



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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April 12, 2021

Chuckanut Shellfish, Inc.
Attn: Bill Dewey
704 E. Hiawatha Boulevard
Shelton, WA 98584

RE: Water Quality Certification Order No. **19878** for Corps Reference No. **200701174**
Chuckanut Shellfish Farm, Samish Bay, near Bow, Skagit County.

Dear Bill Dewey:

On January 11, 2021, Chuckanut Shellfish, Inc., submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Chuckanut Shellfish farm located in the tidelands of Samish Bay, near Bow, Skagit 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 Loree' Randall by e-mail at loree.randall@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosure

Chuckanut Shellfish Farm
Order No. 19878, Corps No. 200701174
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e-cc: Kirsten Brown, Corps of Engineers
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov – Aquatics No. 137243

IN THE MATTER OF GRANTING A) ORDER No. 19878
WATER QUALITY) Corps Reference No. 200701174
CERTIFICATION TO) Chuckanut Shellfish Farm, Samish Bay, near
Chuckanut Shellfish, Inc.) Bow, Skagit County
pursuant to 33 U.S.C. 1341 (FWPCA)
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Chuckanut Shellfish, Inc.
Attn: Bill Dewey
704 E. Hiawatha Boulevard
Shelton, WA 98584

On January 11, 2021, Chuckanut Shellfish, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Chuckanut Shellfish Farm Samish Bay, near Bow, Skagit County, Washington. The US Army Corps of Engineers and Department of Ecology (Ecology) issued a joint public notice for the project on March 2, 2021.

Chuckanut Shellfish, Inc. proposes to continue operating an existing commercial shellfish on tidelands in Samish Bay. The project area is 30.19 acres, of which 4.93 acres is currently cultivated with Manila clams (*Venerupis philippinarum*), 0.01 acres is cultivated with Pacific oysters (*Crassostrea gigas*) and 2.5 acres is cultivated with Geoduck clams (*Panopea generosa*). Mechanical clam harvest currently occurs on 4.93 acres. Manila clams will be cultivated between the +2.0 foot (ft) and +5.0 ft Mean Lower Low Water (MLLW) tidal elevations, oysters between the +2.0 ft and -4.0 ft MLLW, and geoduck clams between 0.0 ft and -4.0 ft MLLW. The 7.44-acres of actively cultivated area cultured with species may vary from year to year. Manila clams are cultivated in varying length rows under 48-inch wide rigid plastic mesh predator control nets. Each net is typically 150-ft. long. The net rows are separated by aisles that are about 1.5-ft. wide. Predator exclusion nets are installed with a tractor implement that buries the edges of the nets. Macroalgae is removed from the nets using a rotary sweeper on a tractor. Nets remain the full cycle of growth and then are removed by tractors. The clams are harvested at low tide with a modified tulip bulb harvesting machine which separates the clams from the sand. Pacific oysters are suspended in plastic mesh bags or cages or on-bottom with harvest by hand. Geoduck is being cultivated using individual plastic mesh tubes without cover nets. This involves installing plastic mesh geoduck nursery tubes by pulling a core of sand out with a tool similar to a razor clam gun, setting the sand core onto the tideland, sliding the net over the core and placing it back into the cored out hole. Geoduck is harvest using a hand-held water jet to liquefy the substrate so the geoduck clams can be removed by hand. Access to the site is by a 30-ft. vessel which pushes or tows a nonmotorized scow. Eelgrass is present throughout the project area in areas that will not be cultivated.

The project site is located on tidelands located on parcel # P61611, P61610, P61607, P61608, and P61616, Township 36N, Range 3E, Section 28, in Samish Bay near Bow, Skagit County, Washington.

Latitude and Longitude of Cultivation Area Corners: 48.594836 / -122.461544, 48.594901 / -122.457576, 48.593035 / -122.457493, 48.593075 / -122.456176, 48.591189 / -122.456133, 48.589891 / -122.457499, 48.589364 / -122.459086, 48.591140 / -122.459139, 48.591155 / -122.458769, 48.593013 / -122.458797, 48.593009 / -122.460143, 48.591134 / -122.460059, and 48.591129 / -122.461446.

With this Order, Ecology is granting Chuckanut Shellfish, Inc.'s request for a Section 401 Water Quality Certification for the Chuckanut Shellfish farm, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 11, 2021, and the following supporting documentation:

1. E-mail to Ecology dated January 19, 2021, regarding Chuckanut Shellfish, Inc.'s water quality monitoring plan.

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 Chuckanut Shellfish, Inc. 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 Chuckanut Shellfish, Inc. 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.

Special Condition:

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 prohibited¹. If such work, conditions, or discharges occur, immediately notify² 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 Division³ 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 Chuckanut Shellfish, Inc., Chuckanut Shellfish Farm project.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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. **19878** will remain valid for the duration of the associated DA permit. Chuckanut Shellfish, Inc. 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	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Loree' Randall
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
loree.randall@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



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology

April 12, 2021
Date