

## **EKSAMENSOPPGAVE**

### **JUS5920 - Naturressursrett i et miljøperspektiv - Høst 2016**

Dato: Tirsdag 22 november 2016

Tid: kl 1000-1400

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Oppgaven vil bli bedømt under forutsetning om at du har brukt 3/4 av tiden på del 1 og 1/4 av tiden på del 2.

### **Del 1**

Regjeringen har lagt fram et forslag om bærekraftig vekst i oppdrettsnæringen i form av en stortingsmelding. Hovedforslaget i meldingen er å etablere elleve produksjonssoner langs kysten der man på grunnlag av forekomst av lakselus i oppdrettsanleggene skal vurdere om man skal få lov til å utvide produksjonen, om produksjonen skal fryses eller om produksjonen må reduseres. Slike vurderinger skal foretas hvert annet år og være bestemmende for om de som har blitt tildelt produksjonstillatelser får utvide produksjonen eller ikke, og for om det kan utlyses nye tillatelser innenfor produksjonssonen. Grunnen til at forekomst av lakselus er valgt som miljøindikator er at det er utviklet gode modeller som viser sammenheng mellom forekomst av lakselus i oppdrettsanlegg og hos villaks. Videre er en svært stor del av oppdrettsanleggenes utslipp av medikamenter knyttet til reduksjon av forekomsten av lakselus. Det er derfor antatt at forekomst av lakselus vil være en god indikator på oppdrettsanleggenes negative miljøvirkninger.



Man regner med at forslaget på kort og mellomlang sikt vil medføre betydelig nedgang i forekomsten av lakselus, og at man på lengre sikt vil kunne utvikle nye miljøindikatorer som vil kunne supplere eller erstatte lakselus. Det er klart at oppdrettsanlegg medfører andre negative miljøkonsekvenser, slik som utslipp av medikamenter, kjemikalier, fôr og andre organiske stoffer, smittefare knyttet til sykdommer og «genforurensning» ved at rømt oppdrettsfisk parrer seg med villfisk.

Du er juridisk forsker, og blir kontaktet av en frivillig organisasjon som arbeider for å redusere negative miljøkonsekvenser fra oppdrettsnæringen. Du takker ja til oppdraget om å lage en kort utredning om hvorvidt et slikt forvaltningssystem vil være i tråd med nasjonale og internasjonale regler og normer for økosystembasert forvaltning av naturressurser. Mens du jobber med saken finner du fram til et dokument vedtatt av partene til konvensjonen om biologisk mangfold i 2000. Av vedtaket fremgår blant annet følgende: "Calls upon Parties, other Governments, and international organizations to apply, as appropriate, the ecosystem approach, giving consideration to the principles and guidance contained in the annex to the present decision, and to develop practical expressions of the approach for national policies and legislation and for appropriate implementation activities, with adaptation to local, national, and, as appropriate, regional conditions, in particular in the context of activities developed within the thematic areas of the Convention." Annexet med prinsippene er vedlagt.

## Del 2

Gi en oversikt over og sammenligning av kompetansedelingen mellom sentrale miljømyndigheter og myndigheter med ansvar for naturressurser i saker om forvaltning av mineralressurser og skog.



## Vedlegg

### **Annex B: Principles of the ecosystem approach**

The following 12 principles are complementary and interlinked:

**Principle 1:** The objectives of management of land, water and living resources are a matter of societal choice.

Rationale: Different sectors of society view ecosystems in terms of their own economic, cultural and societal needs. Indigenous peoples and other local communities living on the land are important stakeholders and their rights and interests should be recognized. Both cultural and biological diversity are central components of the ecosystem approach, and management should take this into account. Societal choices should be expressed as clearly as possible. Ecosystems should be managed for their intrinsic values and for the tangible or intangible benefits for humans, in a fair and equitable way.

**Principle 2:** Management should be decentralized to the lowest appropriate level.

Rationale: Decentralized systems may lead to greater efficiency, effectiveness and equity. Management should involve all stakeholders and balance local interests with the wider public interest. The closer management is to the ecosystem, the greater the responsibility, ownership, accountability, participation, and use of local knowledge.

**Principle 3:** Ecosystem managers should consider the effects (actual or potential) of their activities on adjacent and other ecosystems.

