STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

September 15, 2017

Innis Weir
Cooke Aquaculture Pacific, LLC
P.O. Box 79003
Seattle, WA 98119

Order Docket #	15422
Site Location	Cypress Island Site 2, Deepwater Bay

Re: Administrative Order

Dear Innis Weir:

The Department of Ecology (Ecology) has issued the enclosed Administrative Order (Order) requiring Cooke Aquaculture Pacific, LLC to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for the Surface Waters of the State of Washington
- Chapter 173-220 WAC – National Pollutant Discharge Elimination System Permit Program
- NPDES Permit No. WA-003157-7

If you have questions please contact Kessina Lee at 360-407-7666 or kessina.lee@ecy.wa.gov.

Sincerely,

Richard Doenges
Southwest Region Manager
Water Quality Program

Enclosures: Administrative Order Docket #15422

By certified mail: 91 7199 9991 7036 8716 6068

cc: Doug J. Steding, Partner, Environmental & Natural Resources Co-Team Leader

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN ADMINISTRATIVE ORDER AGAINST Cooke Aquaculture Pacific, LLC Innis Weir	)))))	AGREED ORDER DOCKET #15422

To: Innis Weir
Cooke Aquaculture Pacific, LLC
P.O. Box 79003, Seattle WA 98119

Order Docket #	15422
Site Location	Cypress Island Site 2, Deepwater Bay

The Department of Ecology (Ecology) has issued this Administrative Order (Order) requiring Cooke Aquaculture Pacific, LLC, to comply with:

- Chapter 90.48 Revised Code of Washington (RCW) – Water Pollution Control
- Chapter 173-201A Washington Administrative Code (WAC) – Water Quality Standards for the Surface Waters of the State of Washington
- Chapter 173-220 WAC – National Pollutant Discharge Elimination System Permit Program
- NPDES Permit No. WA-003157-7

This Agreed Order is issued pursuant to the authority vested in Ecology by the Federal Water Pollution Control Act (FWPCS), 33 U.S. C. sec 1311, et seq. and Chapter 90.48 RCW.)

RCW 90.48.030 provides that Ecology shall have the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, other surface and underground waters of the state of Washington.

RCW 90.48.120 RCW authorizes Ecology to issue administrative orders requiring compliance whenever it determines that a person has violated or created a substantial potential to violate any provision of Chapter 90.48 RCW or fails to control the polluting content of waste to be discharged to waters of the state.

Cooke Aquaculture Pacific, LLC (Cooke Aquaculture), agrees to undertake all actions required of it by the terms and conditions of this Agreed Order and not to contest Ecology's jurisdiction and authority to administer this Agreed Order. Cooke Aquaculture agrees not to contest this order.

Nothing in this Agreed Order shall in any way relieve Cooke Aquaculture of its obligations to comply with the requirements of its Permit. Nor shall anything in this Agreed Order limit Ecology's authority to enforce the provisions of the aforementioned Permit.

FINDINGS OF FACT

Ecology's determination that a violation/violations has/have occurred is based on the following facts:

Cooke Aquaculture's Cypress Island Site facility is covered under NPDES Permit number WA0031577. Permit condition S1establishes that the discharge of pollutants that cause facilities to discharge at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit. Permit condition S1 also states that the intentional or negligent release of Atlantic salmon to the receiving waters beyond the confines of the net pens is prohibited.

Escaped Atlantic salmon are pollutants.

Permit condition G10 states that the Permittee shall submit to Ecology, within a reasonable time, all information which Ecology may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to Ecology upon request, copies of records required to be kept by this permit.

On July 26, 2017, Cooke Aquaculture notified Ecology that tidal conditions on July 25 caused one or more mooring points to break at Cypress Island Site 2. Cooke Aquaculture reported that the tide and current were significant enough to drag anchors and actually shift the facility. They reported no fish escapes and no spills, and indicated they were working to get the anchors moved back into place and get the lines reattached.

On July 27, 2017, Cooke Aquaculture reported to Ecology that the Cypress Island Site 2 facility was back in its original position, and that anchor lines were being reattached and tensioned up. They reported that divers had been in the water checking the pens, and saw no signs of fish escapes and that mortalities appeared low.

On August 19, 2017, the Cooke Aquaculture facility Cypress Island Site 2, experienced a net pen failure that led to the release of Atlantic salmon. They stated that all equipment had been removed from the site and no fuel or oil spills had occurred. Cooke Aquaculture initially reported the incident to Ecology on August 20, 2017, within 24 hours of becoming aware of the release, related to NPDES permit condition S8. Cooke Aquaculture's initial estimate of the fish release was a minimum of 4,000 to 5,000 fish.

