January 13, 2016

TO: All Members of the Geoduck Industry and Prospective Bidders

Attached are copies of an Invitation to Bid for the upcoming geoduck auction. Please pay close attention to some important changes and requirements.

NOTICES PERTAINING TO THE FEBRUARY 24th GEODUCK AUCTION

1. **Sixteen (16)** quotas will be auctioned on **February 24, 2016**. These quotas are located in the **South Sound** harvest region at the **Dash Point** tract in King/Pierce Counties, the Lisabuela tract in King County, and in the **Eastern Straits** harvest region at the **Dungeness West** tract in Clallam County.
2. The Department of Natural Resources (DNR) continues to recognize there may be potential impacts to purchasers regarding the import restrictions that the People's Republic of China has established for shellfish originating in FAO Catch Area 67. However, import restrictions will **not provide a basis for refunds** for lost opportunity under section 11 of the harvest agreements because this represents a known preexisting market condition that you need to consider prior to bidding at the February 24, 2016, auction. As you know the Department of Health (DOH) will issue export certificates to China for geoduck harvested from certain areas. The areas cleared for export to China are listed on DOH's website: http://www.doh.wa.gov/CommunityandEnvironment/Shellfish/CommercialShellfish/ChinaBan.aspx DNR continues to work with DOH to obtain certification for additional areas for export to China but there is no certainty that additional areas will be certified before February 24, or thereafter. All geoduck sold by DNR are conveyed "as is" without any implied warranties.
3. The quota system to be used for this Harvest Agreement allows for the removal of a designated number of pounds of geoduck clams, not to exceed the Harvest Ceiling, from each harvest area. The geoducks harvested by the Purchaser will be billed at the price per pound listed below:

HARVEST AREA	QUOTA #	HARVEST CEILING	PRICE PER POUND
Dungeness West Dash Point	1	21,800 20,000	$3.00
Dungeness West Lisabuela	2	21,800 20,000	$3.00
Dungeness West Dash Point	3	21,800 20,000	$3.00

Dungeness West Lisabuela	4	21,800 20,000	$3.00
Dungeness West Dash Point	5	21,800 20,000	$3.00
Dungeness West Lisabuela	6	21,800 20,000	$3.00
Dungeness West Dash Point	7	21,800 20,000	$3.00
Dungeness West Lisabuela	8	21,800 20,000	$3.00
Dungeness West Dash Point	9	21,800 20,000	$3.00
Dungeness West Lisabuela	10	21,800 20,000	$3.00
Dungeness West Dash Point	11	21,800 20,000	$3.00
Dungeness West Lisabuela	12	21,800 20,000	$3.00
Dungeness West Dash Point	13	21,800 20,000	$3.00
Dungeness West Lisabuela	14	21,800 20,000	$3.00
Dungeness West Dash Point	15	21,800 20,000	$3.00
Dungeness West Lisabuela	16	21,800 20,000	$3.00

4. The award of a contract will be based upon the highest cash bonus bid received from a responsible bidder. A bid deposit of **$100,000.00** will be required for each of the quotas. The remainder of the bonus bid, less the deposit, is due no later than **March 9, 2016**.
5. The term of these Harvest Agreements is **April 12, 2016** to **June 30, 2016**.
   - Operations will begin at **Dungeness West** on **April 12, 2016,** and will continue through **May 20, 2016.**
   - Operations will begin at **Dash Point and Lisabuela** on **May 23, 2016** and will continue through **June 30, 2016.**

   DNR reserves the right to change the harvest dates or duration of harvest and the right to increase or decrease the Harvest Ceiling for a Harvest Area at any time.
6. Weigh-out will be conducted on the water unless weather conditions make it impractical, in

which case the weigh-out will be conducted at the designated off-load site.

7. A bond of at least **$70,000.00** shall be in force for each quota.
8. Charges for the removal of geoducks will be billed every two (2) weeks, with payment due within ten (10) business days of the date the bill is sent.
9. The hours of operation shall be from 8:00 a.m. to 4:00 p.m.
10. Harvesting is not allowed on Saturdays, Sundays, or state holidays, as defined by the Washington State Office of Financial Management.
11. Portions of the harvest area may be closed at any time to protect wildlife and other public resources.
12. **Please note** that the shallow water boundary for each tract is as follows: The **Dungeness West** tract is **-35 feet** (MLLW), the **Dash Point** tract is **-18 feet** (MLLW), and the **Lisabuela** tract is **-26 feet** (MLLW).

