

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
DOUG SUTHERLAND, Commissioner of Public Lands

REGION FILE  
OLYMPIA FILE  
20-B12356  
FIELD FILE

AQUATIC LANDS NET PEN LEASE 20-B12356

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**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
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**AQUATIC LANDS NET PEN LEASE**

**AQUATIC LANDS AQUACULTURE LEASE NO. 20-B12356**

THIS LEASE is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and AMERICAN GOLD SEAFOODS, LLC, a Washington Corporation ("Tenant").

**BACKGROUND**

Tenant desires to lease the aquatic lands commonly known as Similk Bay, which are bedlands located in Skagit County, Washington, from State, and State desires to lease the property to Tenant pursuant to the terms and conditions of this Lease.

THEREFORE, the parties agree as follows:

**SECTION 1 PROPERTY**

**1.1 Property Defined.** State leases to Tenant and Tenant leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property"). This Lease is subject to all valid interests of third parties noted in the records of Skagit County, or on file in the office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes. Except to the extent specifically authorized in Subsection 2.1, below, this Lease does not include any right to harvest, collect or damage any natural resource, including aquatic life or living plants, any water rights, or any mineral rights, including any right to excavate or withdraw sand, gravel, or other valuable materials.

State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not unreasonably interfere with Tenant's Permitted Use.

**1.2 Survey, Maps, and Plans.** In executing this lease, State is relying on the surveys, plats, diagrams, and/or legal descriptions provided by Tenant. Tenant is not relying upon and State is not making any representations about any survey, plat, diagram, and/or legal description provided by State. Before taking possession of the Property, Tenant shall have the Property surveyed by a registered land surveyor. The survey map shall be signed and certified by the surveyor. The survey shall be attached to this Lease as Exhibit A.

**1.3 Inspection.** State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Tenant's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property or the existence of hazardous substances on the Property. Tenant has inspected the Property and accepts it "AS IS."

## SECTION 2 USE

**2.1 Permitted Use.** Tenant shall use the Property for Anchorage, maintenance and operation of fish rearing pens for the commercial production of salmon (the "Permitted Use"), and for no other purpose. The Permitted Use is described or shown in greater detail in Exhibit B, the terms and conditions of which are incorporated by reference and made a part of this Lease. If at any time the Property ceases to be used for the Permitted Use, this Lease shall terminate and State may reenter and take possession of the Property.

**2.2 Restrictions on Use.** Tenant shall not cause or permit any damage to natural resources on the Property. Tenant shall also not cause or permit any filling activity to occur on the Property. This prohibition includes any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter in or on the Property, except as approved in writing by State. Tenant shall neither commit nor allow waste to be committed to or on the Property set out in this Subsection 2.2, State shall notify Tenant and provide Tenant a reasonable time to take all steps necessary to remedy the failure. If Tenant fails to do so in a timely manner, than State may take any steps reasonably necessary to remedy this failure. Upon demand by State, Tenant shall pay all costs of such remedial action, including but not limited to the costs of removing and disposing of any material deposited improperly on the Property. This section shall not in any way limit Tenant's liability under Section 8, below.

The prohibitions in this section against damage to natural resources, filling, deposition of any unapproved materials, and waste, shall also apply to protect state-owned aquatic lands adjacent to the Property from any of Tenant's activities related to Tenant's occupation of the Property. All obligations imposed by this section on Tenant to cure any violation of the prohibited activities in this section shall also extend to state-owned aquatic lands adjacent to the Property when the violation arose from Tenant's activities related to Tenant's occupation of the Property.

**2.3 Conformance with Laws.** Tenant shall, at all times, keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding its use or occupancy of the Property.

**2.4 Liens and Encumbrances.** Tenant shall keep the Property free and clear of any liens and encumbrances arising out of or relating to its use or occupancy of the Property, unless authorized by State.

### SECTION 3 TERM

**3.1 Term Defined.** The term of this Lease is Fifteen (15) years (the "Term"), beginning on the 1<sup>st</sup> day of April, (the "Commencement Date"), and ending on the 31<sup>st</sup> day of March, 2022 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

**3.2 Renewal of the Lease.** Tenant shall have the option to renew this Lease for Zero (0) additional terms of Zero (0) years each. The initial Term of this Lease, and all renewal terms, shall not exceed Fifteen (15) years in the aggregate. Tenant shall exercise this option by providing written notice of its election to renew at least ninety (90) days prior to the Termination Date of the initial Term or any renewal term of this Lease. Tenant shall not be entitled to renew if it is in default under the terms of this Lease at the time the option to renew is exercised. The terms and conditions of any renewal term shall be the same as set forth in this Lease, except that rent shall be recalculated, the required amounts of financial security may be revised, and provisions dealing with hazardous waste or impacts to natural resources may be changed at the time of the renewal.

**3.3 Delay in Delivery of Possession.** If State, for any reason whatsoever, cannot deliver possession of the Property to Tenant on the Commencement Date, this Lease shall not be void or voidable, nor shall State be liable to Tenant for any loss or damage resulting from the delay in delivery of possession. In such event, the date of delivery of possession shall be the Commencement Date for all purposes, including the payment of rent. In the event Tenant takes possession before the Commencement Date, the date of possession shall be the Commencement Date for all purposes, including the payment of rent. If the Lease Term commences earlier or later than the scheduled Commencement Date, the Termination Date shall be adjusted accordingly.

**3.4 End of Term.** Upon the expiration or termination of the Term or extended term, as applicable, Tenant shall surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.

**3.5 Hold Over.** If Tenant remains in possession of the Property after the Termination Date, the occupancy shall not be an extension or renewal of the Term. The occupancy shall be a month-to-month tenancy, on terms identical to the terms of this Lease, which may be terminated by either party on thirty (30) days written notice. The monthly rent during the holdover shall be the same rent which would be due if the Lease were still in effect and all adjustments in rent were

made in accordance with its terms. If State provides a notice to vacate the Property prior to termination of this Lease or at any time thereafter and Tenant fails to do so within the time set forth in the notice, then Tenant shall be a trespasser and shall owe State all amounts due under RCW 79.01.760 or other applicable law.

## SECTION 4 RENT

**4.1 Fixed Minimum Annual Payment.** Tenant shall pay State a Fixed Minimum Annual Payment of Twelve Thousand Dollars (\$12,000.00), which shall be due and payable in full on or before the Commencement Date, and on or before the same date of each year thereafter. The fixed minimum annual rent will be adjusted by the Producer Price Index (PPI) (code 2092-224) as published by the US Department of Commerce, Bureau of Labor Statistics. The adjustment is calculated by using the annual average adjustment averaged over the proceeding five years. If publication of the PPI is discontinued, a reliable governmental or other non-partisan publication evaluating the information used in determining the PPI shall be used. If fish are to be grown to final harvest weight, then the following criteria apply:

- (a) The Fixed Minimum Annual Payment for any lease year shall be a credit against Production Payments computed under Subsection 4.2 and due for the same lease year.
- (b) At the end of each quarter Tenant shall compute the Production Payment due under Subsection 4.2 for that quarter. At the end of the quarter in which the aggregate of all the Production Payments thus computed exceeds the Fixed Minimum Annual Payment already paid, Tenant shall pay State an amount equal to the excess. Thereafter, Tenant shall pay in full each quarterly Production Payment computed under Subsection 4.2.
- (c) In the event that the Fixed Minimum Annual Payment for a particular contract year exceeds the sum of Production Payments for that year, Tenant shall not be entitled to a refund. There shall be no carry-backs or carry-forwards of such excess from one contract year to another.

**4.2 Production Payment.** Tenant shall pay State a Production Payment. The Production Payment shall be computed as follows: the total volume in pounds from the then-current quarterly report, times the average price per pound shown on the quarterly report, times the applicable royalty rate, equals the quarterly Production Payment. The applicable royalty rate shall be determined by reference to Exhibit C, attached, which specifies the royalty rate to be applied against any particular average price.

**4.3 Reporting and Payment.** Tenant shall keep accurate records and accounts of all production of Salmon from or on the Property. Tenant shall provide to State, within thirty (30) days following the end of each quarter and on a form acceptable to State, an itemized account of the production for the preceding quarter. The quarterly report shall be submitted by Tenant to the Washington State Department of Fish and Wildlife listing Tenant's fish production. The fish weight reported shall be "Whole." The price used to calculate the Rental Payment in poundage in Exhibit C of this Lease shall be the "Wholesale Price." The average price per pound reported

shall be the average of actual prices received by Tenant during the quarter from Salmon produced from or on the Property. At the time of providing the quarterly report, Tenant shall pay to State the Production Payment due for that quarter in accordance with Subsections 4.1 and 4.2.

**4.4 Payment Place.** Payment is to be made to Financial Management Division. 1111 Washington St SE, PO BOX 47041. Olympia WA 98504-7041.

## SECTION 5 OTHER EXPENSES

During the Term, Tenant shall pay the following additional expenses:

**5.1 Utilities.** Tenant shall pay all fees charged for utilities in connection with the use and occupancy of the Property, including but not limited to electricity, water, gas, and telephone service.

**5.2 Taxes and Assessments.** Tenant shall pay all taxes (including leasehold excise taxes), including Product Leasehold tax set by the Department of Revenue, assessments, and other governmental charges, of any kind whatsoever, applicable or attributable to the Property, Tenant's leasehold interest, the improvements, or Tenant's use and enjoyment of the Property.

**5.3 Right to Contest.** Tenant may, in good faith, contest any tax or assessment at its sole cost and expense. At the request of State, Tenant shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against any loss or liability by reason of such contest.

**5.4 Proof of Payment.** Tenant shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of any amounts required to be paid under the terms of this Lease.

**5.5 Failure to Pay.** If Tenant fails to pay any of the amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with the provision of Section 6.

## SECTION 6 LATE PAYMENTS AND OTHER CHARGES

**6.1 Late Charge.** If any rental payment is not received by State within ten (10) days of the date due, Tenant shall pay to State a late charge equal to four percent (4%) of the amount of the payment or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State as a result of the delay.

**6.2 Interest Penalty for Past Due Rent and Other Sums Owed.** If rent is not received by State within thirty (30) days of the date due, then Tenant shall, in addition to paying the late charges determined under Subsection 6.1, above, pay interest on the amount outstanding at the rate of one percent (1%) per month until paid. If State pays or advances any amounts for or on behalf of Tenant, including but not limited to leasehold taxes pursuant to Chapter 82.29A RCW,



taxes, assessments, insurance premiums, costs of removal and disposal of unauthorized materials pursuant to Section 2 above, costs of removal and disposal of improvements pursuant to Section 7 below, or other amounts not paid when due, Tenant shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Tenant of the payment or advance.

**6.3 No Accord and Satisfaction.** If Tenant pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. In the absence of an election, the payment or receipt shall be applied first to accrued taxes which State has advanced or may be obligated to pay, then to other amounts advanced by State, then to late charges and accrued interest, and then to the earliest rent due. State may accept any payment in any amount without prejudice to State's right to recover the balance of the rent or pursue any other right or remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment shall constitute or be construed as accord and satisfaction.

**6.4 No Counterclaim, Setoff, or Abatement of Rent.** Except as expressly set forth elsewhere in this Lease, rent and all other sums payable by Tenant pursuant to this Lease shall be paid without the requirement that State provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement.

## SECTION 7 IMPROVEMENTS

**7.1 Existing Improvements.** On the Commencement Date, the following improvements are located on the Property: Those improvements authorized by the Permitted Use in subsection 2.1 herein. These improvements are further shown in Exhibit B and are the property of Tenant.

**7.2 New Improvements.** So long as this Lease remains in effect, no new improvements shall be placed on the Property without (a) State's prior written consent, which shall not be unreasonably withheld, and (b) Tenant's acquisition of a performance and payment bond, in an amount equal to 150 % of the estimated cost of constructing and installing the new improvements.

**7.3 Unauthorized Improvements.** Improvements made on the Property without State's prior written consent or which are not in conformance with the plans submitted to and approved by the State ("Unauthorized Improvements") shall immediately become the property of State, unless State elects otherwise. Regardless of ownership of Unauthorized Improvements, State may, at its option, require Tenant to sever, remove and dispose of them, charge Tenant rent for the use of them, or both.

**7.4 Removal of Improvements.** All Tenant-owned improvements and all Unauthorized Improvements shall be removed by Tenant from the Property on or before the Termination Date unless State consents that the improvements may remain. If such improvements remain on the Property after the Termination Date without State's consent, State may elect to remove the

improvements and Tenant shall, upon demand, pay the costs of removing and disposing of them.

## SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

**8.1 Definition.** "Hazardous Substance" means any substance which now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination or cleanup, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, and Washington's Model Toxics Control Act ("MTCA"), RCW 70.105D.010 *et seq.*

**8.2 Use of Hazardous Substances.** Tenant covenants and agrees that Hazardous Substances will not be used, stored, generated, processed, transported, handled, released, or disposed of in, on, under, or above the Property, except in accordance with all applicable laws.

**8.3 Current Conditions, Duty of Utmost Care, and Duty to Investigate.**

- (a) State makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under, or above the Property. With regard to any Hazardous Substances that may exist in, on, under, or above the Property, State disclaims any and all responsibility to conduct investigations, to review any State records, documents or files, or to obtain or supply any information to Tenant.
- (b) Tenant shall exercise the utmost care with respect to both Hazardous Substances in, on, under, or above the Property as of the Commencement Date, and any Hazardous Substances that come to be located in, on, under, or above the Property during the Term of this agreement, along with the foreseeable acts or omissions of third parties affecting those Hazardous Substances, and the foreseeable consequences of those acts or omissions. The obligation to exercise utmost care under this Subsection 8.3 includes, but is not limited to, the following requirements:
  - (1) Tenant shall not undertake activities that will cause, contribute to, or exacerbate contamination of the Property;
  - (2) Tenant shall not undertake activities that damage or interfere with the operation of remedial or restoration activities on the Property or undertake activities that result in human or environmental exposure to contaminated sediments on the Property;
  - (3) Tenant shall not undertake any activities that result in the mechanical or chemical disturbance of on-site habitat mitigation;
  - (4) If requested, Tenant shall allow reasonable access to the Property by employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, or other similar environmental agencies; and
  - (5) If requested, Tenant shall allow reasonable access to potentially liable or responsible parties who are the subject of an order or consent decree which requires access to the Property. Tenant's obligation to provide access to

potentially liable or responsible parties may be conditioned upon the negotiation of an access agreement with such parties, provided that such agreement shall not be unreasonably withheld.

- (c) It shall be Tenant's obligation to gather sufficient information concerning the Property and the existence, scope, and location of any Hazardous Substances on the Property, or adjoining the Property, that allows Tenant to effectively meet its obligations under this lease.

#### **8.4 Notification and Reporting.**

- (a) Tenant shall immediately notify State if Tenant becomes aware of any of the following:
  - (1) A release or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;
  - (2) Any problem or liability related to, or derived from, the presence of any Hazardous Substance in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;
  - (3) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property;
  - (4) Any lien or action with respect to any of the foregoing; or,
  - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.
- (b) Upon request, Tenant shall provide State with copies of any and all reports, studies, or audits which pertain to environmental issues or concerns associated with the Property, and which were prepared for Tenant and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System Permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

#### **8.5 Indemnification.**

- (a) Tenant shall fully indemnify, defend, and hold State harmless from and against any and all claims, demands, damages, natural resource damages, response costs, remedial costs, cleanup costs, losses, liens, liabilities, penalties, fines, lawsuits, other proceedings, costs, and expenses (including attorneys' fees and disbursements), that arise out of, or are in any way related to:
  - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Tenant, its subtenants,

contractors, agents, employees, guests, invitees, or affiliates in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, during the Term of this Lease or during any time when Tenant occupies or occupied the Property or any such other property;

(2) The release or threatened release of any Hazardous Substance, or the exacerbation of any Hazardous Substance contamination, in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, which release, threatened release, or exacerbation occurs or occurred during the Term of this Lease or during any time when Tenant occupies or occupied the Property or any such other property, and as a result of:

- (i) Any act or omission of Tenant, its subtenants, contractors, agents, employees, guests, invitees, or affiliates; or,
- (ii) Any foreseeable act or omission of a third party unless Tenant exercised the utmost care with respect to the foreseeable acts or omissions of the third party and the foreseeable consequences of those acts or omissions.

(b) In addition to the indemnifications provided in Subsection 8.5(a), Tenant shall fully indemnify State for any and all damages, liabilities, costs or expenses (including attorneys' fees and disbursements) that arise out of or are in any way related to Tenant's breach of the obligations of Subsection 8.3(b). This obligation is not intended to duplicate the indemnity provided in Subsection 8.5(a) and applies only to damages, liabilities, costs, or expenses that are associated with a breach of Subsection 8.3(b) and which are not characterized as a release, threatened release, or exacerbation of Hazardous Substances.

**8.6 Cleanup.** If a release of Hazardous Substances occurs in, on, under, or above the Property, or other State-owned property, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall, at its sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances. Cleanup actions shall include, without limitation, removal, containment and remedial actions and shall be performed in accordance with all applicable laws, rules, ordinances, and permits. Tenant's obligation to undertake a cleanup under this Subsection 8.6 shall be limited to those instances where the Hazardous Substances exist in amounts that exceed the threshold limits of any applicable regulatory cleanup standards. Tenant shall also be solely responsible for all cleanup, administrative, and enforcement costs of governmental agencies, including natural resource damage claims, arising out of any action, inaction, or event described or referred to in Subsection 8.5, above. Tenant may undertake a cleanup pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that: (1) Any cleanup plans shall be submitted to State (DNR) for review and comment at least thirty (30) days prior to implementation (except in emergency situations), and (2) Tenant must not be in breach of this lease. Nothing in the operation of this provision shall be construed as an agreement by State that the voluntary cleanup complies with any laws or with the provisions of this Lease.

**8.7 Sampling by State, Reimbursement, and Split Samples.**

- (a) State may conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances on the Property, any adjoining property, any other property subject to use by Tenant in conjunction with its use of the Property, or any natural resources. If such Tests, along with any other information, demonstrates the existence, release, or threatened release of Hazardous Substances arising out of any action, inaction, or event described or referred to in Subsection 8.5, above, Tenant shall promptly reimburse State for all costs associated with such Tests.
- (b) State's ability to seek reimbursement for any Tests under this Subsection shall be conditioned upon State providing Tenant written notice of its intent to conduct any Tests at least thirty (30) calendar days prior to undertaking such Tests, unless such Tests are performed in response to an emergency situation in which case State shall only be required to give such notice as is reasonably practical.
- (c) Tenant shall be entitled to obtain split samples of any Test samples obtained by State, but only if Tenant provides State with written notice requesting such samples within twenty (20) calendar days of the date Tenant is deemed to have received notice of State's intent to conduct any non-emergency Tests. The additional cost, if any, of split samples shall be borne solely by Tenant. Any additional costs State incurs by virtue of Tenant's split sampling shall be reimbursed to State within thirty (30) calendar days after a bill with documentation for such costs is sent to Tenant.
- (d) Within thirty (30) calendar days of a written request (unless otherwise required pursuant to Subsection 8.4(b), above), either party to this Lease shall provide the other party with validated final data, quality assurance/quality control information, and chain of custody information, associated with any Tests of the Property performed by or on behalf of State or Tenant. There is no obligation to provide any analytical summaries or expert opinion work product.

**8.8 Reservation of Rights.** The parties have agreed to allocate certain environmental risks, liabilities, and responsibilities by the terms of Section 8. With respect to those environmental liabilities covered by the indemnification provisions of Subsection 8.5, that subsection shall exclusively govern the allocation of those liabilities. With respect to any environmental risks, liabilities, or responsibilities not covered by Subsection 8.5, the parties expressly reserve and do not waive or relinquish any rights, claims, immunities, causes of action, or defenses relating to the presence, release, or threatened release of Hazardous Substances in, on, under, or above the Property, any adjoining property, or any other property subject to use by Tenant in conjunction with its use of the Property, that either party may have against the other under federal, state, or local laws, including but not limited to, CERCLA, MTCA, and the common law. No right, claim, immunity, or defense either party may have against third parties is affected by this Lease and the parties expressly reserve all such rights, claims, immunities, and defenses. The allocations of risks, liabilities, and responsibilities set forth above do not release either party from, or affect either party's liability for, claims or actions by federal, state, or local regulatory agencies concerning Hazardous Substances.

## SECTION 9 ASSIGNMENT AND SUBLETTING

**9.1 State Consent Required.** Tenant shall not sell, convey, mortgage, assign, pledge, sublet, or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or the Property without State's prior written consent, which shall not be unreasonably conditioned or withheld.

- (a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. Tenant shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.
- (b) State reserves the right to condition its consent upon (1) changes in the terms and conditions of this Lease, including the Annual Rent and other terms; and/or (2) the agreement of Tenant or transferee to conduct Tests for hazardous substances on the Property or on other property owned or occupied by Tenant or the transferee.
- (c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Tenant.

**9.2 Event of Assignment.** If Tenant is a corporation, a dissolution of the corporation or a transfer (by one or more transactions) of a majority of the voting stock of Tenant shall be deemed to be an assignment of this Lease. If Tenant is a partnership, a dissolution of the partnership or a transfer (by one or more transactions) of the controlling interest in Tenant shall be deemed an assignment of this Lease.

**9.3 Rent Payments Following Assignment.** The acceptance by State of the payment of rent following an assignment or other transfer shall not constitute consent to any assignment or transfer.

**9.4 Terms of Subleases.** All subleases shall be submitted to State for approval and shall meet the following requirements:

- (a) The sublease shall be consistent with and subject to all the terms and conditions of this Lease;
- (b) The sublease shall confirm that if the terms of the sublease conflict with the terms of this Lease, this Lease shall control;
- (c) The term of the sublease (including any period of time covered by a renewal option) shall end before the Termination Date of the initial Term or any renewal term;
- (d) The sublease shall terminate if this Lease terminates, whether upon expiration of the Term, failure to exercise an option to renew, cancellation by State, surrender or for any other reason;
- (e) The subtenant shall receive and acknowledge receipt of a copy of this Lease;
- (f) The sublease shall prohibit the prepayment to Tenant by the subtenant of more

- than one month's rent;
- (g) The sublease shall identify the rental amount to be paid to Tenant by the subtenant;
- (h) The sublease shall confirm that there is no privity of contract between the subtenant and State;
- (i) The sublease shall require removal of the subtenant's improvements and trade fixtures upon termination of the sublease; and,
- (j) The subtenant's permitted use shall be within the Permitted Use authorized by this Lease.

## SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

**10.1 Indemnity.** Tenant shall indemnify, defend, and hold harmless State, its employees, officers, and agents from any and all liability, damages (including bodily injury, personal injury and damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees), penalties, or judgments, of any nature whatsoever, arising out of the use, occupation, or control of the Property by Tenant, its subtenants, invitees, agents, employees, licensees, or permittees, except as may arise solely out of the willful or negligent act of State or State's elected officials, employees, or agents. To the extent that RCW 4.24.115 applies, Tenant shall not be required to indemnify, defend, and hold State harmless from State's sole or concurrent negligence. Tenant's liability to State for hazardous substances, and its obligation to indemnify, defend, and hold the State harmless for hazardous substances, shall be governed exclusively by Section 8.

### 10.2 Financial Security.

- (a) At its own expense, Tenant shall procure and maintain a corporate surety bond or provide other financial security satisfactory to State (the "Bond") in an amount equal to Twenty Five Thousand Dollars (\$25,000.00), which shall secure Tenant's full performance of its obligations under this Lease, with the exception of the obligations under Section 8 (Environmental Liability/Risk Allocation) above. The Bond shall be in a form and issued by a surety company acceptable to State. State may require an adjustment in the amount of the Bond:
  - (1) At the same time as any change in the payment or payments required under Section 4;
  - (2) As a condition of approval of assignment or sublease of this Lease; or,
  - (3) Upon a change in the Permitted Use.

A new or modified Bond shall be delivered to State within thirty (30) days after adjustment of the amount of the Bond has been required by State.

- (b) Upon any default by Tenant in its obligations under this Lease, State may collect on the Bond to offset the liability of Tenant to State. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of State's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

**10.3 Insurance.** At its own expense, Tenant shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in Subsections 10.3(a) and (b) below. This insurance shall be issued by an insurance company or companies admitted and licensed by the Insurance Commissioner to do business in the State of Washington. Insurers must have a rating of B+ or better by "Best's Insurance Reports," or a comparable rating by another rating company acceptable to State. If non-admitted or non-rated carriers are used, the policies must comply with Chapter 48.15 RCW.

(a) Types of Required Insurance.

- (1) Commercial General Liability Insurance. Tenant shall procure and maintain Commercial General Liability insurance and, if applicable, Marina Operators Legal Liability insurance covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Tenant's operations. If necessary, commercial umbrella insurance covering claims for these risks shall be procured and maintained. Insurance must include liability coverage with limits not less than those specified below:

Description:

Each Occurrence	\$1,000,000.00
General Aggregate Limit	\$2,000,000.00

State may impose changes in the limits of liability:

- (i) As a condition of approval of assignment or sublease of this Lease;
- (ii) Upon any breach of Section 8, above;
- (iii) Upon a material change in the condition of the Property or any improvements; or,
- (iv) Upon a change in the Permitted Use.

New or modified insurance coverage shall be in place within thirty (30) days after changes in the limits of liability are required by State.

- (2) Worker's Compensation/Employer's Liability Insurance. Tenant shall procure and maintain:
- (i) State of Washington Worker's Compensation coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements;
  - (ii) Employers Liability or "Stop Gap" insurance coverage with limits not less than those specified below. Insurance must include bodily injury coverage with limits not less than those specified below:

	Each Employee	Policy Limit
By Accident	By Disease	By Disease
\$1,000,000	\$1,000,000	\$1,000,000



- (iii) Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by Tenant's employees on or about the Property and on any improvements.
  - (3) Property Insurance. Tenant shall procure and maintain property insurance covering all real property located on or constituting a part of the Property in an amount equal to the replacement value of all improvements on the Property. Such insurance may have commercially reasonable deductibles.
  - (4) Builder's Risk Insurance. As applicable, Tenant shall procure and maintain builder's risk insurance in an amount reasonably satisfactory to State during construction, replacement, or material alteration of the Property or improvements on the Property. Coverage shall be in place until such work is completed and evidence of completion is provided to State.
- (b) Terms of Insurance. The policies required under Subsection 10.3 shall name the State of Washington, Department of Natural Resources as an additional insured (except for State of Washington Worker's Compensation coverage, and Federal Jones' Act and Longshore and Harbor Worker's Act coverages). Furthermore, all policies of insurance described in Subsection 10.3 shall meet the following requirements:
- (1) Policies shall be written as primary policies not contributing with and not in excess of coverage that State may carry;
  - (2) Policies shall expressly provide that such insurance may not be cancelled or non-renewed with respect to State except upon forty-five (45) days prior written notice from the insurance company to State;
  - (3) All liability policies must provide coverage on an occurrence basis;
  - (4) Liability policies shall not include exclusions for cross liability.
- (c) Proof of Insurance. Tenant shall furnish evidence of insurance in the form of a Certificate of Insurance satisfactory to the State accompanied by a checklist of coverages provided by State, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements described in section 10, and, if requested, copies of policies to State. The Certificate of Insurance shall reference the State of Washington, Department of Natural Resources and the lease number. Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies. Tenant acknowledges that the coverage requirements set forth herein are the minimum limits of insurance the Tenant must purchase to enter into this agreement. These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these limits of coverage does not relieve the Tenant from liability for losses and settlement expenses greater than these amounts.

**10.4 State's Acquisition of Insurance.** If Tenant fails to procure and maintain the insurance described above within fifteen (15) days after Tenant receives a notice to comply from State, State shall have the right to procure and maintain comparable substitute insurance and to pay the

premiums. Tenant shall pay to State upon demand the full amount paid by State, together with interest at the rate provided in Subsection 6.2 from the date of State's notice of the expenditure until Tenant's repayment.

## **SECTION 11 MAINTENANCE AND REPAIR**

**11.1 State's Repairs.** State shall not be required to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

**11.2 Tenant's Repairs, Alteration, Maintenance and Replacement.**

- (a) Tenant shall, at its sole cost and expense, keep and maintain the Property and all improvements (regardless of ownership) in good order and repair, in a clean, attractive, and safe condition.
- (b) Tenant shall, at its sole cost and expense, make any and all additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any improvements on the Property which may be required by any public authority.
- (c) All additions, repairs, alterations, replacements or changes to the Property and to any improvements on the Property shall be made in accordance with, and ownership shall be governed by, Section 7, above.

## **SECTION 12 DAMAGE OR DESTRUCTION**

- (a) In the event of any damage to or destruction of the Property or any improvements, Tenant shall promptly give written notice to State. Unless otherwise agreed in writing, Tenant shall promptly reconstruct, repair, or replace the Property and any improvements as nearly as possible to its condition immediately prior to the damage or destruction.
- (b) Tenant's duty to reconstruct, repair, or replace any damage or destruction of the Property or any improvements on the Property shall not be conditioned upon the availability of any insurance proceeds to Tenant from which the cost of repairs may be paid.
- (c) Unless this Lease is terminated by mutual agreement, there shall be no abatement or reduction in rent during such reconstruction, repair, and replacement.
- (d) Any insurance proceeds payable by reason of damage or destruction shall be first used to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Tenant.
- (e) In the event Tenant is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State shall then have the right to retain any and all insurance proceeds payable as a result of the damage or destruction.

## SECTION 13 CONDEMNATION

### 13.1 Definitions.

- (a) **Taking.** The term "taking," as used in this Lease, means the taking of all or any portion of the Property and any improvements thereon under the power of eminent domain, either by judgment or settlement in lieu of judgment. Taking also means the taking of all or a portion of the Property and any improvements thereon to the extent that the Permitted Use is prevented or, in the judgment of State, the Property is rendered impractical for the Permitted Use. A total taking occurs when the entire Property is taken. A partial taking occurs when the taking does not constitute a total taking as defined above.
- (b) **Voluntary Conveyance.** The terms "total taking" and "partial taking" shall include a voluntary conveyance, in lieu of formal court proceedings, to any agency, authority, public utility, person, or corporate entity empowered to condemn property.
- (c) **Date of Taking.** The term "date of taking" shall mean the date upon which title to the Property or a portion of the Property passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

**13.2 Effect of Taking.** If during the Term there shall be a total taking, the leasehold estate of Tenant in the Property shall terminate as of the date of taking. If this Lease is terminated, in whole or in part, all rentals and other charges payable by Tenant to State and attributable to the Property taken shall be paid by Tenant up to the date of taking. If Tenant has pre-paid rent, Tenant will be entitled to a refund of the pro rata share of the pre-paid rent attributable to the period after the date of taking. In the event of a partial taking, there shall be a partial abatement of rent from the date of taking in a percentage equal to the percentage of Property taken.

