

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Icicle Acquisitions Subsidiary LLC
dba American Gold Seafoods
c/o Kevin Bright
P. O. Box 669
Anacortes, WA 98221

File No: PL09-0382

Request: Shoreline Permit Modification

Location: Deepwater Bay, at the southeastern end of Cypress Island, on aquatic lands leased from the Washing Department of Natural Resources, within Sec.33, T36N, R1E, and Sec. 4, T35N, R1E, W.M.

Shoreline Designation: Aquatic

Summary of Proposal: To relocate and reposition the existing floating net pen structures at Sites 1 and 2 to deeper water. The new locations will be immediately adjacent to the existing ones, but farther off shore. The new locations will be within the existing lease area which covers a total of approximately 35 acres.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on October 28, 2009.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. Icycle Acquisition Subsidiary, LLC, dba American Gold Seafoods seeks to modify its Shoreline Substantial Development/ Variance Permit (#8-84) in order to relocate two net pens located in Deepwater Bay at the southeastern end of Cypress Island.
2. The pens are located on an aquatic lease from the Department of Natural Resources. (DNR Lease #20-B12157). The relocation will occur within the existing lease areas.
3. The subtidal lands involved lie within Sec. 33, T36N, R1E and Sec 4, T35N, R1E, W.M. The shoreline designation is Aquatic. It is also a Shoreline of Statewide Significance.
4. The original shoreline permit was issued in 1984 for two sites and two floating structures. A variance was also required for storage structures that exceeded the height limitations under the Skagit County Shoreline Master Program (SMP), Section 7.02, Aquaculture, Table AQ.
5. The waters surrounding Cypress Island were designated as an Aquatic Reserve by the DNR in 2007. The management plan allows for continued maintenance and operation of the existing net pen facilities.
6. The requested repositioning of net pens at Sites 1 and 2 will be to deeper water adjacent to their present locations. The repositioned pens will be moored to a new anchoring system. The anchoring equipment at the previous locations will be removed and stored for future use.
7. The two new sites are within the original DNR lease area which was reviewed in connection with shoreline permit #8-84.
8. The new sites will be in water where there is more current and better water circulation through the pens. The repositioned pens were reinforced earlier with heavier steel that can withstand more water force than the original installation. The net pen operations will not change.
9. The new locations are more advantageous for the fish in terms of dissolved oxygen and better for the environment in terms of sediment deposition. The sediments under the existing pen sites are expected to recover their natural condition. Closure monitoring will be required by the Department of Ecology.
10. The proposed change in pen locations is supported by the DNR. The United States Army Corps of Engineers issued letters of permission authorizing the proposed repositioning.

11. The County Shoreline Administrator has determined that the repositioning project is an "insignificant" change, within the scope and intent of the original permit and consistent with current operations, the shoreline environment and the conditions attached to the original permit.

12. Any finding herein which is deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding. SMP 9.13(c).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(3).

3. The determination of the Administrator that the changes sought are "insignificant" allows the application to be processed as a permit revision rather than as a new permit.

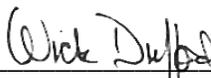
4. The Examiner concurs that the changes sought are within the scope and intent of the original permit. He concludes that they are consistent with the local SMP and the Shoreline Management Act See WAC 173-27-100(1).

5. Any conclusion herein which may be deemed a finding is hereby adopted as such.

DECISION

The proposed revision to Shoreline Permit #8-84 is approved, subject to existing permit conditions and monitoring requirements. The applicant shall implement the project as described in the application materials.

DONE this 13th day of November, 2009



Wick Dufford, Hearing Examiner

APPEAL

Any appeal shall be filed in accordance with the provisions of Section 9.13(d) of the Skagit County Shoreline Master Program.