    Purchaser shall harvest no geoducks in areas shallower than the depths below mean lower low water as stated above for the respective Harvest Area(s). Regardless of any depth restrictions, vessels conducting operations must remain seaward of a line two hundred yards from and parallel to the ordinary high tide line.

    Maximum Depth Boundary: Purchaser shall harvest no geoducks located deeper than 70 feet below mean lower low water (0.0 ft.).

Attachments

January 13, 2016

TO: All Members of the Geoduck Industry and Prospective Bidders

You are invited to test harvest. The next proposed geoduck quota areas to be auctioned are located in the **Eastern Straits** harvest region at the **Dungeness West** tract in Clallam County, and in the **South Sound** harvest region at the **Lisabuela** tract in King County and the **Dash Point** tract in King and Pierce Counties.

The Washington State Department of Natural Resources (DNR) makes no representation as to the volumes, quality, grade, or condition of any geoducks on the beds. Bidders must make their own independent appraisal.

DNR will allow test harvesting at the **Dash Point** tract on **February 9,** at the **Lisabuela** tract on **February 10,** and at the **Dungeness West** tract on **February 11, 2016.** Test Harvest is from 9:00 a.m. to 3:00 p.m. and is by appointment only.

Your appointment must be made between *Tuesday, January 19, and Tuesday, January 26, 2016*. No more than **Ten (10) vessels** or **companies** will be allowed to participate in these test harvests. **Test Harvest registration is on a first-come-first-served basis and appointments will not be accepted after the due dates detailed above.** In order to confirm your registration, each company will need to provide DNR with the following documentation for test harvest:

- Washington Department of Fish and Wildlife License(s)
- Washington State Business license
- Vessel insurance
- Department of Health Certifications.

Test harvesters will be required to provide proof of these licenses and insurance to the Department of Natural Resources before being allowed to register for the test harvest. **Only one diver at a time will be allowed to test harvest from any vessel.**

The harvest areas are depicted on the attached vicinity maps. Survey information will be available at the time of test harvesting.

The harvest limit is a maximum of **500** pounds per company per tract for each of the one-day test harvests. A test harvest fee of **$10.00** per pound is required for all pounds harvested. Payment is to be made at the end of the harvest day, payable to the Department of Natural Resources. No cash will be accepted.

Should the harvester exceed the **500** pound limit, **$20.00** per pound will be charged for all geoducks over the limit. ALL GEODUCKS HARVESTED MUST BE PURCHASED BY THE HARVESTER AT THE TIME OF THE TEST HARVEST. HARVEST VESSELS MUST CHECK IN AND OUT WITH THE STATE VESSEL ON SITE.

The DNR vessel will be monitoring Channel 8 on VHF marine radio to facilitate contact. Each test harvester will need the appropriate Washington Department of Fish and Wildlife License(s), Wholesale Fish Dealer License, Washington State Business license, vessel insurance, and the appropriate Department of Health Certifications. **Test harvesters will be required to provide proof of these licenses and insurance to the Department of Natural Resources before being allowed to register for the test harvest**. Only one diver at a time will be allowed to test harvest from any one vessel.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Peter Goldmark
Commissioner of Public Lands
Olympia, Washington

INVITATION TO BID

Pursuant to RCW 79.135.210, the Department of Natural Resources (DNR) hereby announces that rights to harvest geoducks from the following beds will be put up for competitive bid on the stated date.

NAME	QUOTA NO.	AUCTION TIME	AUCTION DATE	HARVEST CEILING
Dungeness West Dash Point	1	9:00 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	2	9:20 a.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	3	9:40 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	4	10:00 a.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	5	10:20 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	6	10:40 a.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	7	11:00 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	8	11:20 a.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	9	11:40 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	10	12:00 a.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	11	12:20 a.m.	February 24, 2016	21,800 20,000
Dungeness West Lisabuela	12	12:40 p.m.	February 24, 2016	21,800 20,000
Dungeness West Dash Point	13	1:00 p.m.	February 24, 2016	21,800 20,000

Dungeness West **Lisabuela**	**14**	**1:20 p.m.**	**February 24, 2016**	**21,800** **20,000**
Dungeness West **Dash Point**	**15**	**1:40 p.m.**	**February 24, 2016**	**21,800** **20,000**
Dungeness West **Lisabuela**	**16**	**2:00 p.m.**	**February 24, 2016**	**21,800** **20,000**

The purpose of DNR's election to put these rights up for competitive bid is to serve the public's interest by obtaining the highest price from responsible bidders. DNR, therefore, solicits bid proposals from interested parties. Bidders will bid for the non-exclusive right to go onto the stated area and remove geoducks up to the listed Harvest Ceiling limit.