**13.3 Allocation of Award.** State and Tenant agree that in the event of any condemnation, the award shall be allocated between State and Tenant based upon the ratio of the fair market value of Tenant's leasehold estate and Tenant-owned improvements on the Property and State's interest (a) in the Property, (b) in the reversionary interest in Tenant-owned improvements, and (c) in State-owned improvements. In the event of a partial taking, this ratio will be computed on the basis of the portion of Property or improvements taken. If Tenant and State are unable to agree on the allocation, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

## SECTION 14 DEFAULT AND REMEDIES

- (a) Tenant shall be in default of this Lease on the occurrence of any of the following:
  - (1) Failure to make any payment or pay any expense when due;
  - (2) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
  - (3) Failure to comply with any other provision of this Lease;

- (4) Two or more defaults over a period of time, or a single serious default, that demonstrates a reasonable likelihood of future defaults in the absence of corrective action by Tenant; or,
- (5) Proceedings are commenced by or against Tenant under any bankruptcy act or for the appointment of a trustee or receiver of Tenants' property.
- (b) A default shall become an event of default ("Event of Default") if Tenant fails to cure the default within the applicable cure period after State provides Tenant with written notice of default, which specifies the nature of the default.
- (c) Upon an Event of Default, State may terminate this Lease and remove Tenant by summary proceedings or otherwise. State may also, without terminating this Lease, relet the Property on any terms and conditions as State in its sole discretion may decide are appropriate. If State elects to relet, rentals received by it shall be applied: (1) to the payment of any indebtedness other than rent due from Tenant to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and, (4) to the payment of rent and leasehold excise tax due and unpaid under this Lease. Any balance shall be held by State and applied to Tenant's future rent as it becomes due. Tenant shall be responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly. State's reentry or repossession of the Property under this Subsection shall not be construed as an election to terminate this Lease or cause a forfeiture of rents or other charges to be paid during the balance of the Term, unless State gives a written notice of termination to Tenant or termination is decreed by legal proceedings. State may at any time after reletting elect to terminate this Lease for the previous Event of Default.

#### **SECTION 15 ENTRY BY STATE**

State shall have the right to enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease.

#### **SECTION 16 DISCLAIMER OF QUIET ENJOYMENT**

As indicated in Section 1.1, this Lease is subject to all valid recorded interests of third parties, as well as rights of the public under the Public Trust Doctrine or federal navigation servitude, and treaty rights of Indian Tribes. State believes that its grant of the Lease is consistent with the Public Trust Doctrine and that none of the identified interests of third parties will materially and adversely affect Tenant's right of possession and use of the Property as set forth herein, but makes no guaranty or warranty to that effect. Tenant and State expressly agree that Tenant shall be responsible for determining the extent of its right to possession and for defending its leasehold interest. Consequently, State expressly disclaims and Tenant expressly releases State from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property. This disclaimer includes, but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, including rights under the Public Trust Doctrine;

rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands, navigable waters, bedlands, tidelands, and shorelands. In the event Tenant is evicted from the Property by reason of successful assertion of any of these rights, this Lease shall terminate as of the date of the eviction. In the event of a partial eviction, Tenant's rent obligations shall abate as of the date of the partial eviction, in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

## SECTION 17 NOTICE

Any notices required or permitted under this Lease may be personally delivered, delivered by facsimile machine, or mailed by certified mail, return receipt requested, to the following addresses or to such other places as the parties may direct in writing from time to time:

State:  
DEPARTMENT OF NATURAL RESOURCES  
Northwest Region  
919 N. Township St.  
Sedro Woolley, WA 98284

Tenant:  
AMERICAN GOLD SEAFOODS, LLC  
PO Box 669  
Anacortes, WA 98221

A notice shall be deemed given and delivered upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after being mailed as set forth above, whichever is applicable.

## SECTION 18 MISCELLANEOUS

**18.1 Authority.** Tenant and the person or persons executing this Lease on behalf of Tenant represent that Tenant is qualified to do business in the State of Washington, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon State's request, Tenant will provide evidence satisfactory to State confirming these representations. This Lease is entered into by State pursuant to the authority granted it in Chapter 79.90 RCW and the Constitution of the State of Washington.

**18.2 Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the parties, their successors and assigns.

**18.3 Headings.** The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

**18.4 Entire Agreement.** This Lease, including the exhibits and addenda, if any, contains the entire agreement of the parties. All prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property, if any, are merged into this Lease.

**18.5 Waiver.** The waiver by State of any breach or default of any term, covenant, or condition of this Lease shall not be deemed to be a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this Lease. State's acceptance of a rental payment shall not be construed to be a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.

**18.6 Cumulative Remedies.** The rights and remedies of State under this Lease are cumulative and in addition to all other rights and remedies afforded to State by law or equity or otherwise.

**18.7 Time is of the Essence.** TIME IS OF THE ESSENCE as to each and every provision of this Lease.

**18.8 Language.** The word "Tenant" as used in this Lease shall be applicable to one or more persons, as the case may be. The singular shall include the plural, and the neuter shall include the masculine and feminine. If there is more than one Tenant, their obligations shall be joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations.

**18.9 Invalidity.** If any provision of this Lease shall prove to be invalid, void, or illegal, it shall in no way affect, impair, or invalidate any other provision of this Lease.

**18.10 Applicable Law and Venue.** This Lease shall be interpreted and construed in accordance with the laws of the State of Washington. Any reference to a statute shall mean that statute as presently enacted or hereafter amended or superseded. Venue for any action arising out of or in connection with this Lease shall be in the Superior Court for Thurston County, Washington.

**18.11 Recordation.** Tenant shall record this Lease or a memorandum documenting the existence of this Lease in the county in which the Property is located, at Tenant's sole expense. The memorandum shall, at a minimum, contain the Property description, the names of the parties to the Lease, the State's lease number, and the duration of the Lease. Tenant shall provide State with recording information, including the date of recordation and file number. Tenant shall have thirty (30) days from the date of delivery of the final executed agreement to comply with the requirements of this Subsection. If Tenant fails to record this Lease, State may record it and Tenant shall pay the costs of recording upon State's demand.

**18.12 Modification.** Any modification of this Lease must be in writing and signed by the parties. State shall not be bound by any oral representations or statements.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

Dated: 9/28/07

AMERICAN GOLD SEAFOODS, LLC,  
a Washington Corporation,

  
By: RODGER MAY

Title: President  
Address: PO Box 669  
Anacortes, WA 98221

Dated: 10-19-07

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

  
By: DAVID ROBERTS

Title: Assistant Region Manager  
Address: 919 N Township Street  
Sedro Woolley, WA 98284



Standard Aquatic Lands Lease  
Approved as to Form on January 19, 2007  
By: Janis Snoey  
Assistant Attorney General  
State of Washington

REPRESENTATIVE ACKNOWLEDGMENT

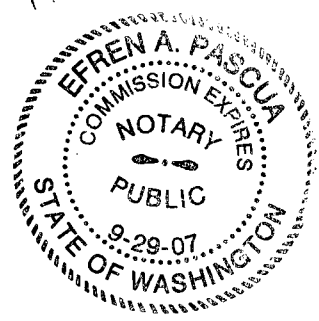
STATE OF WASHINGTON )

County of King ) ss

I certify that I know or have satisfactory evidence that RODGER MAY is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of American Gold Seafoods, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 9/29/07

(Seal or stamp)



[Signature]  
(Signature)  
EFRENA A PASCUA  
(Print Name)  
Notary Public in and for the State of Washington,  
residing at Kirkland WA  
My appointment expires 9/29/07

STATE ACKNOWLEDGMENT

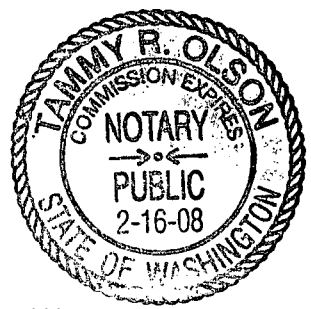
STATE OF WASHINGTON )

County of Skagit ) ss

I certify that I know or have satisfactory evidence that DAVID ROBERTS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Aquatic Lands Assistant Region Manager of the Department of Natural Resources, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 10-19-07

(Seal or stamp)



[Signature]  
(Signature)  
Tammy R Olson  
(Print Name)  
Notary Public in and for the State of Washington,  
residing at Sedro-Woolley  
My appointment expires 2-16-08



# EXHIBIT A

200705070115  
Skagit County Auditor

6/7/2007 Page 1 of 1 11:24AM

**S.R.A. Data: Section 28, Township 34 North, Range 2 East, W.M.**



WSDOT "GP29020-89"  
Grid N: 537341.88  
Grid E: 1221903.82  
Latitude: 48°27'36.760"  
Longitude: -122°33'29.965"  
Scale Factor: 0.99998008  
Theta: -1°17'03.438"

WSDOT "GP29020-90"

