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PROTECT OUR SHORELINE NEWS

Our mission is to protect the habitat of Puget Sound tidelands from the underregulated expansion of new and intensive shellfish aquaculture methods. These methods were never anticipated when the Shoreline Management Act was passed. They are transforming the natural tideland ecosystems in Puget Sound and are resulting in a fractured shoreline habitat. In South Puget Sound much of this has been done with few if any meaningful shoreline permits, limited public input, and with minimal peer-reviewed science. It is exactly what the Shoreline Management Act was intended to prevent.

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Older News: from 2006 to 8/20/10

(This blog evolved from: <http://protectourshoreline.org/>)

FRIDAY, JUNE 28, 2013

Drakes Bay: Integrity in Information Quality Complaints

**Saying something happened
does not mean that it happened.
No matter how many times you say it.**

[Note: In November of 2012, then Secretary Salazar used his agency discretion granted to him and determined Drakes Estero should be allowed to revert to the wilderness congress intended. Drakes Bay Oyster Company's Special Use Permit expired, bringing to an end the right for the only commercial operation in that wilderness area to continue. Since that time, numerous parties have attempted to deflect the attention away from a contractual issue to one of differing opinions on whether data shows a commercial shellfish farm has impacts on the environment. Part of the latter is the focus of this piece.]

Industry Complaints about Information Quality

When complaints about information quality are made by an industry under the "[Information Quality Act](#)" it is a good idea for that industry doing the complaining to be sure the information provided is not lacking in foundation.

A house of cards will fall.

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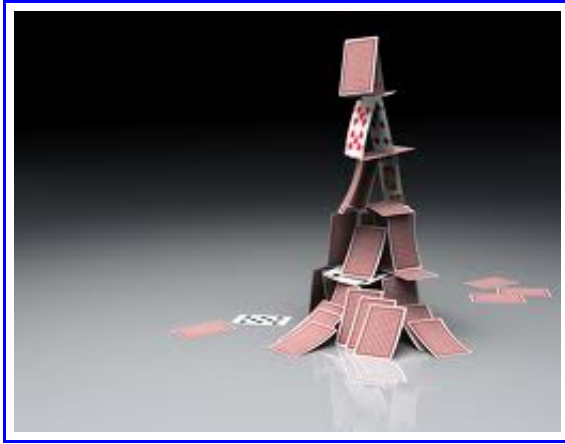
PROTECT OUR SHORELINE

We are a diverse group of shoreline property owners, fishermen, boaters, kayakers, swimmers, wind surfers, environmentalists--all concerned about the expansion of industrial shellfish farming on the shores of Puget Sound, its impacts to natural beaches of the Sound and to the ecosystems that are at risk, including endangered species.

Affiliate groups:

[APHETI](#)

[Case Inlet Shoreline Association
Coalition to Protect Puget Sound](#)



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WHAT'S WRONG WITH THIS PICTURE?



The shellfish industry says this is good for Puget Sound and the more, the better: "We believe the environmental impacts are at worse benign, and at best they're beneficial." --*Diane Cooper, environmental policy manager, Taylor Shellfish. Seattle Times, 10/5/06.*

SALISH SEA VIDEO ON YOUTUBE
See how current practices of the shellfish industry have impacted the beaches of South Puget Sound.

Click on "Salish Sea" after the "play" button for a full screen view.

FOLLOWERS

Recently, the Pacific Coast Shellfish Grower's Association (PCSGA) filed an "information quality complaint" about information used and conclusions reached on the adverse impacts from a commercial shellfish farm operating in Drakes Estero (see below for more information on the Information Quality Act - IQA). In explaining why the complaint is not "moot" as those previously filed by Cause of Action/Corey Goodman and another in 2007 by PCSGA were found to be, they state these conclusions "may still have significant adverse impacts for the shellfish industry and PCSGA members."

Drakes Estero



"...another red flag in a debate where civility and truth have been casualties to strong opinions."
Congressman Huffman (D-CA) 6/19/13 MarinIJ

Where does the truth lie?

In their IQA complaint PCSGA states that "PCSGA members will be harmed" because "there have been at least two cases where the issues raised in the DEIS were used to deny oyster lease applications in Alabama and South Carolina." It is one reason, if not the primary reason PCSGA claims it and the entire shellfish industry is "affected" and why NPS should not consider the complaint moot.