The terms under which successful bidders are to operate are set out in the Harvest Agreement and the laws and regulations of the state of Washington. DNR reserves the right to increase or decrease the Harvest Ceiling at any time during the Harvest Agreement to ensure that total pounds harvested from state-owned aquatic lands for the year meet the state's target sustained yield, and to ensure that the geoduck industry has an opportunity to harvest the state's share of the resource. Purchasers will be notified in writing of any such addition or subtraction of pounds to the Harvest Ceiling. The state reserves the right to auction additional harvest areas during this agreement period in order to utilize all of the resource available to the state. The Harvest Agreement outlines the rights and obligations of the parties regarding changes to the harvest ceiling. Tribal harvesting could occur before during or after purchasers have harvested their share of resource from the geoduck tracts.

A. HARVEST AGREEMENTS WILL BE OFFERED BY SEALED BID AUCTION

1. Harvest Agreements will be offered by sealed bid auction. Sealed bids must be accompanied by a bid deposit in the form of a money order, certified check, or cashier's check equal to **$100,000.00** for each of the quotas.
2. In one envelope, place the following:
   a. The bid form properly filled out and signed.
   b. The bid deposit.
   c. On the outside of this envelope, the words "Geoduck Auction", the number of the Quota, and the name of the Bidder must appear. Mail or deliver to DNR at the address below. If the bid is mailed, please indicate on the outside of the envelope "Geoduck Bid, Do Not Open."
3. Bid forms and bonus bid deposits may be delivered to the Aquatic Resources Division, 1111 Washington St SE, PO Box 47027, Olympia, Washington 98504-7027. The day of the auction, bids must be delivered to the location of the auction and submitted by the time of the auction.
4. Prior to the first bid opening, DNR will designate the official clock. This clock will be used as the official time for all bid openings.

B. BID OPENING

1. Sealed bids will be opened on **February 24, 2016,** at:

See above table for bid opening times.

The auctions will be conducted in Room 172 of the Natural Resources Building, at 1111 Washington St SE, Olympia, Washington. See attached map for directions.

Staff will be available from 8:30 a.m. to 9**:00 a.m. to answer questions. However, the rights and obligations of any party to a Harvest Agreement are defined solely by the terms of the written Agreement**

C. GENERAL INFORMATION

1. The Harvest Agreements will be awarded on the basis of the highest bonus bid from a responsible bidder. In submitting a bonus bid, the bidder is making an offer to enter into a contract with the State for the right to harvest geoduck clams.
2. If the highest bonus bid is made by two or more bidders, the tie will be resolved by having the tie bidders submit additional sealed bonus bids, ("Tie Breaking Bids"). Each Tie Breaking Bid must be greater than or equal to the bid amount that resulted in the tie. The Tie Breaking Bids must be submitted no later than 10 minutes prior to the next auction of the day at which time the Tie Breaking Bids will be opened. In the event of tie bids on the last auction of the day, tie bidders will have 10 minutes following the auction to submit Tie Breaking Bids.
3. DNR reserves the right to waive nonmaterial bid irregularities. DNR's right to waive nonmaterial bid irregularities is purely discretionary, and need not be exercised in every case.
4. All awards are subject to confirmation by the Department of Natural Resources.
5. **THE DEPARTMENT OF NATURAL RESOURCES EXPRESSLY RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS**.
6. All corporations and limited partnerships must be registered with the Office of the Secretary of State. Failure to comply will result in an unqualified bid.
7. By no later than **March 9, 2016**, the apparent high bidder must provide DNR with all responsible bidder information described in Part D(3) of this Invitation to Bid, the remaining bonus bid, acceptable security, and proof of required insurance. Failure to provide the required information within this time period will constitute a material defect in the bid under the Responsible Bidder statute, RCW 79.140.060. **A $25.00 document processing charge is also due at this time.**
8. Within thirty (30) calendar days of the auction, DNR will determine whether to confirm the apparent high bidder as the highest responsible bidder. If DNR, in its sole discretion, determines that the bidder is responsible, and if the other statutory prerequisites to bid

confirmation are met, DNR will confirm the bid. Bid confirmation is acceptance of the bidder's offer to enter into a contract.