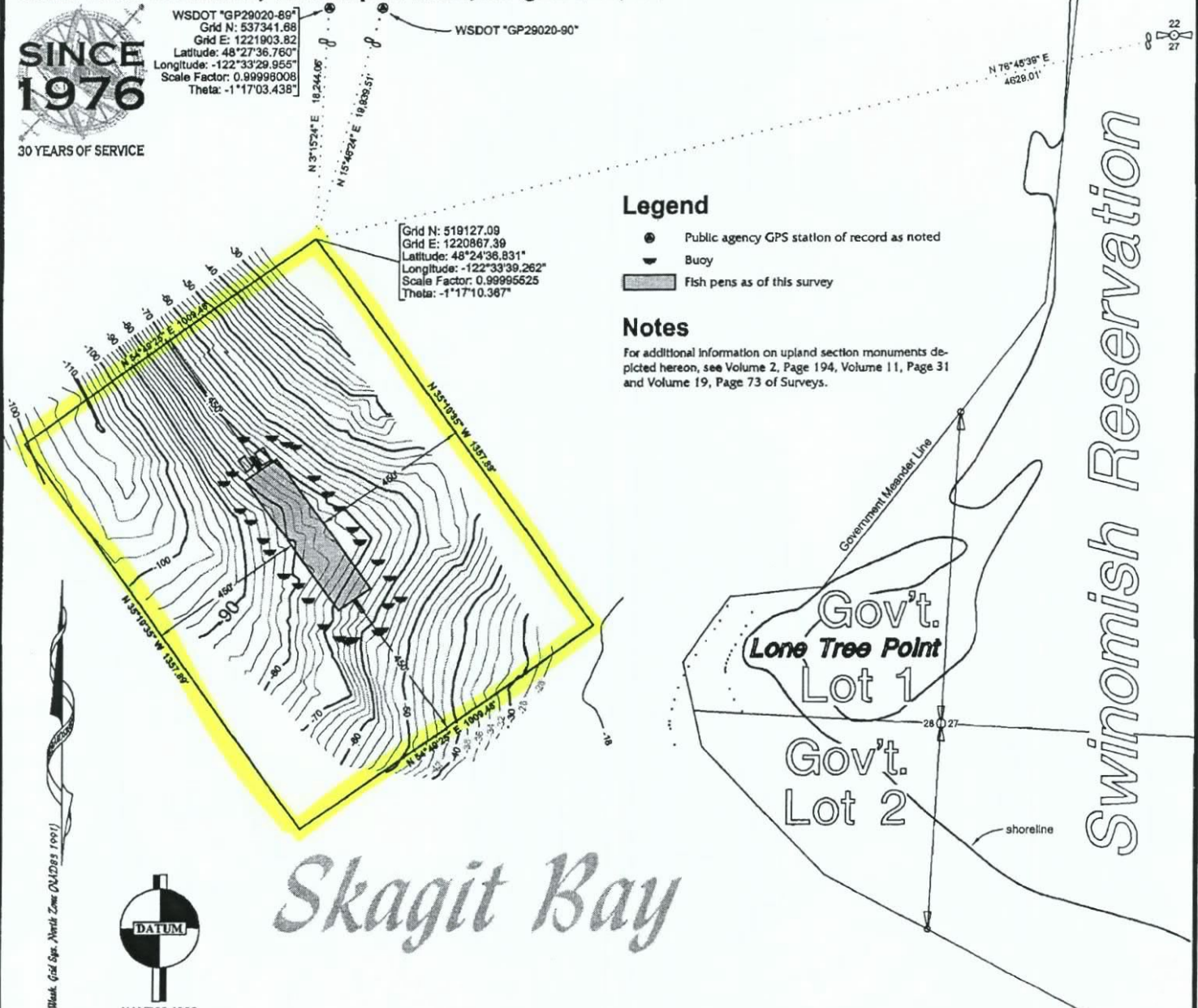
Grid N: 519127.09  
Grid E: 1220867.39  
Latitude: 48°24'36.831"  
Longitude: -122°33'39.262"  
Scale Factor: 0.99995625  
Theta: -1°17'10.367"

### Legend

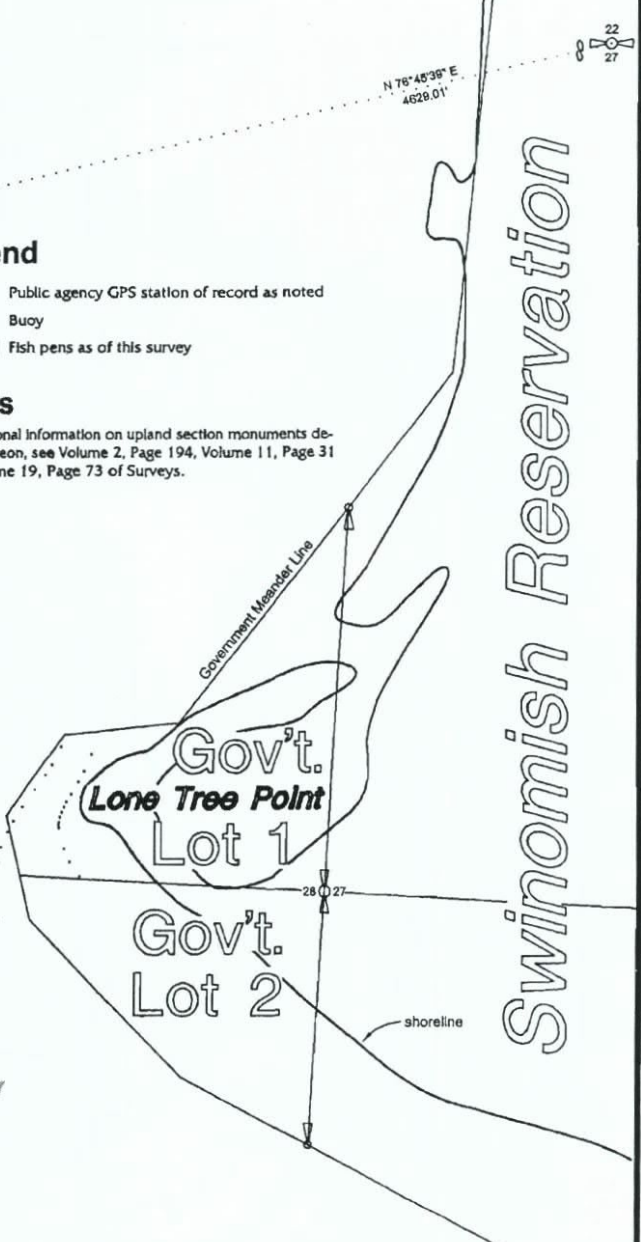
- Public agency GPS station of record as noted
- ▲ Buoy
- ▭ Fish pens as of this survey

### Notes

For additional information on upland section monuments depicted herein, see Volume 2, Page 194, Volume 11, Page 31 and Volume 19, Page 73 of Surveys.



## Skagit Bay



NAVD88 1998  
WSDOT "GP29020-89"

### Survey Field Methods & Instruments

This survey was accomplished with a Leica 500 dual-frequency GPS system using real-time kinematic measurements with WSDOT "GP29020-89" as a primary base and WSDOT "GP29020-90" as a secondary reference point. Soundings were measured with a Marinetek Super Max 6, synchronized with a dual-frequency rover.



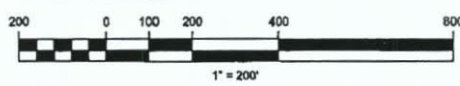
Date: 6/7/2007

### Legal Description

That portion of the beds of Skagit Bay fronting Government Lots 1 and 2, Section 28, Township 34 North, Range 2 East, in Skagit County, Washington, described as follows: Beginning at the north quarter corner of said Section 27, said township and range, thence South 76°45'39" West 4,629.01 feet to the True Point of Beginning, which bears South 11°26'03" East, 17,501.82 feet from Washington State Department of Transportation GPS control point designated "GP29020-89"; thence South 54°49'25" West 1,009.48 feet; thence South 35°10'35" East 1,357.89 feet; thence North 54°49'25" East 1,009.48 feet; thence North 35°10'35" West 1,357.89 feet to the True Point of Beginning.  
Containing 31.47 acres, more or less.

### Auditor's Certificate

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ m., in Book \_\_\_\_\_ of \_\_\_\_\_, on page \_\_\_\_\_  
Auditor's File No. \_\_\_\_\_  
Survey No. \_\_\_\_\_  
*James J. [Signature]*  
County Auditor



## Hope Island

**American Gold Seafoods, LLC**  
**Aquatic Lease No. 20-A12356**

Drawn By: B.A.M. Date: March 27, 2007 Job No. 6093  
Checked By: B.A.M. Scale: 1" = 200' Sheet 1 of 1

**SURVEYOR'S CERTIFICATE**  
This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of: American Gold Seafoods, LLC in January, 2007.

*Bruce A. MacLearnsberry*  
Certificate No. 32439



**MACLEARNSBERRY, Inc.**  
Land Surveyors • Civil Engineers • Planners  
159 Wyatt Way NE Bainbridge Island, WA 98110  
phone: (206) 842-5514 facsimile: (206) 780-2408

**Exhibit B**  
**20-B12356**

**American Gold Seafoods, LLC – Hope Island Site 4 Net Pens**

**Plan of Development and Operation.**

▪ **Hope Island Net Pens Overview**

The commercial net pen facility located near Hope Island has been in operation since 1986. The facility was originally permitted to American Aqua Foods in February of 1986 under Shoreline Substantial Development/Conditional Use permit (#3-86) by Skagit County. Skagit County concluded the development was consistent with the policies and regulations of Skagit County Shorelines Master Program, and also with the applicable policies of RCW 90.58.020 with respect to the nearby shoreline designations and standards. Over the past 20 years, numerous environmental studies were performed looking at water quality, baseline benthic data, and sediment impacts. The monitoring reports initially required by the Washington Department of Natural Resources (WDNR), and then later by the Washington Department of Ecology (WDOE) show that no significant or irreversible impacts are occurring to the surrounding area from the operation of the facility. Current environmental monitoring requirements are being administered by the Department of Ecology, under the National Pollution Discharge Elimination System (NPDES) permits, and ensure that environmental standards will continue to be met.

The Hope Island net pens were initially designed as a private finfish facility that would grow salmon from the 90 gram smolts to a market sized fish weighing 11 pounds. After several years of operation, data showed that the survival rates of the smolts entering the Hope Island facility was noticeably higher than the initial survival rates of smolts entering the company's other higher salinity sites. The low salinity environment associated with Skagit Bay greatly improved the early performance of the smolts as they made the transition from the freshwater hatchery to the marine net pen environment. The company decided that the optimal use of this facility would be as a transition site for the smolts, which would then be transported to the other marine sites for final grow out to market size. The current operational strategy of the site now is as follows. Salmon smolts, at an average weight of approximately 90 grams, are transferred to the net pens directly from the hatchery by truck at two distinct times of year, spring and the late fall. These two "waves" of smolts are grown in the net pens for approximately 6 months each, reaching an average weight of approximately 700 grams. The juvenile fish are then pumped aboard a transport vessel and live hauled to the other company owned net pen sites located in Puget Sound. The juvenile fish take another 12 to 16 months of growth to reach the desirable market size of 11 pounds.

**1.) Cage Descriptions and Useful Life of Improvements.**

The Hope Island net pen structure was initially permitted and installed around 1986. The cage has undergone several structural improvements or complete replacements since this time. The last replacement was carried out in 2001 with the existing structure replaced with a new cage built by Marine Construction.

