We are part of a 15 home community just north of the Foss/Taylor Geoduck farm and are opposed to the renewal of the permit based on what we have witnessed in damage to our shoreline, both by copious debris and erosion of the bank and beaches.

We are in support of the following requirements laid down by the hearing examiner, but that Taylor is appealing:
1) We are in support of the limitations on days and times for harvesting

2) We are in support of the concept of a bond & power to revoke a permit if the applicant does not remove all equipment related to aquaculture, however $1.00 per tube does not cover the cost of retrieval, and we and our neighbors are repeatedly searching and finding for debris on adjacent beaches for escaped material. (Show the little net and rubber band covered with barnacles and mussels). Once these become part of the environment, removing them also removes the creatures that have grown on the tubes and other equipment used in the process of this unnatural farming in our designated “Natural Shoreline zone”.

Just yesterday my husband & I took a walk to the North of us, away from the Foss farm, and found a jumbo bag (approx 5’x5’) on the beach that is used for tube carrying and a approximately 60’-100’ x 24” wide hard plastic lattice that was coiled up on the beach. It was tagged with “Seattle Shellfish, LLC” and had two phone numbers on it. At the last meeting, Tris Carlson of Seattle Shellfish testified to the 800 # that he is in charge of, this number was NOT on the tag, nor has it been advertised so that any of our community was aware of the number. I was not moved to call the numbers on the bag. The Aquaculture Debris Hotline is funded by the Pacific Grove Shellfish Assoc. How will there be any correction of the debris problem if it is not reported to the county? This is a biased hotline and if the county is to monitor garbage pickup this should be a county hotline who then records the debris, calls the concerned party to pick it up and then fines the company for not better controlling their garbage. If I were drop a gum wrapper in Pierce County, my littering fine under RCW 7.80.120 would be $250.

RCW 70.93.060
Littering prohibited — Penalties — Litter cleanup restitution payment.
(1) It is a violation of this section to abandon a junk vehicle upon any property. In addition, no person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or her or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(a) When the property is designated by the state or its agencies or political subdivisions for the disposal of garbage and refuse, and the person is authorized to use such property for that purpose;

(b) Into a litter receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any part of the private or public property or waters.

(2)(a) Except as provided in subsection (4) of this section, it is a class 3 civil infraction as provided in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.
(b) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(c) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(d) If a junk vehicle is abandoned in violation of this section, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

(3) If the violation occurs in a state park, the court shall, in addition to any other penalties assessed, order the person to perform twenty-four hours of community restitution in the state park where the violation occurred if the state park has stated an intent to participate as provided in RCW 79A.05.050.

(4) It is a class 1 civil infraction as provided in RCW 7.80.120 for a person to discard, in violation of this section, potentially dangerous litter in any amount.

Notes:

Findings -- 2003 c 337: "(1) The legislature finds that the littering of potentially dangerous products poses a greater danger to the public safety than other classes of litter. Broken glass, human waste, and other dangerous materials along roadways, within parking lots, and on pedestrian, bicycle, and recreation trails elevates the risk to public safety, such as vehicle tire punctures, and the risk to the community volunteers who spend their time gathering and properly disposing of the litter left behind by others. As such, the legislature finds that a higher penalty should be imposed on those who improperly dispose of potentially dangerous products, such as is imposed on those who improperly dispose of tobacco products.

(2) The legislature further finds that litter is a nuisance, and, in order to alleviate such a nuisance, counties must be provided statutory authority to declare what shall be a nuisance, to abate a nuisance, and to impose and collect fines upon parties who may create, cause, or commit a nuisance." [2003 c 337 § 1.]
**RCW 7.80.120**

Monetary penalties — Restitution.

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving potentially dangerous litter as specified in RCW 70.93.060(4) and an infraction of state law involving violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is five hundred dollars;

How is it that Taylor and other shellfish companies are not treated as regular citizens as regards to litter?

Here are photos of the bag and netting, along with the seed sacks that were just found since the last hearing 2 weeks ago. This orange crate was also left behind. How difficult is it to see a bright orange crate and giant sack. This netting has drifted from a distance and should have been secured in a different manner. This garbage is worth what if a 6” diameter PVC tube is valued at $1.

3) Thirdly, we are also in support of the Hearing Examiner’s right to review the permitted activity to examine the impacts caused by the activity. We ask for unbiased scientific study of the shoreline effected by this geoduck farming BEFORE this permit is re-issued. This so called “low pressure” technique of harvesting, liquefies the beach and causes it to erode away UNATURALLY. Other sea life is then destroyed. Taylor showed footage of flounder and other sea life so called “flourishing” among the nursery tubes, (which by the way, the term “nursery tube” implies we are we are opposed to daycares for children or something as valuable). What they didn’t show was a net over the tubes, which drift upward on the incoming tide, trapping sealife when the tide goes out. This also is NOT NATURAL.