9. Within five (5) business days of the date the bids are confirmed, the apparent high bidder must provide DNR with the signed and notarized Harvest Agreements. Failure to provide the signed and notarized Harvest Agreements within that time will constitute a breach of contract and bid default. DNR may consider the default in evaluating bidder responsibility for this auction and in future auctions under RCW 79.140.060.
10. DNR has up to five (5) business days to process and sign Harvest Agreements from the time it receives the executed Agreement from the confirmed bidder. No harvesting can take place until the Harvest Agreement has been signed by the Department of Natural Resources' Aquatic Resources Deputy Supervisor or designee.
11. In the event that a bidder is found not to be responsible or defaults on the bid, DNR, at its discretion, may re-auction the quota, or offer the Quota to the apparent second highest bidder. The second highest bidder will be required to supply all bidder information required in Part D(3) below, along with the required bonus bid, security, and proof of insurance within ten (10) days of notification by DNR.

D. IN EVALUATING BIDDER RESPONSIBILITY, DNR will evaluate several factors including, but not limited to:

1. Bidder's legal competency (including licensing); and
2. Bidder's actual competency (including financial resources, equipment, prior performance, and proposed Plan of Operation).
3. In the course of evaluating bidder responsibility, DNR shall be entitled to consider any matters that relate to the factors listed in RCW 79.140.060.
4. To assist DNR in evaluating whether the apparent high bidder is the highest responsible bidder, the apparent high bidder will be required to provide the following information to DNR *("bidder responsibility information")*, by no later than **March 9, 2016.** A**ll information must be returned in the packet provided**.
   A. **Articles of Incorporation**; by-laws; names of officers and directors; names of shareholders, including percentage of stock owned by each shareholder; names of any entity in which the apparent high bidder has control, the power to control, or substantial financial interest, or which has control over, the power to control, or a substantial financial interest in the apparent high bidder; and the registered agent.
   B. **Most recent financial statement**, current balance sheet, and banking reference.
   C. **$25 document processing fee** made payable to DNR
   D. **Acceptable Security**, Savings Account or Certificate of Deposit assignment, Bond, or Letter of Credit
   E. **Commercial General Liability Insurance Certificate** naming DNR as additional insured
   F. **Copy of your Shellstock Shipper's Certificate issued by the Department of Health**
   G. **Copy of your Wholesale Dealer License issued by WDFW**
   H. **Copy of your Business License issued by Department of Licensing**
   I. **Commercial Liability Insurance Certificate** naming DNR as additional insured for all contractors and sub-contractors
   J. **Purchaser's and subcontractor's proof of workers compensation (L&I) insurance**, UBI numbers and account numbers, are required
   K. **Proposed Plan of Operation** (form provided by DNR), which shall include:

a) Source and identity of divers, tenders, harvest vessels, and other harvest equipment;
b) Legal relationship between apparent high bidder and divers and vessel operators (i.e. employee/employer or subcontract) and if by subcontract, subcontractor(s) identity;
c) Working relationship between and apparent high bidder and employees/subcontractors. Duties of each employee/subcontractor shall be incorporated into this plan;
d) Harvest, bond, off-load, and vessel moorage information;
e) The identity of all vehicles used to transport harvested geoducks from the approved off load site;
f) Steps Purchaser will take to ensure compliance with this Harvest Agreement, by Purchaser, Purchaser's employees, and subcontractor(s); and
g) Past experience in underwater seafood harvesting, including past experience in supervising or managing commercial dive operations.

A. A packet containing slots for the above information is provided to the apparent successful high bidders by the end of the auction.