This statement on permit denial is based on a "report" written by the conservative group Cause of Action which notes, on page 30, a letter by Bob Rheault, Executive Director of the East Coast Shellfish Growers Association (ECSGA), written to Kevin and Nancy Lunny, dated January 7, 2013. [Note: Kevin Lunny, owner of DBOC, is also the cousin of Tom Kehoe, ECSGA Vice President.] In that letter, Cause of Action notes Bob Rheault writing, "the issues raised in the DEIS [were] used to quash oyster lease applications-one in Alabama and one in South Carolina." [That letter is within this body of Exhibits, a 45Mb pdf file]

Life of Its Own?

In response to a question from South Carolina, asking where this rumor may have started, Bob Rheault responded on June 24: "No one ever suggested the permits were denied - simply that new concerns were raised - unique concerns that as far as I recall had never been raised in previous applications. ...it has taken a life of its own."

Fabricated statements - intentional or not - that permits have been denied puts the entire complaint in question. On that alone NPS should reject the complaint.

The Information Quality Act: Passed as a rider.



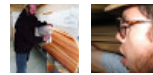
The Information Quality Act (IQA)? (aka the "Data Quality Act" or "Section 515")

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The IQA is described in an [article written in the Naval Law Review](#) (beginning on page 91) which notes it *"was most likely enacted at the behest of industry in an **attempt to hinder environmental rulemaking.**"*

Passed as a [rider](#) in 2000, the IQA was introduced by [Congresswoman Jo Ann Emerson](#) and made part of the Treasury and General Government Appropriations Act of 2001. [Note: Ironically, it was also a rider created by Senator Feinstein which gave the Secretary of the Interior the discretion to decide whether a commercial shellfish operation should continue in a wilderness area based on contractual terms, not on whether science is perfect.] The end result was its requiring agencies to develop policies based on guidelines issued by the Office of Management and Budget to deal with questions about information quality. As with all riders, very little public input was given and little attention was paid to the 227 words which made up Section 515 by those who allowed it to be included.

[Section 515 - the IQA - may be found on page 100 and 101 here.](#)
[The National Park Service's implementation of Section 515 may be found here.](#)

Politics at its best, law not at its best.

Section 515 (aka the IQA) was the result of Lobbyist James Tozzi and was described in the Washington Post as the ["Nemesis of Regulation."](#)

James Tozzi - mastermind of
 the Information Quality Act

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In the Washington Post article it is noted: *"By demanding that government use only data that have achieved a rare level of certainty, these critics maintain, the act dismisses scientific information that in the past would have triggered tighter regulation."*

In an earlier post it was noted that "perfect science" does not exist. Unless you are a professor teaching a class within a university's walls, where the world's realities are filtered out, you do the best with what you have. It will never be "perfect". As a result, with enough money and time anyone may question any scientific conclusion, even in a field in which you have no education.

As noted in the Naval Law Review: *"Many commentators believe the true purpose of the Act is to impede rule making by providing industry with a venue to attack the science on which environmental regulations are based."* Especially if that industry doesn't like the conclusions and feels its economic interests may be threatened, whether based in fact or not.

"Is Affected" is not the same as "May be affected"

In order for an IQA to be accepted and acted on at the National Park Service, one of the requirements is to include, *"A description of how the person submitting the complaint **is affected** by the informational error."* It does not say **"may be affected"**.

In this case, PCSGA misses the mark. They have provided no proof that PCSGA "is affected". They state only that they "may"

be. PCSGA has not been affected by anything, no matter how many times it is said they are. The complaint is moot.

Job Creation for the Wealthy

As for the role of the Information Quality Act, in this case Robert Gellman put it best in 2001 in a piece titled "What? You haven't heard about Section 515?"

"Rumor has it that a lobbyist dreamed up the original idea and sold it to a paying client and a gullible member of Congress. The chief beneficiaries of the new rule will be lobbyists. They will now have a new device for sucking money from clients who don't like the latest bit of data from an agency and who are stupid enough to think that filing a complaint will accomplish something other than enriching the lobbyist."

Insert "attorneys" or "public relations firms" for "lobbyists" and his statement is as true today as it was prescient then.

POSTED BY PROTECT OUR SHORELINE AT 12:54 PM

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