

From: [BrownScott, Jennifer](#)
To: [Seto, Nanette](#)
Cc: [Kilbride, Kevin](#); [Stenvall, Charlie](#); [Flanders, Bridgette](#); [Garrett, Alice](#); [Thomas, Sue](#)
Subject: Re: [EXTERNAL] SHR2017-00011
Date: Thursday, January 16, 2020 11:44:42 AM

Thank you for your initial thoughts regarding this issue. I thought it might be important to mention that ACE could still enforce their Special Aquatic Site regulations and require the Tribe to locate the farm elsewhere. We will most likely not know their decision for quite a while. If FWS has the funding to create a protocol, collect data and complete analysis outside of the MOU process, then it would be great to get started on protocol development immediately and collect some baseline data. Unfortunately, the Refuge does not have the funding or staffing capacity to take this on without outside assistance.

If the Tribe does get ACE permits for this site, and agreement on procedures for protocol development, data collection and assessment will occur through an MOU process, then we need to make sure that we get buy-in from the Tribe and Audubon on the direction. If we get too far out in front of the MOU process (e.g., appearing to select an entity to create protocols) the Tribe & Audubon may not sign on to our approach simply because they were not involved in the development.

In preparation for MOU discussions (if that is the direction we choose to go), it would be helpful to create a list of potential impacts that should be assessed and any peer reviewed protocols already developed that could assess those impacts. It would also be important to assess whether it is statistically possible to use any existing Refuge survey data as the baseline for any portion of the assessment, even though the collection methods will most likely be different (e.g., different number of surveys, different vantage point). If no peer reviewed study protocols meet our needs, it would be helpful to create a list of folks that we think are best qualified to develop a protocol that could be peer reviewed. Eventually we would also need to figure out who may be available to conduct the assessments, who would be best to provide scientifically rigorous and unbiased statistical analysis of the collected information and, at some point, the costs for those services.

These are just my initial thoughts regarding a path forward. I look forward to your additional guidance and input. Your expertise is greatly appreciated and we know it will help us find the most scientifically rigorous and defensible approach to this complicated issue.

It is nice to know we are not alone in the wilderness.

Hope you are all having a fabulous week.

-jennifer

Jennifer Brown-Scott

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~~*Dungeness NWR~Protection Island NWR~San Juan Islands NWR*~~
~~*Copalis NWR~Flattery Rocks NWR~Quillayute Needles NWR*~~

On Thu, Jan 16, 2020 at 8:57 AM Seto, Nanette <nanette_seto@fws.gov> wrote:

Charlie,

Kevin's suggestion to possibly have an independent entity conduct the monitoring sparked a thought, the Refuge could approach U of W's Coop Unit as they have approached our office several times in wanting to work on more projects. More recently, I believe Jim Unsworth has had meetings with them and likely can help facilitate connecting the Refuge and the Coop Unit. I've cc'd Jim here.

If the Refuge would prefer to do this in house or funding the Coop Unit is an issue, we would be happy to help develop monitoring protocol. Just let us know.

Nanette

On Thu, Jan 16, 2020 at 8:21 AM Kilbride, Kevin <kevin_kilbride@fws.gov> wrote:

Hi, Charlie:

As we discussed, this situation is similar in a number of ways to the taro fencing pilot at Hanalei NWR (2013). We established an agreement with Oregon State Univ (Bruce Dugger) to conduct a study that was done in conjunction with the pilot to address specific questions about impacts. Ultimately, the 1 yr pilot ended and fencing was no longer allowed on the refuge after the Director issued the attached letter (it's suitable for framing in my opinion as it was a monumental decision on behalf of the resource). As described in the letter, the monitoring documented impacts of fencing on endangered waterbirds (see attached report) that played a prominent/key role in the Director's decision to not allow fencing of taro to continue on the refuge at the conclusion of the pilot.

Therefore, I would suggest an independent expert handle the "disturbance" monitoring to assess impacts for Phase 1 aquaculture pilot. Also, the on-going water quality monitoring should be evaluated for its ability to evaluate potential project-specific impacts of Phase 1 to water quality. Keep in mind the Improvement Act states maintaining adequate water quantity and water quality to achieve the Refuge System Mission and refuge purposes; any impacts to water quality on the project site would likely affect the refuge. For the report, it's my understanding DOH is currently conducting baywide water quality monitoring, but I would suggest a risk assessment-based monitoring approach specifically tailored for the project may be needed given the level of scrutiny and the need for high scientific rigor.

Kevin Kilbride
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On Mon, Jan 13, 2020 at 2:50 PM Stenvall, Charlie <charlie_stenvall@fws.gov> wrote:

The decision from the Hearing Examiner on the Jamestown S'Kallam oyster farm within Dungeness NWR has been issued. The specific decision can be found on pages 44 - 46. It isn't what we had hoped but assuming the Tribe can get the ACOE and WDNR permit as well as meet the other conditions, they will have the opportunity to farm five acres for five years within Dungeness NWR as a first phase. In the conditions, the Examiner states the Tribe must enter into a MOU with the Olympic Peninsula Audubon Society and USFWS to monitor the impacts of this action on the Refuge. We will have a small window in which, if there are impacts, be able to document and quantify them. Jennifer and Sue are going to need some help on what protocols will give us the data and information we need to evaluate that either prove or ally our concerns. I suspect there may be differences in what the Tribe would want to do for this level of monitoring and therefore help from Mig Birds and the Regional Refuge biology program will be invaluable. Jennifer is going to be reaching out to ACOE and WDNR and get a sense on how they see their processes going and if they are going to make the MOU a condition for their permit, should they decide to permit this activity. This email is just a heads up that Jennifer will reach out once the timing and effort to develop an MOU are clear. Hopefully we can rally and assist them when the time comes.

Charlie

----- Forwarded message -----

From: **BrownScott, Jennifer** <jennifer_brownscoth@fws.gov>

Date: Mon, Jan 13, 2020 at 8:48 AM

Subject: Fwd: [EXTERNAL] SHR2017-00011

To: Stenvall, Charlie <charlie_stenvall@fws.gov>

FYI. Haven't had time to look at this in depth yet. But it appears that Phase I has been approved with conditions. One of the conditions looks like we are required by the County to enter into an MOU with the Tribe for monitoring and analysis of potential impacts (#9, pg 46). Any thoughts on who could assist us with creating a scientifically defensible disturbance protocol? Analysis of impacts from Phase I would be used to inform potential approval of Phase II.

It would seem to make sense to wait for the ACE decision before creating an MOU or working through the type of surveys and analysis that should be completed. Otherwise, we could be spending a lot of time without knowing if the use will gain final approval. However, the Tribe may want to start discussions right away.

Happy Monday!

-jennifer

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----- Forwarded message -----

From: **Breitbach, Tami** <TBreitbach@co.clallam.wa.us>
Date: Mon, Jan 13, 2020 at 8:10 AM
Subject: [EXTERNAL] SHR2017-00011
To: Breitbach, Tami <TBreitbach@co.clallam.wa.us>
Cc: Ballard, Greg <gballard@co.clallam.wa.us>

Please find attached the Notice of Decision, and Findings of Fact, Conclusions of Law and Decision regarding the above-referenced proposal.

<<NOTICE OF DECISION - JAMESTOWN SHR2017-00011.docx>>

<<Clallam - Jamestown S'Klallam Oyster Farm SSDP-SCUP.pdf>>

Regards,

Tami Breitbach

Administrative Specialist II

Clallam County

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