STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 6, 2021

Chelsea Farms
ATTN: Kyle Lentz
6438 Young Road
Olympia, WA 98502

RE: Water Quality Certification Order No. 19859 for Corps Reference No. NWS-2020-0590, 3 Chelsea Farms, Eld Inlet, near Olympia, Thurston County, Washington

Dear Kyle Lentz:

On June 23, 2020, Chelsea Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the 3 Chelsea Farms, Eld Inlet Project located on tidelands within Eld Inlet, near Olympia, Thurston County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Lori Kingsbury at (360) 407-6926 or by e-mail at Lori.kingsbury@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

ec: Marion Gall, Corps of Engineers
Marty Beagle, Chelsea Farms
Linda Scharf
Laura Hendricks, Coalition to Protect Puget Sound
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Lori Kingsbury, Ecology
Rebecca Rothwell, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 138695

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Chelsea Farms pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))	**ORDER No. 19859** **Corps Reference No. NWS-2020-0590** 3 Chelsea Farms, Eld Inlet located on tidelands within Eld Inlet, near Olympia, Thurston County, Washington

Chelsea Farms
Attn: Kyle Lentz
6438 Young Road
Olympia, WA 98502

On June 23, 2020, Chelsea Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the 3 Chelsea Farms Eld Inlet Project, near Olympia, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 22, 2020.

This project proposes to continue to commercially cultivate up to 3.83-acres of geoduck clams and 0.88-acres manila clams in an 8-acre project area (4.71-acre cultivation area) within the intertidal zone at the western portion of Eld Inlet, South Puget Sound, Thurston County, Washington.

Manila clams will be planted by casting seed, at a density of approximately 100 per square foot, onto the substrate on an incoming tide. The manila clams will quickly dig into the substrate. Anti-predator area netting will be employed to increase the survival rate. Maintenance of the site for manila clams will be minimal. Manila clams will be hand harvested by workers accessing the cultivation area during appropriate tide levels. The duration of harvesting will be during one tide cycle, about four hours.

Geoduck cultivation entails placing the geoduck seed within PVC anti-predator tubes (4-inch diameter by 10-inch length) at a density of one tube per square foot on the tidelands. Each tube will have a mesh cap secured with a rubber band resistant to UV light and salt water. The area will then be covered with netting composed of 40 ft. by 40 ft. squares (3-inch or smaller stretched mesh). The netting will be secured to the sand with 24-inch u-shaped rebar, spaced every 5 feet around the perimeter. Geoduck seed planting may occur at low tide in the "dry" or at high tide in the "wet."

Between 6-12 months after planting, the caps and bands will be removed from the tubes; at 18-24 months, the tubes and netting will be removed from the site. The geoducks will be harvested at about 5-7 years using low-pressure water pumps with a "stinger/wand" with nozzle pressure to liquefy/loosen the sediment so that the geoducks can be removed by hand. Harvest will occur at low tide, or by divers at high tide.

No farming activities occur in the upper intertidal area, above +7.0 foot tidal elevation. All work activities are done by hand, access is typically by boat or by a privately owned boat ramp, no motorized machinery operates on the beach beyond the boat ramp, no refueling of engines or motors occurs on the beach, no equipment is stored on site, no rooted aquatic vegetation or benthic organisms are removed from the site, no chemical/environmental contaminants are used,

and farming activities create no substantial interference with normal public use of the surface waters.

The project site is located on tidelands between the +4.0-feet and -4.5 feet Mean Lower Low Water (MLLW) tidal elevations within the western portion of Eld Inlet, on parcel numbers: 12917130100, 3602001100, 12917130101, 12917130200, 12917130302, 12917130300, 93020500000, and 92051601000; adjacent to 7342 Young Road NW, near Olympia, Thurston County, Washington; Section 17, Township 19 North, Range 2 West; WRIA 14, Kennedy-Goldsborough Watershed.

With this Order, Ecology is granting Chelsea Farms' request for a Section 401 Water Quality Certification for the 3 Chelsea Farms Eld Inlet project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on June 23, 2020, revised drawings received October 22, 2020, and the following supporting documentation:

- E-mail letter to Ecology dated March 1, 2021, regarding the project's compliance with the conservation measures associated with the "Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters" (U.S. Fish and Wildlife Service (USFWS) Reference Number 01EWFW00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Chelsea Farms' water quality monitoring plan, and Chelsea Farms' commitment to follow the 2019 Puget Sound Shellfish Growers Association Environmental Codes of Practice for Shellfish Aquaculture.

Based on the information submitted, Ecology has determined that the discharge from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, Chelsea Farms must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize Chelsea Farms to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Any work that causes distressed or dying fish or discharges of oil, fuel, or other chemicals into state waters or onto land with a potential for entry into state waters is prohibited[1]. If such work, conditions, or discharges occur, immediately notify[2] Ecology's Regional Spill Response Office at 360-407-6300 and the Washington State Department of Fish & Wildlife with the nature and details of the problem, any actions taken to correct the problem, and any proposed changes in operation to prevent further problems. You will also need to notify the Washington Emergency Management

[1] RCW 90.48
[2] WAC 173-303-145

Division[3] at 1-800-258-5990, for actual spills to water only. This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage and to ensure compliance with water quality requirements. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted to the Chelsea Farms, 3 Chelsea Farms, Eld Inlet project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues an individual Department of the Army (DA) permit for this project. Order No. **19859** will remain valid for the duration of the associated DA permit. Chelsea Farms should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

YOUR RIGHT TO APPEAL

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

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

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

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

ADDRESS AND LOCATION INFORMATION

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

[3] RCW 90.56.280

CONTACT INFORMATION

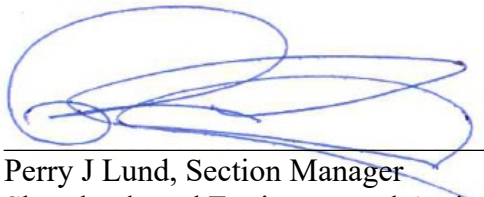
Please direct all questions about this Order to:

Lori Kingsbury
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-47775
Lori.kingsbury@ecy.wa.gov

MORE INFORMATION

- **Pollution Control Hearings Board Website**
  http://www.eluho.wa.gov/Board/PCHB
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
  http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B
- **Chapter 371-08 WAC – Practice And Procedure**
  http://app.leg.wa.gov/WAC/default.aspx?cite=371-08
- **Chapter 34.05 RCW – Administrative Procedure Act**
  http://app.leg.wa.gov/RCW/default.aspx?cite=34.05
- **Chapter 90.48 RCW – Water Pollution Control**
  http://app.leg.wa.gov/RCW/default.aspx?cite=90.48
- **Chapter 173.204 WAC – Sediment Management Standards**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
  http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A

SIGNATURE



April 6, 2021
Date

Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology