view that the proposed regulations require a great deal of additional thought and major revisions. The Club, through its representatives, looks forward to working with you towards an approach which furthers the Plan's worthy goals of protecting the environment from which we obtain so much joy and satisfaction.

Sincerely yours,


Roger Anderson, Commodore
for Seattle Yacht Club

cc: Jack McCullough, McCullough Hill Leary, P.S.



WFWOComments, FW1 <wfwocomments@fws.gov>

WDNR Aquatic Lands HCP DEIS

1 message

Richard McGrew <captainseattle@msn.com>

Tue, Dec 30, 2014 at 8:55 PM

To: WFWOComments@fws.gov

Cc: John & Shirley Rogers <jsrogers2@msn.com>, Dave Bedner <dfbedner@comcast.net>, Mark Vanderwall <tollycraft@hotmail.com>

Mr. Tim Romanski,

I am submitting comments regarding the Department of Natural Resources Habitat Conservation Plan. Please review the attached letter to you and Mr. Scott Anderson.

Best regards,

Richard McGrew

Commoore

Queen City Yacht Club



12-30-2014 Letter to US Fish & Wildlife.pdf

401K



Queen City Yacht Club

2608 BOYER AVE. EAST

SEATTLE, WASHINGTON 98102

(206) 709-2000

December 30, 2014

Mr. Tim Romanski
U.S. Fish & Wildlife Service
510 Desmond Drive SE, Suite 102
Lacey, WA 98503

Mr. Scott Anderson
NOAA Fisheries
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

WFWOComments@fws.gov

**RE: Comments and concerns from Queen City Yacht Club - on Department of Natural Resources
Habitat Conservation Plan -- "WDNR Aquatic Lands HCP DEIS"**

Dear Mr. Romanski & Mr. Anderson:

We are writing this comment letter on behalf of QCYC - Queen City Yacht Club which has been providing an economical path to the sport of "recreational boating" in Washington State for nearly 100 years - *founded 1916*.

Over 1100 member captains and their families utilize and enjoy QCYC's facilities located in Seattle, Washington - Portage Bay; Bainbridge Island, Washington - Eagle Harbor; and Orcas Island, Washington - Deer Harbor.

In Portage Bay we are fortunate that our "Main Station" property - purchased in 1934, and the 229 moorage slip facility in front of it, sits on property that we own and is outside the scope of the Washington Department of Natural Resources Aquatic Lands HCP/DEIS.

However, our outstation docks in Eagle Harbor and leased dock space at "Deer Harbor Resort" are on DNR aquatic lands. Additionally 190 of our member's boats are moored at "outside" marina facilities, the majority of which include DNR leased aquatic lands. We have reciprocal moorage agreements with 69 yacht clubs within the State to utilize their transient moorage facilities. Our members rent transient moorage space from the private marinas, municipal marinas, and resorts, throughout the Salish Sea, as well. Members contract repair and maintenance work at boatyards and service facilities, they buy fuel and sundries, and eventually, they buy and sell their boats at marine brokerages; the majority of which rest on DNR aquatic lands. We have concerns on how

the DNR- Habitat Conservation Plan will impact this \$4.192 Billion recreational boating industry and us along with it.

While we appreciate the opportunity to comment on the DNR's Aquatic Lands HCP Draft Environmental Impact Statement (EIS), we must convey that we have significant concerns with the Draft EIS as it now stands. The document, especially the Chapter 5 provisions governing the "Operating Conservation Program," raises a series of alarming questions and concerns in our minds, and would dramatically increase the costs of boathouses and overwater structures.

Some of our concerns are as follows:

- **There is insufficient time being given for public comment**
- **As a landmark document, this HCP needs to be kept focused on the task at hand – endangered and threatened species**
- **The new requirements for overwater structures will have a devastating impact on the cost and viability of upgrades or replacements**
- **The implications of requiring boathouse and marine projects to be moved to deeper waters are not well-defined and are not well-known**
- **Are there less costly and stringent standards that can still allow for ESA compliance?**
- **Are there already underlying regulations that can afford ESA protection?**
- **The proposed HCP aims to recover and restore habitat to un-impacted pre-development condition through blanket prescriptions: a goal that exceeds existing federal and state habitat management goals and regulations.**
- **DNR may be going beyond its legal authority by factoring these provisions into existing lease renewals and permits**
- **DNR is requiring "life span" improvements that extend several decades for Aquatic Lands leases that typically run 12 to 15 years**
- **The seven-foot depth requirement at low low water in this HCP is arbitrary, and does not recognize that impacts are minimized when boaters approach overwater structures**
- **Additional greywater management and separation seems to be implied**
- **It is not at all clear how this HCP impacts existing operational and day-to-day activities with operational work windows**
- **Existing operators will be required to complete a survey of forage fish spawning in the area**
- **The remaining useful life of structures is not considered**

In summary, we have major concerns regarding this HCP and what it will mean for overwater structures and breakwaters. We would respectfully urge that more time be afforded the public to review and comment on such a far reaching and precedent-setting document.