B. ***ALL OF THE ABOVE REQUIRED INFORMATION MUST BE SUBMITTED TO DNR IN THIS PACKET AND WILL NOT BE ACCEPTED IF INCOMPLETE.***

C. FAILURE TO RETURN A COMPLETE PACKET MAY RESULT IN A BIDDER NOT BEING CONFIRMED / DEEMED RESPONSIBLE UNDER RCW 79.140.060. **THE BID SHALL BE REJECTED AND BID DEPOSIT FORFEITED**

D. DNR's determination regarding the acceptance and confirmation of bids, or of bidder responsibility, shall be a final decision by DNR and the Commissioner of Public Lands, who has delegated such authority pursuant to a formal Designation and Order of Delegation. A bidder's sole remedy shall be to pursue any timely appeals that may be provided by RCW 79.02.030 or RCW 79.105.160. In no case shall DNR, or its agents, be liable for any claim for damages arising from such determinations.

E. The specific rights and obligations of an apparent high bidder that is confirmed as a responsible bidder/harvester are contained in the Harvest Agreement (Agreement). The information herein is a summary of information relating to this auction, and is provided as a matter of convenience. The obligations of the Department of Natural Resources, any bidders, and any person or entity that executes an Agreement are defined by the Agreement and the statutes, regulations, and laws of the State of Washington. Nothing in the Invitation to Bid, in any other written materials, or in any oral statements that might be made, shall supersede the Agreement. Sample copies of the Agreement will be available at the auction or may be requested in advance by contacting DNR's Aquatic Resources Division, PO Box 47027, Olympia, WA 98504-7027. In the case of any discrepancy, the Agreement will control, and each bidder should review its content in advance of any submission of bids.

Any oral statement by any representative of the state, modifying or changing any conditions of this Invitation to Bid, is an expression of opinion only and confers no rights on to any bidder. In the event of any discrepancies between the Invitation to Bid and the Harvest Agreement, the Harvest Agreement will control. A sample Harvest Agreement will be available at the time of the auction or may be obtained in advance by contacting DNR's Aquatic Resources Division, PO Box 47027, Olympia, WA 98504-7027

RCW 79.140.060

Determination of highest responsible bidder.

1) To determine the "highest responsible bidder" under RCW 79.140.050, the department shall be entitled to consider, in addition to price, the following:
   (a) The financial and technical ability of the bidder to perform the contract;
   (b) Whether the bid contains material defects;
   (c) Whether the bidder has previously or is currently complying with terms and conditions of any other contracts with the state or relevant contracts with entities other than the state;
   (d) Whether the bidder was the "highest responsible bidder" for a sale within the previous five years but failed to complete the sale, such as by not entering into a resulting contract or by not paying the difference between the deposit and the total amount due. However, sales that were bid prior to January 1, 2003, may not be considered for the purposes of this subsection (1)(d);
   (e) Whether the bidder has been convicted of a crime relating to the public lands or natural resources of the state of Washington, the United States, or any other state, tribe, or country, where "conviction" includes a guilty plea, or unvacated forfeiture of bail;
   (f) Whether the bidder is owned, controlled, or managed by any person, partnership, or corporation that is not responsible under this statute; and
   (g) Whether the subcontractors of the bidder, if any, are responsible under this statute.
2) Whenever the department has reason to believe that the apparent high bidder is not a responsible bidder, the department may award the sale to the next responsible bidder or the department may reject all bids pursuant to RCW 79.140.080.

RCW 79.11.175

Confirmation of sale.

The department shall enter upon its records a confirmation of sale and issue to the purchaser a contract of sale if the following conditions have been met:

(1) No fewer than ten days have passed since the auctioneer's report has been filed;

(2) No affidavit is filed with the department showing that the interests of the state in the sale was injuriously affected by fraud or collusion;

(3) It appears from the auctioneer's report that:

(a) The sale was fairly conducted; and

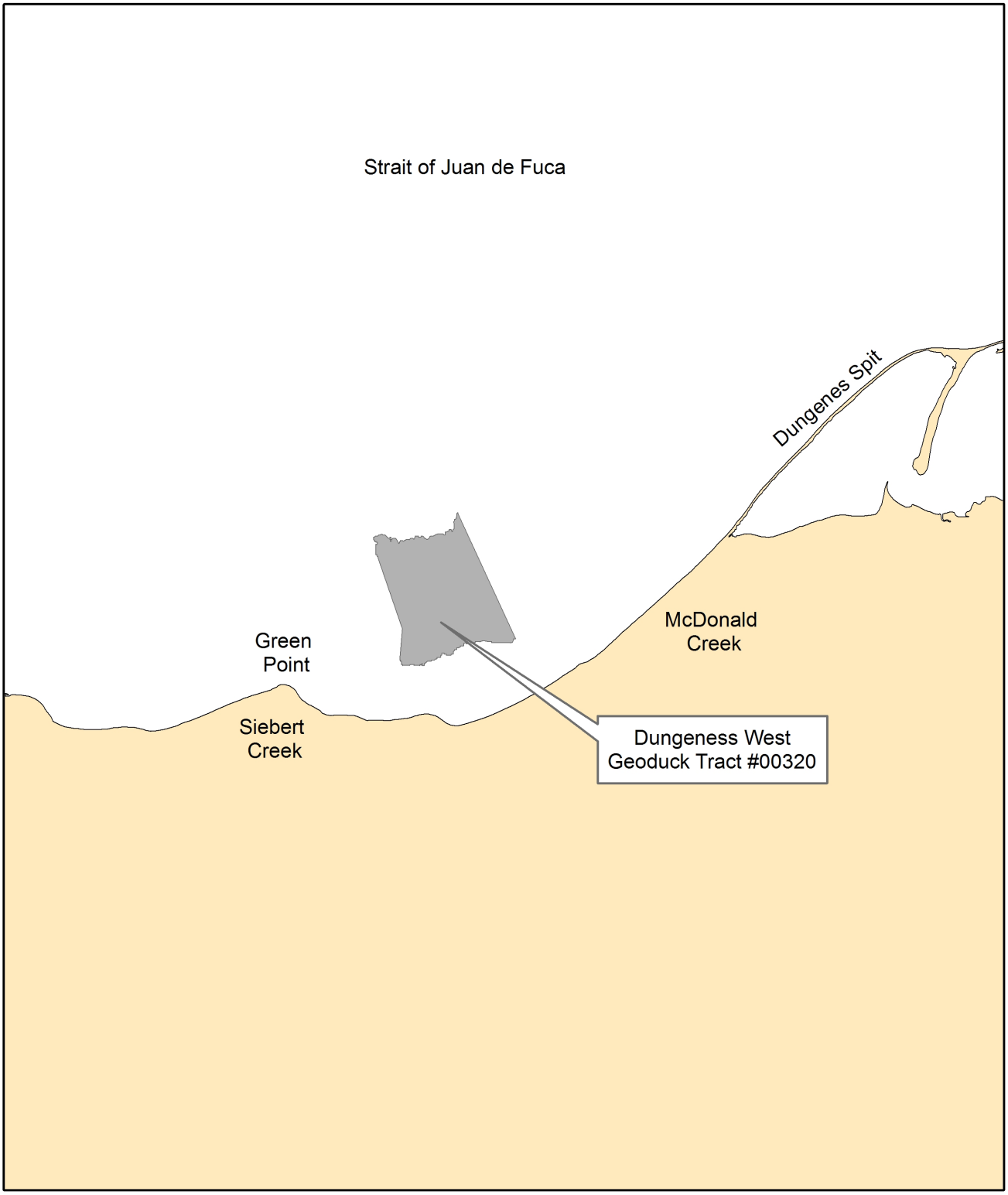
(b) The purchaser was the highest bidder and the bid was not less than the appraised value of the land sold;

(4) The department is satisfied that the land sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price bid by the purchaser;

(5) The payment required by law to be made at the time of making the sale has been made;

(6) The department determines the best interests of the state will be served by confirming the sale.