These three provisions are currently being challenged by Taylor Shellfish who has appealed the Hearing Examiner’s decision in other Case Inlet permit applications. These conditions are critical for mitigation of impacts on adjacent homeowners.

Other hearing examiners suggestions

**Further comments on proposed interim regulations for Pierce County Shoreline Management Use, Title 20:**

4) Request Section 20.24.030 Uses Permitted (B) regarding Rural and Conservancy Environments be changed to have the same restrictions placed on the Urban /Rural Residential and Natural Environment areas. Why should communities in the Rural and Conservancy Environment be afforded less protection than homeowners in other designated environments?

As drafted, this regulation fails to recognize communities such as ours need protection from a commercial nuisance being permitted on adjacent tidelands. This will eliminate well-documented conflicts between industrial activity and the quiet enjoyment of our homes.

5) 20.24.020 (16) (f) patrolling for only ½ mile is not sufficient to find debris. For example, the net and bag found on Sat. May 19, 2007. Geoduck permit is located south of Joemma Beach State Park, several miles from the spot we found their 60 ft net.
6) 20.24.020 (B) (d) $1.00 per tube will not cover the cost of repeated searches of the beach and tidelands for escaped equipment. As witnessed, we continue to find individual nets and rubber bands far from the Foss farm, even though Taylor has stated they no longer use them. The regulation does not provide for subtidal searches for escaped/abandoned equipment.

This section also allows the tubes, nets, rebar and other material to remain onsite for 2 ½ years. Please review the testimony of Bill Dewey on May 7th. He stated the tubes do not have to be in place for four to five years of the six year crop cycle. The regulation should require removal of tubes within one year of planting, as was proposed by Taylor Shellfish and required under permit SD22-00 – which of course was never enforced by Pierce County despite our complaints.

7) 20.24.020 (B) (e)

The regulation does not provide a penalty for failure to comply with this provision. It will have no real effect; consequently adjacent homeowners will be burdened with picking up the litter of this industry indefinitely.

8) 20.24.020 (B) (h)

This regulation must require the tag include a government hotline number to call to report Geoduck litter.

9) 20.24.020 (B) (i)

This regulation should require WDFW to survey a proposed site to document spawning sites for sand lance, surf smelt and herring. We recently learned from WDFW there is a spawning site approx. ½ mile south of 215th Ave., which places the site on the Foss farm – yet this was overlooked during the permit review by the County in 2000.

10) 20.24.020 (B) (n)

A ten foot set back is meaningless when a commercial Geoduck operation is allowed to plant a mile of Geoduck next to your home. The set back should be determined in relation to the size and scope of the proposed site, proximity to adjacent homes, topography of upland area that affects transmission of sound, prevailing wind and composition of the beach and existing use of adjoining tidelands and upland property.

11) County needs to charge application fees sufficient to fund employment of County staff with the education, skills and expertise to competently assess applications for all known impacts. The concerns raised by Dr. Deither of the University of Washington and Dr. Matthews and Amy Leitman, MS of Marine Surveys and Assessments must be understood by the staff of PALS and taken into consideration in the application review process. (Copies provided)

These issues and concerns must be addressed when the permitted activity is reviewed for compliance. The County must charge sufficient fees to fund personnel with authority to proactively inspect and enforce these regulations, and respond to citizen’s reports of violations by the applicant.

Our experience over the 6+ years since the Foss permit was granted is that debris is not controllable and the applicant does not collect its litter once it escapes.
12) Blanket or cargo nets should not be allowed. (Note they get loose also, as witnessed by you) The large nets float on the incoming tide, and trap sea life on the outgoing tide. The flounder you saw in the Taylor Shellfish presentation on May 7th did not have a net above it as it swam amongst the “habitat tubes”. We have witnessed widespread death of sea life trapped in the large nets.

In the alternative, the County Council should consider issuing a moratorium on all issuance of new permits and immediate review of all existing permits for compliance, pending the outcome of scientific studies recently funded by the State Legislature.

There is no compelling interest in risking irreparable harm to the near shore environment, endangered species such as bald eagles (which we have on our shores) and protected Chinook and Coho salmon and Cut-throat Trout that inhabit Case Inlet and the south Puget Sound.

We believe that at the time the Foss Taylor permit was granted 7 years it was zoned Natural Shoreline. The Foss Taylor farm is currently primarily designated Natural Shoreline, and in attachment” “A to the staff report for the Pierce County Planning Commission it states that under “C” “Natural Environment. Aquaculture operations are limited to fishing and the harvesting of wild and planted stocks for recreation and commercial purposes. Operations which do not involve planting in intertidal areas, the placement of structures or fill in the aquatic or terrestrial environment, or the use of tubes, netting, or other materials placed in intertidal areas will be allowed as a conditional use, upon showing (how has this been shown, or PROVEN with unbiased science) the activity will not substantially change the character of the site or adversely affect natural populations and shall be subject to the Guidelines for Reviewing Substantial Development Permits. Operations involving structural developments are prohibited.”

Below are photos referred to in the testimony.