The single rectangular raft structure contains a total of 16 Marine Construction, SystemFarm 15 Meter cages. Each cage in the raft measures 15 meters wide by 15 meter long, with a net

suspended from the hand railings that extends 10 meters below the surface. The walkways are made up of a frame work of heavy gauged, galvanized steel box beams with galvanized metal walkway grating welded on top of it. The walkways all have multiple foam filled plastic floats bolted in place underneath the frame work that is used for the floatation of the structure. The walkway sections have hinges welded at junctions through out the system that give it flexibility and the capacity to withstand significant wave height and energy. Each walkway section has 2 hinge points at each end, and use 1.25" diameter stainless steel hinge pins to couple the walkway sections together. Nylon bushings are used to eliminate metal to metal wear at these hinge points.

The new cage has an average expected service life of approximately 15 years. Life span of a cage structures is variable depending upon exposure to storm energy, wave heights, wave frequencies, the corrosiveness of the marine environment, and operational and maintenance programs of each company. Over the past 25 years, cage manufactures have made significant technological and structural advances in the design and materials utilized to construct net pen structures. These advances have greatly increased the efficiency, durability, safety and life-span of the sea cages. The current cages deployed at these sites are well within the design and engineering capacity for this application.

- Maintenance Schedules

Minor maintenance to the cage structures, anchor lines, and netting occurs through out the year and on a continual basis. The industry standard for major cage maintenance is to periodically replace the entire cage structures with newer ones. Metal fatigue is a factor because of the constant wave action, and flexing, these structures are exposed to. The option of retrofitting older cages that are nearing the end of their life span is logistically problematic and not economically viable. A brand new cage system will achieve a substantially higher level of warranty against catastrophic failure. Because of this there is always the possibility for one or more of the American Gold Seafoods net pens structures to undergo physical changes with the types of cages currently located at the site. In the event of a change to the physical improvements at the site, all state, local and federal notifications and permits necessary to complete the project will be carried out prior to any work being performed.

- Mooring System Description

The Hope Island site uses designs, equipment and maintenance schedules that have been developed by the Washington, Canadian and Norwegian aquaculture industries. The net pen structure is held into place using numerous steel Danforth type anchors weighing from 2,000 to 10,000 pounds each. Steel chain, shackles, and 1.5 to 2.5 inch diameter polypropylene lines are also utilized to complete the mooring system. Proper scope ratios are maintained in accordance with internationally known and recognized anchoring techniques. Visual inspections of the below water connection are made periodically by divers, while the surface connections can be checked daily by farm staff. The mooring attachments are completely removed, checked and refitted on average every 5 to 7 years.

- Physical Improvements; Fish Nets and Other Physical Structures

The fish are contained in nylon nets that are held by an underwater weighting system. The weights help to maintain the shape of each square net in the water, and during strong tidal flows. The nets are suspended at the surface by the floating cage structures themselves. Differing mesh sizes are used through out the growing cycle. Smaller meshed netting (0.75" to 1.0"

diagonal stretch) is used for the smolts and juvenile fish, while a larger mesh netting (2" to 2.5" diagonal stretch) is used for final grow out pens. Larger mesh size increases the transfer of water through the net wall, and improves the growing conditions for the larger fish. Some fish nets are treated with approved water based antifoulant paint to reduce the growth of fouling organisms on the net walls and to strengthen the netting material. All net treatments are carried out at an off site land based facility. Nets are inventoried, and log sheets are maintained by farm personnel that record the date of manufacture, type of netting, repairs, and other relevant information. Nets are replaced after approximately 6 years of service.

- Physical Conditions; Wind, Waves, Currents and Substrate

The Hope Island net pen site is located within the relatively protected waters of Skagit Bay, northwest of Hope Island. The net pens experience varying degrees of wind strength and direction through out the year. Over the years of operation, new cages have been installed that better meet the physical stresses experienced during major storm events.

The maximum wave height is typically less than 4 feet, however waves of greater heights are occasionally observed. The greatest exposure to wind generated waves is from a southerly direction. During major storm events, winds can be in excess of 60 knots, but are typically in the 20-30 knot range (personal observation of farm staff). South winds will have the greatest amount of potential fetch and therefore, potentially develop the largest wave heights (approximately 5' feet) that could reach the farm site. The site is also exposed to the occasional westerly winds that can develop as low pressure systems move inland. West winds are typically of shorter duration, but can develop waves 3' to 4' feet in height. The current cage structure is designed to withstand maximum wave heights in excess of twelve feet. The Hope Island site is well protected from any winds containing easterly or northerly components.

- Tides, Currents and Substrate

The extreme tidal range for the project location is approximately 13.5 feet (2005 Current and Tide Tables for Puget Sound). The maximum current velocity for the site is 0.95 cm/second and average is approximately 0.55 cm/second (J. Rensel, Current

- Tides, Currents and Substrate (Cont.,)

Velocity Study, 1996). The site is orientated in an area where tidal action and deep waters help to minimize the build up of biological waste material. This site has never failed any of the sediment sampling tests established under the Washington Department of Ecology's NPDES permits.

Benthic sampling carried out over the years show the substrate found around the Hope Island net pen facility to consist primarily of mud, silt, sand and small cobble (J. Rensel pers., comm.). Observations by farm staff during anchor inspections, anchor maintenance projects, and sediment sampling; in addition to the benthic descriptions shown on NOAA navigational charts of the area also support this assertion.

## **2.) Schedule of Development.**

The physical structure for the net pen at Hope Island has been developed. Normal and routine activities, such as mooring system maintenance and cage maintenance, are performed on a continual basis. Typically net pen structures have a lifespan of 15 years depending upon

exposure to wave energies, and other environmental conditions. Cages may be replaced with similar, but newer equipment as a form of general maintenance at any time during their service life. This replacement process is considered standard industry practice, and is a much better option than retrofitting or repairing damaged or aging equipment.

There is an application pending for changing the configuration of the existing structure that would increase the surface area of the pens. The necessary permits to perform the work are pending approval by several agencies. The Department of Natural Resources will be notified of any future changes in the physical improvements at the site when, or if, those changes occur. The expansion of the existing net pen structure from the current dimensions of 120' wide by 458' long, to 206' wide and 458' long. If this project is approved, the work would take place by the winter or early spring of 2008. The cage construction materials and basic operational strategies of the site would remain similar to the existing operation that is in place today. Written notification of any physical changes to the improvements at the site would be submitted to DNR along with the appropriate site plans and surveys.

### **3.) Work force at the site.**

The Hope Island farm site employs a total of 4 full time employees. Typically there are 2 people working during the weekdays at the site, and only 1 person working at the site over the weekends. Daily activities of raising fish include feed transport, feeding, size grading, mort diving, net changing, net cleaning, density adjustments, size sampling, health screening and fish transporting. Other activities occurring on the site would be the normal day to day maintenance work on the existing facilities. Examples of this would be net mending, net replacements, replacing steel cage components, anchor line work, boat maintenance, diving and the maintenance of other support equipment. There is some seasonality to the work such as the size grading, fish transporting and anchor line work, but in general all of the above activities occur on a year round basis.

### **4.) Number, type and size of boats for site operation.**

The farm will utilize an outboard powered work skiff that measures 25' in length and one 32' vessel with twin inboard engines and a crane. The smaller boat is used as transportation and a general support vessel at the sites. The larger work vessel measuring 32' in length is used to transport fish feed and equipment from a land based facility in to the net pen sites. The vessel is also used for net maintenance, anchor line work and other work that would require a small crane. Periodically, the farm employs larger "well boats" measuring from approximately 100 to 160 feet in length. These vessels are used to transfer live fish into and out of the farm site; and to haul the harvest fish to the processing plants. These vessels are used on a more seasonal basis, depending on the operational strategy of the facility (grow out or smolt site) and other timing factors such as market demand.



## **5.) Timing of work.**

The work force is spread through out the week, 7 days per week and twelve months per year. The majority of work is normally performed during normal business hours Monday through Friday, with the bulk of the employees working during those times. A smaller crew works the weekends, and the site has security personnel available overnight. Depending on circumstances the farm may be required to perform increased work during after hours and weekends. Examples would be during an algae bloom, a large mortality event, acceleration in fish harvesting, and/or other emergency situations.

## **6.) Use of temporary or short term equipment.**

There is no temporary or short term equipment being used at the site.

## **7.) Species to be reared, source of stock and anticipated production levels.**

Atlantic salmon (*Salmo salar*) are currently the only species of fish permitted by the Washington Department of Fish and Wildlife Fin Fish Permits to be raised at the net pen facility. Other species of fish may be raised at these sites in the future, but only after approval by the Department of Fish and Wildlife and issuance of new WDFW Fin Fish Permits.

Over the past twenty five years with the development of the salmon aquaculture industry, cultured Atlantic salmon stocks have become highly domesticated. Atlantic salmon are the predominant species of salmonid commercially reared in marine aquaculture facilities throughout the world. Atlantic salmon are less aggressive than any of the five Pacific salmon species, a characteristic that makes them well suited for the confined rearing spaces and the intensive culturing practices of an efficient operation.

The brood lines to be used in the net pens originated from Atlantic salmon that were being reared by the National Marine Fisheries Service (NMFS), as part of Federal salmon enhancement projects for the St. Johns, Gaspé and Pennobscott Rivers during the early 1980's. Those three particular stocks of North American Atlantic salmon have subsequently been interbred over the years by Washington's commercial aquaculture industry. The resulting stock of fish used by AGS are genetically different than the original wild strains of Atlantic salmon that NMFS was raising some twenty years ago. Brood selection today, is based primarily on the growth rate, the survival rate and other performance characteristics of the cultured stocks, while maintaining as much genetic diversity in the population as possible.

American Gold's brood stocks are reared for four years in the controlled environment of freshwater hatcheries before reaching sexual maturity. After spawning it takes from two and a half to three years to raise the fish from an egg, to a market sized 10-12 pound salmon. Production fish are harvested, processed and shipped out the same day to seafood customers located throughout the United States.

The site will receive smolts from certified disease free hatcheries through out the year. Primarily the smolts will come from the American Gold Seafoods (AGS) owned and operated hatchery facilities located near Rochester, Washington. Other privately owned hatcheries may be contracted to grow Atlantic salmon smolts for stocking of the net pen in the future. The smolts

receive regular health screenings and are vaccinated against common indigenous bacterial diseases prior to transfer to the net pen site from the hatcheries.