Figure 1. Vicinity Map, Dungeness West Commercial Geoduck Tract #00320



N
W E
S

1:100,000

1 inch = 1.58 miles

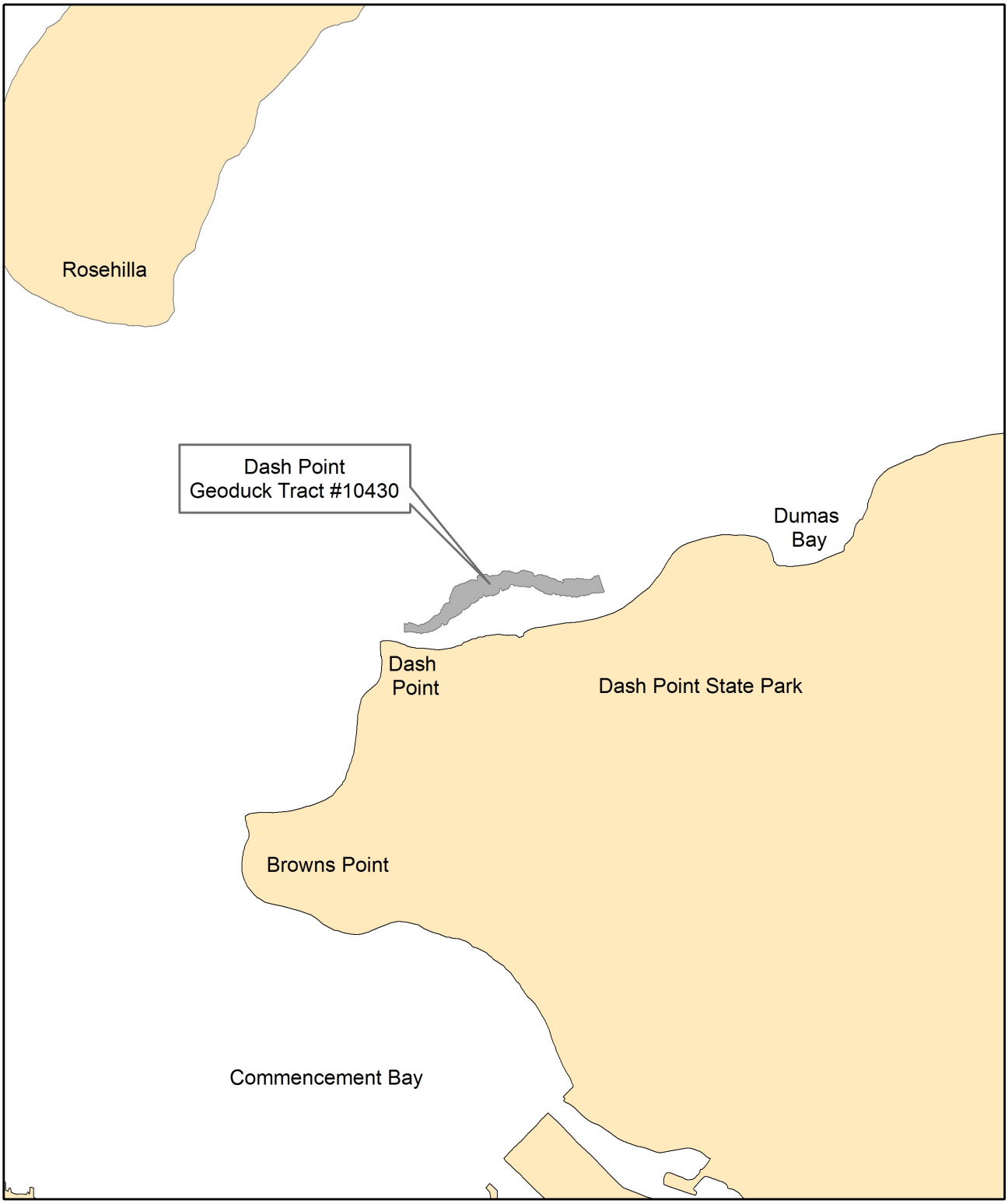
Data Sources:
Projection for data is GCS_Washington Geographic System 1984, Units: Meters. Coastline layer is from DNR, 1: 24,000 scale, created 09-20-99. Contours are from NOAA soundings.

0 0.5 1 2 3 Miles

Washington Department of FISH and WILDLIFE

Map Date: January 31, 2014
Map Author: O. Eveningsong
File: Data\Ocean\Geoduck

Figure 1. Vicinity Map, Dash Point Commercial Geoduck Tract #10430



N
W E
S

1:50,000

1 inch = 0.79 miles

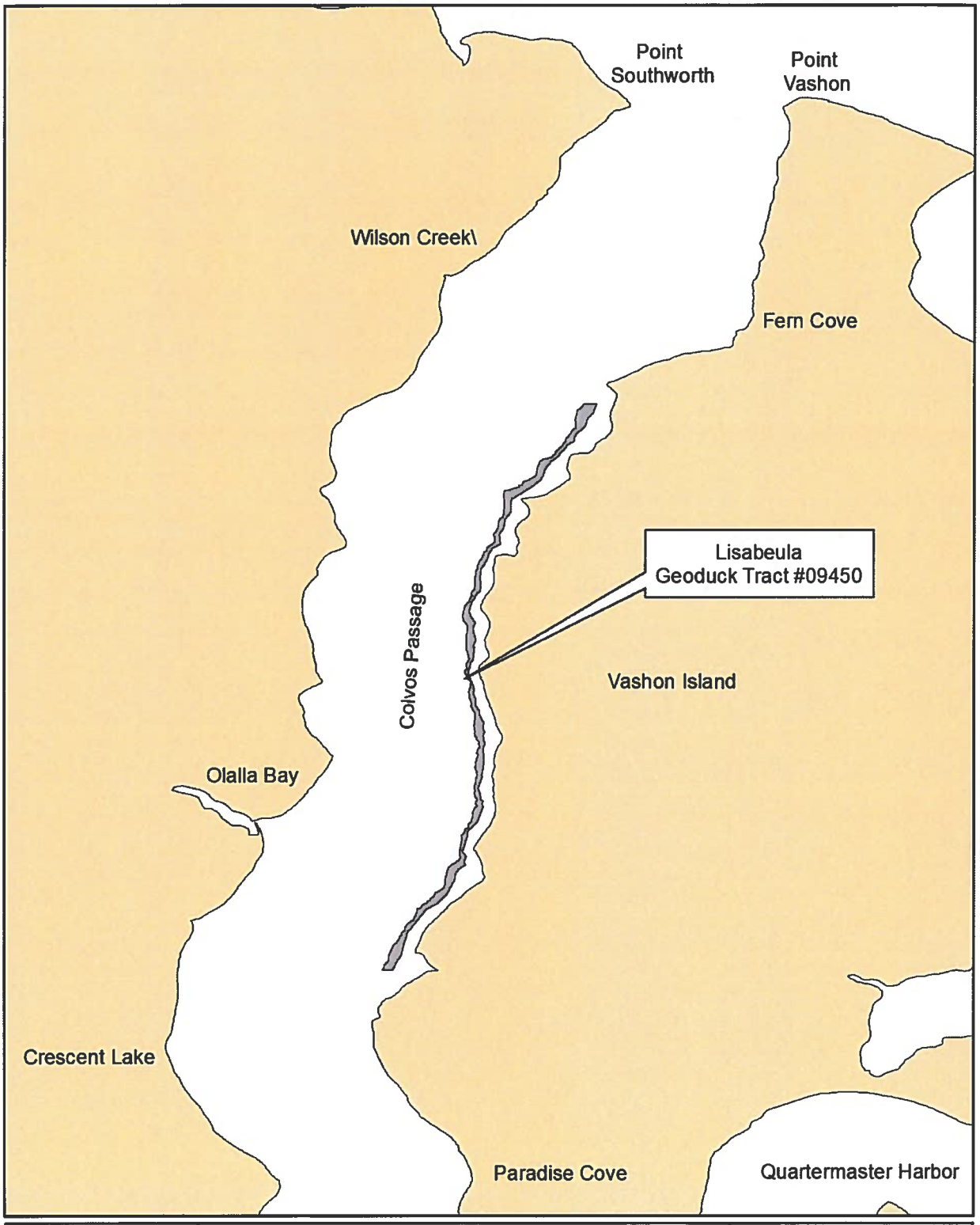
Data Sources:
Projection for data is GCS_Washington Geographic System 1984, Units: Meters. Coastline layer is from DNR, 1: 24,000 scale, created 09-20-99. Contours are from NOAA soundings.

0 0.25 0.5 1 1.5 Miles

Washington Department of FISH and WILDLIFE

Map Date: June 27, 2014
Map Author: O. Eveningsong
File: Data\Ocean\Geoduck

Figure 1. Vicinity Map, Lisabeula Commercial Geoduck Tract #09450



N
W E
S

1:80,000
1 inch = 1.26 miles

Data Sources:
Projection for data is GCS_Washington Geographic System 1984,
Units: Decimal Degrees. Coastline layer is from DNR, 1: 24,000 scale,
created 09-20-99. Contours are from NOAA soundings.

0 0.3 0.6 1.2 1.8 2.4 km

Washington Department of FISH and WILDLIFE

Map Date: June 17, 2013
Map Author: O. Eveningsong
File: Data\Geoduck\EAs\2013