We also urge that the DNR work with us on reasonable alternatives rather than imposing a series of extremely costly standards upon responsible and law-abiding boat clubs and marina operators.

Any questions on details or experiences regarding this issue can be directed to Commodore@queencity.org

Thank you for your consideration of our input.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard McGrew', with a long horizontal flourish extending to the right.

Richard McGrew, Commodore
Queen City Yacht Club

A handwritten signature in black ink, appearing to read 'Mark Vanderwall', with a long horizontal flourish extending to the right.

Mark Vanderwall, Board Chairman
Queen City Yacht Club

Detail on Our Concerns:

There is insufficient time being given for public comment: We understand the DNR has spent the better part of 12 years working on this HCP, which will have major ramifications and will serve as the first HCP of its kind in the nation. Yet the public is being given a mere 117 days to comment on the document. (*90 + 27 days during the Holidays*) we would like to reinforce earlier requests you have fielded and urge that the comment period be extended at least two more months. **We wish to be given the opportunity to comment on additional aspects of the Washington Department of Natural Resources aquatic lands HCP/DEIS as we review it more thoroughly.*

As a landmark document, this HCP needs to be kept focused on the task at hand – endangered and threatened species: Again, given the precedent-setting nature of this HCP, it is critical it be done right and that it be focused on the task at hand – measures that help protect endangered and threatened species. That is not the case with this Draft EIS. As we understand it, this EIS outline measures to protect 29 species overall, only 14 of which are listed. In other words, more than half the species covered by this Draft EIS are not listed as threatened or endangered.

The new requirements for overwater structures will have a devastating impact on the cost and viability of upgrades or replacements: The practical effects of Chapter 5 will prohibit sidewalls or barriers in boathouses under any circumstances, will enforce new standards based on arbitrary reauthorization dates, and will mandate implementation of new standards even for simple maintenance, repair, or replacement. This will have dramatic and extremely costly impacts. The elimination of boathouse sidewalls, for example, will likely be structurally incompatible with existing boathouse construction, will eliminate lateral fire protection, and will destroy the storage, privacy, and investments made to existing boathouses.

The implications of requiring boathouse and marine projects to be moved to deeper waters are not well-defined and are not well-known: The natural result of this Draft EIS will be to require boathouses and marina facilities to be constructed in deeper waters, and yet the HCP does not define why that is necessary, state what it will achieve, or provide any cost-benefit analysis of this requirement. This will place a significant financial hardship on marina operators throughout the state, many of whom have been operating safely and responsibly for decades.

Are there less costly and stringent standards that can still allow for ESA compliance? This document lays out a wide array of very stringent and very costly measures, but gives us very little understanding of whether there are alternatives that can still allow for ESA compliance thresholds to be met.

Are there already underlying regulations that can afford ESA protection? From information we have recently received, it is our understanding that there are ESA protection mechanisms within current regulatory structures and that the DNR is significantly exceeding the “do no harm” standard of underlying regulations with more stringent and costly proposed HCP regulations.

The proposed HCP aims to recover and restore habitat to un-impacted pre-development condition through blanket prescriptions: a goal that exceeds existing federal and state habitat management goals and regulations.

DNR may be going beyond its legal authority by factoring these provisions into existing lease renewals and permits: We need to do more follow-up on specific examples provided to us, but we are concerned the

DNR may be going outside and beyond its legal authority by taking the provisions from Chapter 5 and making them lease and/or permit conditions with existing Yacht Club renewals. We would like to be shown the authority for DNR as a state agency to enforce provisions from a document that is still in "Draft" status. We are told that the agency is currently implementing conservation measures but we have not seen these, we are not aware of when or how they were developed, and we are not aware of any public process for them.

DNR is requiring "life span" improvements that extend several decades for Aquatic Lands leases that typically run 12 to 15 years: We question the authority of the DNR to lay out a series of "life span" improvements to overwater structures that will need to be made and that will cover periods of 20-30 years, when in fact the aquatic lands leases the DNR enters into with private marinas and yacht clubs typically run 12-15 years.