Rationale: Management interventions in ecosystems often have unknown or unpredictable effects on other ecosystems; therefore, possible impacts need careful consideration and analysis. This may require new arrangements or ways of organization for institutions involved in decision-making to make, if necessary, appropriate compromises.

**Principle 4:** Recognizing potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem-management programme should:



- a) Reduce those market distortions that adversely affect biological diversity;
- b) Align incentives to promote biodiversity conservation and sustainable use;
- c) Internalize costs and benefits in the given ecosystem to the extent feasible.

Rationale: The greatest threat to biological diversity lies in its replacement by alternative systems of land use. This often arises through market distortions, which undervalue natural systems and populations and provide perverse incentives and subsidies to favour the conversion of land to less diverse systems. Often those who benefit from conservation do not pay the costs associated with conservation and, similarly, those who generate environmental costs (e.g. pollution) escape responsibility. Alignment of incentives allows those who control the resource to benefit and ensures that those who generate environmental costs will pay

**Principle 5:** Conservation of ecosystem structure and functioning, in order to maintain ecosystem services, should be a priority target of the ecosystem approach.

Rationale: Ecosystem functioning and resilience depends on a dynamic relationship within species, among species and between species and their abiotic environment, as well as the physical and chemical interactions within the environment. The conservation and, where appropriate, restoration of these interactions and processes is of greater significance for the long-term maintenance of biological diversity than simply protection of species.

**Principle 6:** Ecosystems must be managed within the limits of their functioning.

Rationale: In considering the likelihood or ease of attaining the management objectives, attention should be given to the environmental conditions that limit natural productivity, ecosystem structure, functioning and diversity. The limits to ecosystem functioning may be affected to different degrees by temporary, unpredictable or artificially maintained conditions and, accordingly, management should be appropriately cautious.

**Principle 7:** The ecosystem approach should be undertaken at the appropriate spatial and temporal scales.

Rationale: The approach should be bounded by spatial and temporal scales that are appropriate to the objectives. Boundaries for management will be defined operationally by users, managers, scientists and indigenous and local peoples. Connectivity between areas should be promoted where necessary. The ecosystem approach is based upon the hierarchical nature of biological diversity characterized by the interaction and integration of genes, species and ecosystems.



**Principle 8:** Recognizing the varying temporal scales and lag-effects that characterize ecosystem processes, objectives for ecosystem management should be set for the long term.

Rationale: Ecosystem processes are characterized by varying temporal scales and lag-effects. This inherently conflicts with the tendency of humans to favour short-term gains and immediate benefits over future ones.

**Principle 9:** Management must recognize that change is inevitable.

Rationale: Ecosystems change, including species composition and population abundance. Hence, management should adapt to the changes. Apart from their inherent dynamics of change, ecosystems are beset by a complex of uncertainties and potential "surprises" in the human, biological and environmental realms. Traditional disturbance regimes may be important for ecosystem structure and functioning, and may need to be maintained or restored. The ecosystem approach must utilize adaptive management in order to anticipate and cater for such changes and events and should be cautious in making any decision that may foreclose options, but, at the same time, consider mitigating actions to cope with long-term changes such as climate change

**Principle 10:** The ecosystem approach should seek the appropriate balance between, and integration of, conservation and use of biological diversity.

Rationale: Biological diversity is critical both for its intrinsic value and because of the key role it plays in providing the ecosystem and other services upon which we all ultimately depend. There has been a tendency in the past to manage components of biological diversity either as protected or non-protected. There is a need for a shift to more flexible situations, where conservation and use are seen in context and the full range of measures is applied in a continuum from strictly protected to human-made ecosystems.

**Principle 11:** The ecosystem approach should consider all forms of relevant information, including scientific and indigenous and local knowledge, innovations and practices.

Rationale: Information from all sources is critical to arriving at effective ecosystem management strategies. A much better knowledge of ecosystem functions and the impact of human use is desirable. All relevant information from any concerned area should be shared with all stakeholders and actors, taking into account, inter alia, any decision to be taken under Article 8(j) of the Convention on Biological Diversity. Assumptions behind proposed management decisions should be made explicit and checked against available knowledge and views of stakeholders.



**Principle 12:** The ecosystem approach should involve all relevant sectors of society and scientific disciplines.

Rationale: Most problems of biological-diversity management are complex, with many interactions, side-effects and implications, and therefore should involve the necessary expertise and stakeholders at the local, national, regional and international level, as appropriate.