Research has shown that Atlantic salmon are incapable of successfully interbreeding with any of the different Pacific salmon species. Because of this, the risk of escaped Atlantic salmon negatively affecting the gene pool of the Pacific Northwest salmon stocks is considered to be extremely low by most experts. Atlantic salmon aquaculture has been extensively reviewed over the past 20 years. A recent risk analysis performed by the National Marine Fisheries Service (Nash, C. E. 2003), and a white paper from WDFW both discuss the relatively low risks associated with escaping Atlantic salmon with regard to impacting Pacific salmon species. Washington State salmon farms operate under regulations that are designed to further reduce the risks of accidental release of cultured fish, and all efforts are carried out in order to minimize the loss of any fish stocks by American Gold.

#### **8.) Chemicals, antibiotics, etc., to be introduced into the water.**

No chemicals can, or will be directly introduced into the waters at the sites. Antibiotics, as permitted by the State and Federal regulations are occasionally used, and

#### **Chemicals, antibiotics, etc., to be introduced into the water (Cont.,)**

if so, used only to treat a specific disease event. The use of antibiotics has become very infrequent due to new vaccines and to improved husbandry techniques that have been developed over the years. Antibiotics approved for use in aquaculture in the United States include the following: Terramycin, Oxytetracycline, and Amoxycilin. Other therapeutants can be used under an Investigational New Animal Drug permit issued by the U.S. Food and Drug Administration. The use of any INAD disease control chemicals has been rare in the operation of these net pens and in Washington state salmon aquaculture in general.

Use of approved antibiotics is carried out under consultation with a licensed veterinarian and then ordered from the feed manufacture by the site manager. The feed manufacturer only mixes the prescribed amounts into the fish feed under the prescription from the licensed veterinarian. Strict guidelines and record keeping are adhered to during the medicated feeding process to ensure the each fish receives an effective dosage. Disease Control Chemical Use reports are submitted annually to the Washington Department of Ecology in compliance with the NPDES operational permits at each aquaculture facility. These reports compile the total amount, type and frequency of usage of disease control chemicals and medicated feeds. Log sheets are maintained by farm managers and other personnel as part of record keeping requirements of the permits. The use of antibiotics in the fish feed is infrequent, with typically less than 2% of the annual amount of feed used at the sites ever being medicated. It is the goal of AGS to completely eliminate the use of medicated feed.

#### **9.) Harvest, feeding and tending operations.**

##### **▪ Growth and Harvesting**

The fish take between 16 and 20 months, after saltwater introduction, to reach the market size of approximately 10-12 pounds. The Hope Island site is used primarily as a smolt nursery site, accepting smolts from the freshwater hatchery and holding them for no more than a 6 month period. The smolts enter the site at ~90 gram average weight from the hatchery, and are then

raised several months until they reach ~ 600 gram average weight. The juvenile fish are then live transported to a grow out facility operated by AGS where they are grown for another 12 to 16 months to reach harvest size. At harvest, the fish are pumped from the pens using a vacuum pump and transferred into the hold of a fishing vessel. The fish are then either live-hauled to a processing plant where they are stunned, bled and processed, or they are stunned and bled into the hold of the transfer ship and then later processed at a land based processing facility. Harvesting is carried out on year round basis depending on the size of fish and fluctuating market conditions. The fish are shipped out fresh from the processing plant to buyers located through out the United States.

- Fish Feed

The feed used at all three sites is an extruded dry pellet. It is fed out mainly by a computerized automatic feeding system using air blowers, and plastic pipes to distribute the feed into the pens. The feed contains fishmeal, fish oils, vegetable proteins, vitamins, minerals, ash, and pigmentation in the form of Canthaxanthin and/or Astaxanthin or Phaffia yeast which pigments the flesh of salmon a reddish orange.

The fish are fed daily and the amounts supplied to them are closely monitored to prevent either over, or underfeeding, which can both seriously impact the cost of production. The amount and type of feed being administered to each pen is closely monitored and recorded on a daily basis and kept in a data base. Calculated feeding rates and well researched feeding regimes are used to promote the highest efficiency in growth rates for the fish stocks, as well as to minimize any impact to the environment from overfeeding and wasting feed. The water quality is closely monitored at the farm for fluctuations in temperature, dissolved oxygen and harmful plankton, which all play a critical role in the appetite of the fish stocks. Underwater cameras or other devices are used by technicians to monitor the feeding process and the feed response of the fish.

### **10.) Maintenance methods and timing.**

Maintenance of the fish containment nets is carried out on a year round basis. Nets are pulled to the surface, and allowed to air dry; or they are cleaned with an underwater disc, using pressurized sea water to remove any marine growth before it accumulates. Nets have a service life expectancy of approximately 6 years. Cage structures require little daily maintenance, however after 10- 15 years of service they

#### **Maintenance methods and timing (Cont.,)**

typically are completely replaced with a new structure. Components in the mooring systems are periodically replaced an average every 6 years of service, however repairs are made as needed.

### **11.) Predator Control.**

Predator netting is periodically used as a physical barrier to seals, sea lions and river otters. The predator netting encompasses the entire net pen structure and is made of a heavy gauged, large meshed (7" diagonal stretch) nylon material. The net is treated with antifoulant prior to being deployed and is weighted around the perimeter with large diameter steel pipes. Bird netting is used on all pens to deter bird predation on the smaller fish and to keep birds from



attempting to consume the fish feed as it is being distributed at the surface of each cage. Bird netting acts as a visual and physical deterrent.

**12.) Waste discharges.**

▪ Washington Department of Ecology-NPDES Permits

Private, as well as public finfish rearing facilities that raise in excess of 20,000 pounds of fish a year are required to have a National Pollution Discharge Elimination System (NPDES) Permit issued by the Washington Department of Ecology (WDOE). The benthic area surrounding each fish pen perimeter is monitored for Total Organic Carbon (TOC) levels according to the requirements of the NPDES permits. The Benthic Monitoring Reports are sent to WDOE during each permit cycle. Annual Disease Control Chemical Use Reports, which document the amounts of chemicals (antibiotics, disinfectants, anesthetics) used at the site during a year are also submitted. Copies of the current NPDES permits will be submitted along with the Aquatic Land Use Lease application.

As part of the NPDES permit requirements, Pollution Prevention Plans have been developed and implemented for each facility. These plans address the daily operating procedures at the site including chemical storage, chemical spill prevention and spill response. Copies of the AGS Pollution Prevention Plan will be submitted along with the Aquatic Land Use Lease application.

In the event of a significant fish release the farm is to notify the Department of Ecology and the Department of Fish and Wildlife within 24 hours of that event. The American Gold Seafood-Fish Escape Reporting and Response Plans, Fish Escape Prevention Plans, and an Employee Procedure Manual to Minimize the Potential for Escapement, have all been submitted to, and approved by WDOE and WDFW. Both the Pollution plans and the Escape plans require emergency situation, and phone contact numbers will be kept posted on the employee bulletin board. Copies of these plans have been included with this application.

**13.) Hazardous materials.**

Amounts of hazardous materials are kept to a minimum at the sites, and are generally stored in a centralized area. The combined types and estimated quantities for all three sites are listed below.

Gasoline	100 gallons	Paints/solvents	20 gallons
Diesel Fuel	250 gallons	Motor oil	4 gallons

**14.) Location of public sites to be used as a support facility.**

Currently, the farm leases dock space from the Port of Anacortes located on the Anacortes waterfront. This is a yearly lease and is used for mainly loading the fish feed which arrives by truck, onto the supply vessel for the farms. The facility is also used to load and unload nets, dead fish, and support equipment for the Hope Island site.

**15.) Any subleasing plans.**

There are no plans for subleasing the site as of the date of this application.

**16.) Location of associated activities, processing facilities on state owned aquatic lands.**

American Gold Seafoods owns and operates three additional net pen sites, and one waterfront pier facility that is located on state owned aquatic lands. Those other site names are Cypress Island (Site 1, 2 and 3), Port Angeles and Bainbridge Island (Clam Bay, Fort Ward and Orchard Rocks). The approximate location of those sites is similar to their names, near Cypress Island (Skagit County); in Port Angeles Harbor (Clallam County); and in Rich Passage adjacent to Bainbridge Island (Kitsap County).

**17.) Additional information:**

- a) Site 4 has 16 pens.
- b.) Maximum pen depth is approximately 10 meters.
- c.) Maximum total pen volume: Approx., 2,250 cubic meters per pen.
- d.) Compressed surface area of cage walkways: Site 4- 54,960 sq. ft.
- e.) Total surface area covered by surface structures: Site 4- 60,000 sq. ft.
- f.) Maximum weight of fish held at any one time: Site 4- 1,000,000 lbs.

g.) Rearing density or pounds per cubic yard, varies with the average size of the fish being held in each pen. Larger fish can be reared at higher densities (biomass/volume) than can smaller fish. The following are industry standard density levels used for rearing Atlantic salmon in net pens. Fish with an average size of 1.0 kilogram or less, can be reared at densities up to 17 pounds per cubic yard (approximately 10 Kilograms per cubic meter). Fish greater than 1.0 kilogram can be reared in densities that can go up to, and at some times exceed 50 pounds per cubic yard (approximately 30 Kilograms/cubic meter). Typically grow out densities are kept at no more than 20 kg/cu. meter in order to maximize the growth performance and promote the overall health of the fish being reared.

**Management Capability.**

This information can be made available upon specific request from WDNR.

## **Compatibility of Adjacent Land and Water Uses.**

### **1.) Distances from the closest shore at MLLW:**

Site 4 is approximately 1500 feet from the nearest shoreline (Lone Tree Point).

### **2.) Character and density of development within view of the sites:**

The nearby adjacent shorelines to the proposed project are designated by Skagit County as Rural Residential Shoreline Areas. Those areas are "characterized by low to medium intensity land uses that exhibit small-scale alterations to the natural shoreline environment" and "are generally of a residential, commercial, recreational, and agricultural nature," (Skagit County SMP). Activities of an agricultural nature are one of the designated activities of Skagit County's Rural Residential Areas.

The fish pens are situated off shore several thousand feet from most land masses, the closest being Lone Tree Point to the southeast (~1500 feet). To the east of the site approximately 0.75 to 1.5 miles away are numerous upland and waterfront homes. To the southwest of the fish pens approximately 0.5 miles away lies Hope Island. To the north of the fish pens lies Kiket Island approximately 2.0 miles away. The existing facility has been in operation for over 20 years in this location. The Hope Island net pen facility has been located in this area since 1986. During that time the public has grown accustomed to the location of the facility and to the daily activities that occur at the site. The daily operations carried out at the farm take into consideration the potential impacts to the surrounding residential neighborhoods.