The seven-foot depth requirement at low low water in this HCP is arbitrary, and does not recognize that impacts are minimized when boaters approach overwater structures: This HCP does not provide any clear definitions or rationales for the seven-foot depth requirements in the EIS. Nor does it recognize that boaters coming into marinas, docks, and boathouses are typically approaching at idling speed and thus causing very minimal impacts.

Additional greywater management and separation seems to be implied: In at least two places, this document appears to leave the implication that additional greywater management and separation will be required of operators in the future. It is not at all clear to us where DNR has authority to impose such requirements, or why they are necessary. The Department of Ecology, not DNR, has jurisdiction over water quality.

It is not at all clear how this HCP impacts existing operational and day-to-day activities with operational work windows, or what mitigation requirements will be placed upon operators: It is not at all clear to us what this HCP will do to affect day-to-day operations of marina facilities with operational work windows. Nor are we given clarity as to what mitigation requirements if any will be placed upon longtime marina or boathouse owners who have been operating and acting responsibly in the water for decades.

Existing operators will be required to complete a survey of forage fish spawning in the area – What triggers such a survey? What will be done with it? This is not at all clear in the document. · Lack of definition regarding implementation Best Management Practices (BMPs): These are among many provisions that are not well-defined.

The remaining useful life of structures is not considered: The schedule for meeting required standards, does not recognize the viability of the structure at the end of a lease. Most commercial leases in this area have been in place for many decades and to ignore the useful life of overwater structures places an unreasonable economic burden on any leaseholder. Many affected businesses cater to the fishing industry, moor large vessels, utilize freight docks as well as marinas of every size that have business plans calling for useful life of structures for more than 20 years. Therefore, we would ask for: a negotiated schedule for structural replacement at the beginning and end of any lease and the ability to span replacements for high dollar value structures over the life of the HCP's 50 year term or at the end of its useful life.



WFWOComments, FW1 <wfwocomments@fws.gov>

WDNR Aquatic Lands HCP DEIS

1 message

Bruce Steel <bsteel@norpoint.com>

Wed, Dec 3, 2014 at 3:48 PM

To: WFWOComments@fws.gov

I just became aware of this proposal by DNR, which, I believe will be extremely detrimental to me personally as well as the Tacoma Yacht Club in which I am a member, and every other yacht club and marina in the State of Washington. I feel that more time for comment should be provided. I personally have significant concerns, particularly related to Chapter 5 which could cause dramatic and intolerable increases in costs.

1. I don't understand how DNR can impose all of these requirements and regulations without some sort of cost-benefit analysis, which I do not see anywhere. I guess they can require anything as long as someone else has to pay for it? What they are requiring would be quite onerous and probably prohibitively expensive for someone like me who owns a boathouse. Some of these boathouses (like mine) cost literally hundreds of thousands of dollars. I'm not allowed to repair it or maintain it? If DNR decides that there is some sort of feeder fish down there they won't renew our lease? They can arbitrarily decide that the boathouse has to be moved off land to deeper water? Where? We are in a man made basin behind a slag pile breakwater. We are talking about millions of dollars in structures and improvements here.

2. DNR intends to prohibit sidewalls or barriers? How can you have a boathouse without sidewalls that support the roof structure? There is no way! I would have to completely disassemble the boathouse and rebuild it. As it cost \$235,000 to build, I am now required to spend another \$200,000 to completely rebuild it? Complete crazyness. How can I protect my boat with no sidewalls? How do I protect it in case of a fire in the boat next door?

3. It is my understanding that DNR is already trying to enforce the provisions of this "Draft" document in their current negotiations with yacht clubs for lease renewals? Under what authority can they do this? It is a DRAFT document!

Please! This document is pushing the threshold of common sense and overreaches by a mile. Surely there are reasonable alternatives that would not be so cost prohibitive. We respectfully request that the document, and particularly Chapter 5 be thoroughly vetted and a cost benefit section added. By the way, everyone knows, particularly the people at the Department of Ecology and Department of Fisheries, that 90% of the problem with endangered and/or threatened sealife is directly related to stormwater runoff and the deadly chemicals released into the waters of Puget Sound. If you are really serious about endangered species, you ought to start there, not with the miniscule effect of a few boathouses and docks. But they won't because it is cost prohibitive and no one has any money to deal with it.

I hope this document requires legislature approval cause all hell will break loose if it does. Thank you for the opportunity to comment.

Bruce Steel