On August 21, 2017, Cooke Aquaculture submitted an Accidental Fish Release Report to Ecology stating that upwards of 4,000 fish may have escaped, but that the final number could not be determined until after the remaining fish were removed from the cages. The report indicated that the fish were adults weighing eight to ten pounds, and that medicated feed was last used at the site on July 23, 2016. The cause of release was reported as "structural damage to pens brought on by the extraordinary strong tidal currents."

On August 21 and 22, 2017, Cooke reported staff had pumped out 5,166 fish into their harvest vessel, transferred the fish to another tender and transported them to a processing plant. No more attempts had been made to pump fish out due to safety concerns about tying the harvest vessel to the structure.

On August 23, 2017, Cooke reported that staff worked on further fish containment efforts of the remaining structures by attaching netting to the accessible areas around the surface of the structure. Lines, floats, and any other small debris that had become dislodged or floating during the day had been removed from the water for proper disposal. The report stated that company personnel were able to attach three anchor lines on the flood side of the cages and one anchor on the shore side to further secure the structure. A Foss tug was on standby and expected to remain on standby until August 25, 2017. Cooke reported that they had retained the services of the professional underwater salvage company, Global Diving and Salvage.

On August 23, 2017, representatives of Ecology's Water Quality Program and Spills Program visited Cypress Island Site 2, accompanied by a representative of Department of Natural Resources, and photographed the site.

Violation(s) description:

- The release of Atlantic salmon into state waters is a violation of RCW 90.48.080: Discharge of polluting matter in waters prohibited.
  It shall be unlawful for any person to throw, drain, run, or otherwise discharge into any of the waters of this state, or to cause, permit or suffer to be thrown, run, drained, allowed to seep or otherwise discharged into such waters any organic or inorganic matter that shall cause or tend to cause pollution of such waters according to the determination of the department, as provided for in this chapter. The release of Atlantic salmon into state waters is a violation of RCW 90.48.080.
- The intentional or negligent release of Atlantic salmon to the receiving waters beyond the confines of the net pens is prohibited (NPDES Permit #WA0031577 section S1). Cooke's release of Atlantic salmon into waters of the state is a violation of Cooke's NPDES Permit.

Corrective actions required:

For these reasons and in accordance with RCW 90.48.120(2) it is ordered that Cooke Aquaculture take the following actions. These actions are required at the location known as Cypress Island Site 2.

Request for Information and Facility Records

On or before October 30, 2017, Cooke Aquaculture must submit the following to Ecology:

i. The original engineering design of the Cypress Island Site 2 facility, including all calculations and modeling of environmental conditions used in the engineering of the facility. The design must address all requirements of Chapter 173-240 of the Washington Administrative Code.
ii. Chronology of structural changes/modifications and relocation/reposition of the facility as well as rationales for each change.
iii. Documentations of all inspections, maintenance, and repairs on the Cypress Island Site 2 facility.
iv. Any maintenance policies, procedures, or schedules that applied to Cypress Island Site 2.
v. A detailed timeline of the incident at Site 2, including both the July 2017 and August 2017 incidents.
vi. An investigation report and design information regarding the July 2017 incident at the Cypress Island Site 2 facility, including a detailed description of the incident, the sequence of events, notification and response procedures activated and a detailed incident causal analysis.
vii. Any remedial measures implemented after the July 2017 incident, including but not limited to structural/mooring system modifications, pen relocation/repositioning, modifications of the operation/maintenance procedures and specifications of the original and replacement structural components employed.
viii. An investigation report and design information regarding the August 2017 incident at the Cypress Island Site 2 facility, including a detailed description of the incident, the sequence of events, notification and response procedures activated and a detailed incident causal analysis, as well as any correlation between the July 2017 and the August 2017 incident.
ix. An inventory of which cages within Site 2 were found breached, and a description of the breaches.
x. A cage by cage inventory of the number of fish lost due to escapement during the August 2017 incident.
xi. A statement as to whether any fish escaped from Site 2 during the July 2017 incident.

These actions are in addition to any follow-up reporting required in the NPDES permit.

This order replaces the request made by Kessina Lee of Ecology's Water Quality Program to Kevin Bright, Cooke Aquaculture Permit Coordinator, via email on August 25, 2017, with a due date of October 13, 2017.

FAILURE TO COMPLY WITH THIS ORDER

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	**Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Kessina Lee
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775

Phone: 360-407-7666
Email: kessina.lee@ecy.wa.gov

MORE INFORMATION

- Pollution Control Hearings Board Website
  www.eho.wa.gov/Boards_PCHB.aspx
- Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board
  http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://app.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://app.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Laws:** www.ecy.wa.gov/laws-rules/ecyrcw.html
- **Rules:** www.ecy.wa.gov/laws-rules/ecywac.html

SIGNATURE

Richard Doenges
Southwest Region Manager
Water Quality Program

Date 9/15/17