WHEREAS, Island County has caused to be prepared a study on the various types of aquaculture that may be possible within its adjoining marine waters; and

WHEREAS, the Island County Shoreline Advisory Committee has worked long and diligently on a review of the Island County regional aquaculture study and has proposed revisions to the Island County Shoreline Management Master Program adopted pursuant to the Shoreline Management Act of 1971 (SMA); and

WHEREAS, both the regional aquaculture study and the said revisions to the Island County Shoreline Management Master Program have been forwarded to the Island County Planning Commission for its review preparatory to making a recommendation to the Board of Island County Commissioners; and

WHEREAS, the continuing review of shoreline substantial development permit applications for aquacultural enterprises without the benefit of adopted policies and plans is a haphazard process, and decisions made may jeopardize the rights of applicants, owners of adjacent lands, and the residents of Island County and the State of Washington and can in fact jeopardize the validity and proper implementation of the Island County Comprehensive Plan and the Shoreline Management Master Program, NOW, THEREFORE,

BE IT ORDAINED by the Board of County Commissioners of Island County as follows:

1. The Board of County Commissioners hereby declares a moratorium on the receipt, processing, and approval of applications for shoreline substantial development permits pertaining to aquaculture in the marine waters of Island County.

2. This moratorium shall be in full force and effect immediately and shall continue until 31 December, 1983 (approximately one year after the effective date of this ordinance), or until the adoption of the proposed revisions of the Island County Shoreline Management Master Program pertaining to aquaculture, whichever date occurs sooner.

REVIEWED this 20th day of September, 1982, and set for public hearing on the 25th day of October, 1982, at the hour of 3:00 p.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

E. DUANE KEMP, CHAIRMAN
LOU A. ROMEO, MEMBER
WILLIAM F. DUNLOP, MEMBER

ATTEST: HARRY H. FERRIER
Island County Auditor and Ex-
Officio Clerk of the Board

Approved as to form:

David F. Thiele
ISLAND COUNTY PROSECUTING
ATTORNEY

PASSED this 25th day of October, 1982, after public hearing.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

E. DUANE KEMP, Chairman
LOU A. ROMEO, Member
WILLIAM F. DUNLOP, Member

ATTEST: HARRY H. FERRIER,
Island County Audtior and Ex
Officio Clerk of the Board

Approved as to form:

David F. Thiele
ISLAND COUNTY PROSECUTING ATTORNEY

HEARING HELD: DETERMINATION OF SPECIAL BENEFITS FOR DIKING IMPROVEMENT DISTRICT NO. 4

A Public Hearing was held for the purpose of the determination of special benefits for Diking Improvement District No. 4, having been continued from hearing held on 4 October 1982 with the Board of Island County Commissioners sitting at this time as the Commissioners of Diking Improvement District No. 4.

Chairman Kemp summarized that the Hearing had been continued from 4 October 1982 inasmuch as H & H Properties, Inc., had submitted a five-page letter of protest through their attorney at approximately 9:30 a.m., one hour prior to the scheduled hearing, and it then became necessary for the appointed Board of Appraisers to thoroughly review the protest. He noted that Diking Improvement District No. 4 had actually been formed in 1919. The dike was threatened by last winter's storm and emergency action was requested of the Board of County Commissioners, with Mr. Bill Sievers having been the most active in motivating the County's action; the Chairman advised that Commissioner Romeo had been most closely involved. The Board of Commissioners did appoint a Board of Supervisors which consisted of Roy Allen, Island County Engineer; Bill Sievers, and Gordon Anderson, to study and recommend action to be taken, and that Board of Supervisors approved a budget required to perform the emergency repairs considered to be necessary.

