

**From:** [BrownScott, Jennifer](#)  
**To:** [Morris, Kendal](#)  
**Subject:** Re: Re; Compatibility Determination  
**Date:** Tuesday, July 28, 2020 3:59:35 PM

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I am pretty sure I just received the request from the Tribe in my email...so the sooner I understand the process the better. I have sent them down the wrong road previously - thinking the operation itself would need to go through CD/AU and then having to backtrack when it was determined to be outside our jurisdiction.

I'd like to get headed down the right path from the beginning if possible.

-jennifer

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[~~Dungeness NWR](#)~[Protection Island NWR](#)~[San Juan Islands NWR](#)~[Copalis NWR](#)~[Flattery Rocks NWR](#)~[Quillayute Needles NWR](#)~~

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**From:** Morris, Kendal <kendal\_morris@fws.gov>  
**Sent:** Tuesday, July 28, 2020 3:30 PM  
**To:** BrownScott, Jennifer <jennifer\_brownScott@fws.gov>  
**Subject:** Re: Re; Compatibility Determination  
This is complicated...this week isn't good for me to discuss, I am trying to finish up hunt/fish documents. Is it OK if we resume the conversation next week?

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**From:** BrownScott, Jennifer <jennifer\_brownScott@fws.gov>  
**Sent:** Tuesday, July 28, 2020 3:28 PM  
**To:** Morris, Kendal <kendal\_morris@fws.gov>  
**Subject:** Re: Re; Compatibility Determination  
This might be a discussion best had by phone. Here's the bare bones.

- Aquaculture operation is proposed (not yet permitted) within the Use Easement provided to the Refuge by WA DNR. The Service has taken the position that it is not within our permit authority.
- County/State have permitted 20,000 on-bottom polypropylene oyster bags on 5 acres and on bottom oysters on 29 additional acres.

Because it is likely that following the ESA Sect 7 mitigation measures for debris removal would cause wildlife and habitat impacts within the Refuge, the applicant is required to complete a gear management plan. They will need to include retrieval of oyster bags from Refuge fee title lands within the Refuge's highest use area for migrating shorebirds and wintering waterfowl (normally closed to all public use all year long)

- They will soon be asking for our assistance in drafting this portion of the plan. I am trying to be proactive and figure out what process we need to use to assess this activity request.

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**From:** Morris, Kendal <kendal\_morris@fws.gov>

**Sent:** Tuesday, July 28, 2020 3:17 PM

**To:** BrownScott, Jennifer <jennifer\_brownScott@fws.gov>

**Cc:** Peyton, Bob <bob\_peyton@fws.gov>; Moule, Brett M <brett\_moule@fws.gov>

**Subject:** Re: Re; Compatibility Determination

Is the aquaculture operation occurring within the Refuge--or are they merely requesting access through the Refuge to get to off-Refuge beds? Did the US Army Corps of Engineers and WA Department of Ecology approve the Tribe's permit application for commercial oyster operations within Dungeness National Wildlife Refuge? Or did they withdraw or amend the permit application to be outside the Refuge?

Thanks,

Ken

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**From:** Morris, Kendal

**Sent:** Tuesday, July 28, 2020 2:40 PM

**To:** BrownScott, Jennifer <jennifer\_brownScott@fws.gov>

**Cc:** Peyton, Bob <bob\_peyton@fws.gov>; Moule, Brett M <brett\_moule@fws.gov>

**Subject:** Re; Compatibility Determination

Hi Jennifer,

Your info request was forwarded to me. Lots of changes going on...Bob Peyton is now the Refuge Use System/Compatibility coordinator, so requests on all things compatible go to him. I am in a support role to him, though--and he's on annual leave this week--so yes do cc me.

I would think that this might best be handled as a Special Use permit allowing access. The SUP would define all aspects of access, including things like route, numbers of times per day/week, times of day, boat speeds, and so on to minimize disturbance to wildlife. One question is, is the only route to and from their shellfish beds, through the Refuge? If there are alternative routes, are they feasible?

An EA would be needed if there is potential for significant effects to wildlife and habitat caused by granting this access to closed areas of the Refuge., and there is not Categorical Exclusion that covers this action. We'd need to examine alternatives: at a minimum the Tribe's access proposal and the no action alternative, but potentially other access alternatives (e.g. alternate routes) if any are feasible. The applicant for the SUP (in this case the Tribe) is required to provide us the information needed in order for us to develop an EA. The EA would be prepared along with the Finding of Appropriateness (FOA) and CD and would go through public review at the same time.

Ken