### **3.) Public use and access:**

a.) There are very few recreational activities occurring within 0.25 miles of the site.

There is some commercial and recreational fishing, shell fishing and boating that can occur from time to time directly adjacent to the pens.

b.) The Hope Island net pen operation in Skagit Bay does not significantly impact these commercial and recreational uses of the state owned lands adjacent to the site. The net pen structures are located offshore and do not encumber, or impede the public use of any of the nearby shorelines where typically any shellfish gathering would occur. The site does not impede any recreational or commercial crabbing that is carried out in the area other than what is located directly underneath the fish pens and cannot be accessed by crab pots. The site is also located a significant distance away from any of the park areas and as such does not disturb the quiet enjoyment of those facilities by the public.

There are few to no conflicts with the traditional, established, historic uses of the aquatic environment in this area. There are approximately 250 square miles of surface area in the Skagit Bay and Whidbey Basin waterway. This fish pens occupy 0.0034 of a square mile, a tiny fraction of the total available surface area of Skagit Bay. The issue of public use of the encumbered area occupied by the net pen site was reviewed during the appeal of the facility's NPDES permit in 1996, in front of the Washington State Pollution Control Hearings Board (PCHB 96-257 thru 266). This issue was summarily dismissed by the Board as not a significant detriment to the public use of the waterways of Puget Sound. The Board found that there are more than adequate

waterways available around Puget Sound for the enjoyment of recreational boaters, and visual impacts of fish pens did not significantly affect the quiet enjoyment of recreational boaters. After an exhaustive review of the issues brought forth by the appellants, the Permits were upheld, and several key issues summarily dismissed by the board. The following statement taken from the PCHB Final Findings of Fact, Conclusions of Law and Order, summarizes the board's decision that the net pens are not detrimental to the public use or public welfare; *"We therefore find that the Permittees' facilities do not create unresolved conflicts with alternative uses of Puget Sound as contemplated in RCW 43.32C.030(2)(E). The existence of commercial salmon farms as permitted does not preclude other beneficial uses in Puget Sound, such as shellfish harvesting, commercial or sport fishing, navigation or recreational boating. Likewise, the existence of salmon farms does not operate to the exclusion of available resources, such as native salmon runs, sediment and water quality, or marine mammals. In short, salmon farming in Puget Sound does not present the citizens of the State of Washington with an "either/or" choice with respect to other beneficial uses and important resources."* (PCHB, Nov., 1998).

#### **4.) Navigation:**

a.) There is recreational and commercial navigational use of the waters around Hope Island and within Skagit Bay. There is no recreational or commercial navigational use of the immediate fish pens area due to the physical structures located there. The net pens are located far enough off shore to allow safe navigation around all quadrants of the facility by most marine vessels. There are no designated commercial shipping lanes near the pens. The net pens are registered with the U.S. Coast Guard Private Aids to Navigation (PATON) Program. PATON is a federally operated program that allows for the private maintenance and operation of navigational lights on private property located in navigable waters. Proper navigational warning lights, as permitted by the USCG- PATON program are maintained by the farm personnel, and are periodically inspected by the Coast Guard Auxiliary. The net pens and their marking lights are also shown on all NOAA Navigational Charts, which are periodically being updated by the agency.

b.) There is no impact to the navigational uses in Skagit Bay because there is ample space around the facility for small vessels to navigate. There is recreational boating around Hope Island and the surrounding waters of Skagit Bay. Because of this there is potential for minimal impact to recreational boating in the immediate area occupied by the net pen structures. There is however, ample area around the net pen structures for the safe passage of recreational boaters, and the sites are well marked with navigational devices to aid in navigation. There is some added benefit to nearby recreational boaters to the presence of the net pen facility and farm employees because of the resources available (first aid kits, boats, pumps, radios, etc...). Because the farm is manned 7 days a week, farm personnel have been called in, or volunteered to perform numerous at sea rescues of people and boats over the many years this site has been operating. The farm site and the larger farm work boat are equipped with VHF radios that monitor normal emergency distress channels.

**F. State Environmental Policy Act Compliance:**

The facilities have been in existence since approximately 1986. All necessary permits from state and local agencies were acquired for the development. Copies of these various historical permits can be made available upon request.

**EXHIBIT C**

Sale Price	Royalty Percentage	Sale Price	Royalty Percentage	Sale Price	Royalty Percentage	Sale Price	Royalty Percentage
2.36	0.784%	2.70	1.080%	3.04	1.528%	3.38	2.000%
2.37	0.791%	2.71	1.091%	3.05	1.544%	3.39	2.000%
2.38	0.799%	2.72	1.101%	3.06	1.561%	3.40	2.000%
2.39	0.806%	2.73	1.112%	3.07	1.578%	3.41	2.000%
2.40	0.814%	2.74	1.123%	3.08	1.596%	3.42	2.000%
2.41	0.821%	2.75	1.134%	3.09	1.614%	3.43	2.000%
2.42	0.829%	2.76	1.145%	3.10	1.632%	3.44	2.000%
2.43	0.836%	2.77	1.157%	3.11	1.650%	3.45	2.000%
2.44	0.844%	2.78	1.168%	3.12	1.668%	3.46	2.000%
2.45	0.852%	2.79	1.180%	3.13	1.687%	3.47	2.000%
2.46	0.860%	2.80	1.191%	3.14	1.707%	3.48	2.000%
2.47	0.868%	2.81	1.203%	3.15	1.726%	3.49	2.000%
2.48	0.876%	2.82	1.216%	3.16	1.746%	3.50	2.000%
2.49	0.885%	2.83	1.228%	3.17	1.766%		
2.50	0.893%	2.84	1.240%	3.18	1.787%		
2.51	0.901%	2.85	1.253%	3.19	1.807%		
2.52	0.910%	2.86	1.265%	3.20	1.829%		
2.53	0.918%	2.87	1.278%	3.21	1.850%		
2.54	0.927%	2.88	1.291%	3.22	1.872%		
2.55	0.936%	2.89	1.305%	3.23	1.894%		
2.56	0.945%	2.90	1.318%	3.24	1.917%		
2.57	0.954%	2.91	1.332%	3.25	1.940%		
2.58	0.963%	2.92	1.346%	3.26	1.964%		
2.59	0.972%	2.93	1.360%	3.27	1.988%		
2.60	0.981%	2.94	1.374%	3.28	2.000%		
2.61	0.991%	2.95	1.388%	3.29	2.000%		
2.62	1.000%	2.96	1.403%	3.30	2.000%		
2.63	1.010%	2.97	1.418%	3.31	2.000%		
2.64	1.019%	2.98	1.433%	3.32	2.000%		
2.65	1.029%	2.99	1.448%	3.33	2.000%		
2.66	1.039%	3.00	1.463%	3.34	2.000%		
2.67	1.049%	3.01	1.479%	3.35	2.000%		
2.68	1.059%	3.02	1.495%	3.36	2.000%		
2.69	1.070%	3.03	1.511%	3.37	2.000%		

**EXHIBIT C**

Sale Price	Royalty Percentage	Sale Price	Royalty Percentage	Sale Price	Royalty Percentage	Sale Price	Royalty Percentage
1.00	0.349%	1.34	0.349%	1.68	0.417%	2.02	0.574%
1.01	0.349%	1.35	0.349%	1.69	0.421%	2.03	0.579%
1.02	0.349%	1.36	0.349%	1.70	0.425%	2.04	0.585%
1.03	0.349%	1.37	0.349%	1.71	0.429%	2.05	0.590%
1.04	0.349%	1.38	0.349%	1.72	0.433%	2.06	0.595%
1.05	0.349%	1.39	0.349%	1.73	0.437%	2.07	0.601%
1.06	0.349%	1.40	0.349%	1.74	0.442%	2.08	0.606%
1.07	0.349%	1.41	0.349%	1.75	0.446%	2.09	0.612%
1.08	0.349%	1.42	0.349%	1.76	0.450%	2.10	0.618%
1.09	0.349%	1.43	0.349%	1.77	0.454%	2.11	0.623%
1.10	0.349%	1.44	0.349%	1.78	0.459%	2.12	0.629%
1.11	0.349%	1.45	0.349%	1.79	0.463%	2.13	0.635%
1.12	0.349%	1.46	0.349%	1.80	0.468%	2.14	0.641%
1.13	0.349%	1.47	0.349%	1.81	0.472%	2.15	0.647%
1.14	0.349%	1.48	0.349%	1.82	0.476%	2.16	0.653%
1.15	0.349%	1.49	0.349%	1.83	0.481%	2.17	0.659%
1.16	0.349%	1.50	0.349%	1.84	0.485%	2.18	0.665%
1.17	0.349%	1.51	0.352%	1.85	0.490%	2.19	0.671%
1.18	0.349%	1.52	0.356%	1.86	0.495%	2.20	0.677%
1.19	0.349%	1.53	0.360%	1.87	0.499%	2.21	0.683%
1.20	0.349%	1.54	0.363%	1.88	0.504%	2.22	0.689%
1.21	0.349%	1.55	0.367%	1.89	0.509%	2.23	0.696%
1.22	0.349%	1.56	0.371%	1.90	0.514%	2.24	0.702%
1.23	0.349%	1.57	0.374%	1.91	0.518%	2.25	0.709%
1.24	0.349%	1.58	0.378%	1.92	0.523%	2.26	0.715%
1.25	0.349%	1.59	0.382%	1.93	0.528%	2.27	0.722%
1.26	0.349%	1.60	0.386%	1.94	0.533%	2.28	0.728%
1.27	0.349%	1.61	0.389%	1.95	0.538%	2.29	0.735%
1.28	0.349%	1.62	0.393%	1.96	0.543%	2.30	0.742%
1.29	0.349%	1.63	0.397%	1.97	0.548%	2.31	0.749%
1.30	0.349%	1.64	0.401%	1.98	0.553%	2.32	0.756%
1.31	0.349%	1.65	0.405%	1.99	0.558%	2.33	0.763%
1.32	0.349%	1.66	0.409%	2.00	0.563%	2.34	0.770%
1.33	0.349%	1.67	0.413%	2.01	0.569%	2.35	0.777%