At the Chairman's request, correspondence received by the Board subsequent to the October 4, 1982 public hearing was read for the record:

(1) Letter from Petersen & Lycette, P.S., by Raymond J. Petersen, dated October 20, 1982:

Board of Commissioners
Diking Improvement District No. 4
P.O. Box 750
Coupeville, WA 98239

RE: Diking Improvement District No. 4

Dear Commissioners:

As the owner of Lot 5, Division 5, Useless Bay Subdivision, within the above diking district, I wish to express my appreciation to you and others for the prompt emergency repairs made this past winter when flooding threatened the dike which separates Deer Lagoon from Useless Bay.

The letter of September 13, 1982 from your chairman, Mr. E. Duane Kemp, informing property owners of the proposed assessments and the hearing scheduled for October 4, 1982 was gratefully received. It did not occur to me to pursue some technical objection to the assessment procedure, and I am confident the assessment will be cheerfully accepted by the vast number of property owners within the diking district.

It was a surprise to learn of the 11th hour objection to the assessment roll filed in behalf of H & H Properties, developer of most of the property within the diking district. In order to reclaim, subdivide and resell much of the land within the diking district, H & H Properties maintained the dike for many long years and installed a since abandoned pumping station to monitor and manipulate natural tidal action. In the opinion of some, H & H Properties thereby took upon itself the role of public utility with a concomitant responsibility to continue serving the benefited properties. Under Washington law, such a continuing duty on the part of a defacto public utility may be implied without requiring support in a written document.

Mr. William H. Sievers, then manager of H & H Properties was one of the Board of Supervisors who acted in your behalf to authorize the repair work which represents most of the cost which is the subject of assessment. One would have expected H & H Properties to be relieved that its responsibility for dike management was to be covered through the spreading of assessments reasonably related to benefits conferred. Instead, you are now confronted with a written protest and the threat of litigation.

As a concerned property owner, I have been prompted to study relevant Washington statutes and the procedures which have been followed by you and your duly appointed Board of Appraisers. It appears you have been well advised in required statutory procedures by the office of the Island County Prosecuting Attorney, and that you and the Board of Appraisers have complied with the statutory requirements.

While assessments are to be reasonably proportional to special benefits conferred, no "perfect" benefits formula is required or possible. The Board of Appraisers has acted in good faith to establish a fair and equitable special benefits formula, and unless such a formula is arbitrary and capricious or is established on a fundamentally wrong basis, it should be sustained.

It is obvious that improvements and maintenance of the dike confers certain special benefits upon unimproved land of H & H Properties within the diking district. Sea water is thereby prevented from flooding and eroding its land. Deer Lagoon is thereby maintained at the level previously determined by H & H Properties for the aesthetic benefit of its unimproved land, and to facilitate maintenance of duck blinds and the operation of a duck shooting club by H & H Properties.

I am willing to pay an increased dike assessment if this is needed for responsible dike management. However, I am disturbed that a special benefits formula developed in good faith by a capable and conscientious Board of Appraisers is being attacked for commercial rather than equitable reasons. I believe the special benefits formula recommended by your Board of Appraisers is reasonably proportional to special benefits conferred and should be approved. Thank you for your assistance in the past emergency and for your consideration at this time.

Yours very truly,
Raymond J. Petersen"

(2) Letter from Ed and Sally Almquist dated October 20, 1982:

"Board of Commissioners
Diking Improvement District #4
P.O. Box 750
Coupeville, Washington
98239

Gentlemen:

We would like to voice our concern over the controversy on the manner of assessment for the dike repairs in diking district #4. As property owners in the district we agree with and fully support the assessment board decision to assess properties in the entire diking district according to a benefit schedule based on benefits received from the dike as well as consideration of property contributing to the need for the dike due to water run-off. We feel the latter will be a continuing and increasing concern as more land is cleared in the upland areas. Thus these properties will continue to participate in the need for a dike and should be a party to the assessment for dike repair and maintenance.

We would further recommend that an additional drainage district be formed in the near future, in conjunction with the existing diking district. This would give a more comprehensive and long term solution to the increasing drainage problem of diking district #4.