



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, SEATTLE DISTRICT
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

April 16, 2021

Mr. Gary Mazzoncini
Joe Leonard Oyster Company
37451 N. U.S. Highway 101
Lilliwaup, Washington 98555-9734

Reference: NWS-2010-1102(Joe
Leonard Oyster Co.) - DNR
Hama Hama Lease

Dear Mr. Mazzoncini:

We have reviewed your application to continue commercially harvest natural set Pacific oysters within a 10-acre area in Hood Canal near Eldon in Mason County, Washington. The work involves the harvest of 10-acres of on bottom Pacific oysters, harvested by hand, between the +3.0' to -3.0'-feet Mean Lower Low Water (MLLW) tidal elevations. Access to the site will be by upland to break up clusters into single oysters and by boat to harvest. On-bottom Pacific oysters are of natural set with no seeding, fill, nets or structures. Harvest cycle is approximately 3-4 years. Based on the information you provided to us, this "Letter of Permission" (LOP) permit authorizes your proposal as depicted on the enclosed drawings dated June 17, 2007, which are made part of this permit (Enclosure 1). For this LOP authorization to be valid, you must ensure that the work is performed in accordance with the *Letter of Permission General Conditions* (Enclosure 2) and the following special conditions:

a. This U.S. Army Corps of Engineers (Corps) permit does not authorize you to take a threatened or endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or ESA Section 7 consultation Biological Opinion with non-discretionary "incidental take" provisions with which you must comply). The Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters (BOs) - the National Marine Fisheries Service (NMFS) and Errata, dated September 2, 2016 and September 30, 2016, respectively (NMFS Reference Number WCR-2014-1502), and the U.S. Fish and Wildlife Service (USFWS), dated August 26, 2016 (USFWS Reference Number 01EWF00-2016-F-0121), contain mandatory terms and conditions to implement the reasonable and prudent measures associated with the specified "incidental take". The authorization under this Corps permit is conditional upon your compliance with all the mandatory terms and conditions associated with incidental take of the BOs. These terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The USFWS and NMFS are the appropriate authorities to determine compliance with the terms and conditions of its BO and with the ESA.

b. In order to meet the requirements of the Endangered Species Act (ESA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA), you must comply with the conservation measures in the Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters (BOs) - the National Marine Fisheries Service (NMFS) and Errata, dated September 2, 2016 and September 30, 2016, respectively (NMFS Reference Number WCR-2014-1502), and the U.S. Fish and Wildlife Service (USFWS), dated August 26, 2016 (USFWS Reference Number 01EWF00-2016-F-0121). These conservation measures are included in the enclosed document, Enclosure 3, Conservation Measures for Activities Covered under the Shellfish Activities Programmatic Consultation Biological Opinions. If you cannot comply with these conservation measures, you must, prior to commencing construction, contact the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch for individual ESA/MSA consultation. The USFWS and NMFS are the appropriate authorities to determine compliance with the ESA.

c. The time limit for completing the work authorized ends on December 31, 2029 (8-years) aligning with the long-term use of the previously authorized aquaculture operation. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

We have reviewed your project pursuant to the requirements of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act in regard to Essential Fish Habitat. The U.S. Army Corps of Engineers has determined that this project will comply with the requirements of the above laws provided you comply with special condition “b” listed above.

You have not requested a jurisdictional determination for this proposed project. If you believe the U.S. Army Corps of Engineers does not have jurisdiction over all or portions of your project you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Any change in the plans for this work will require that you submit revised drawings to this office and receive our written approval of those changes prior to conducting the work. If you object to any terms or conditions of this LOP or the JD, you may request an administrative appeal under our regulations (33 CFR Part 331) as described in the enclosed *Notification of Administrative Appeal Options and Process and Request for Appeal* form (Enclosure 4).

Your authorization to conduct the proposed work under this permit expires December 31, 2029. Within 30 days of completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit* form to the address indicated on the form (Enclosure 5). Your signature on this form is our assurance you have

conducted the work and any required mitigation in accordance with the terms and conditions of this LOP, including all special conditions. Please remember that failure to comply with the terms and conditions of this LOP, including any special conditions, will invalidate your authorization and could result in a violation of Federal law.

Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form. This form and information about our program is available on our website at: www.nws.usace.army.mil (select "Regulatory Branch, Permit Information").

While this project will not require further authorization from us, please note that it must comply with all local, State, and other Federal requirements that may apply. If you have any questions about this letter or our regulatory program, please contact Mrs. Marion Gall at (814) 235-1761 or at marion.gall@usace.army.mil.

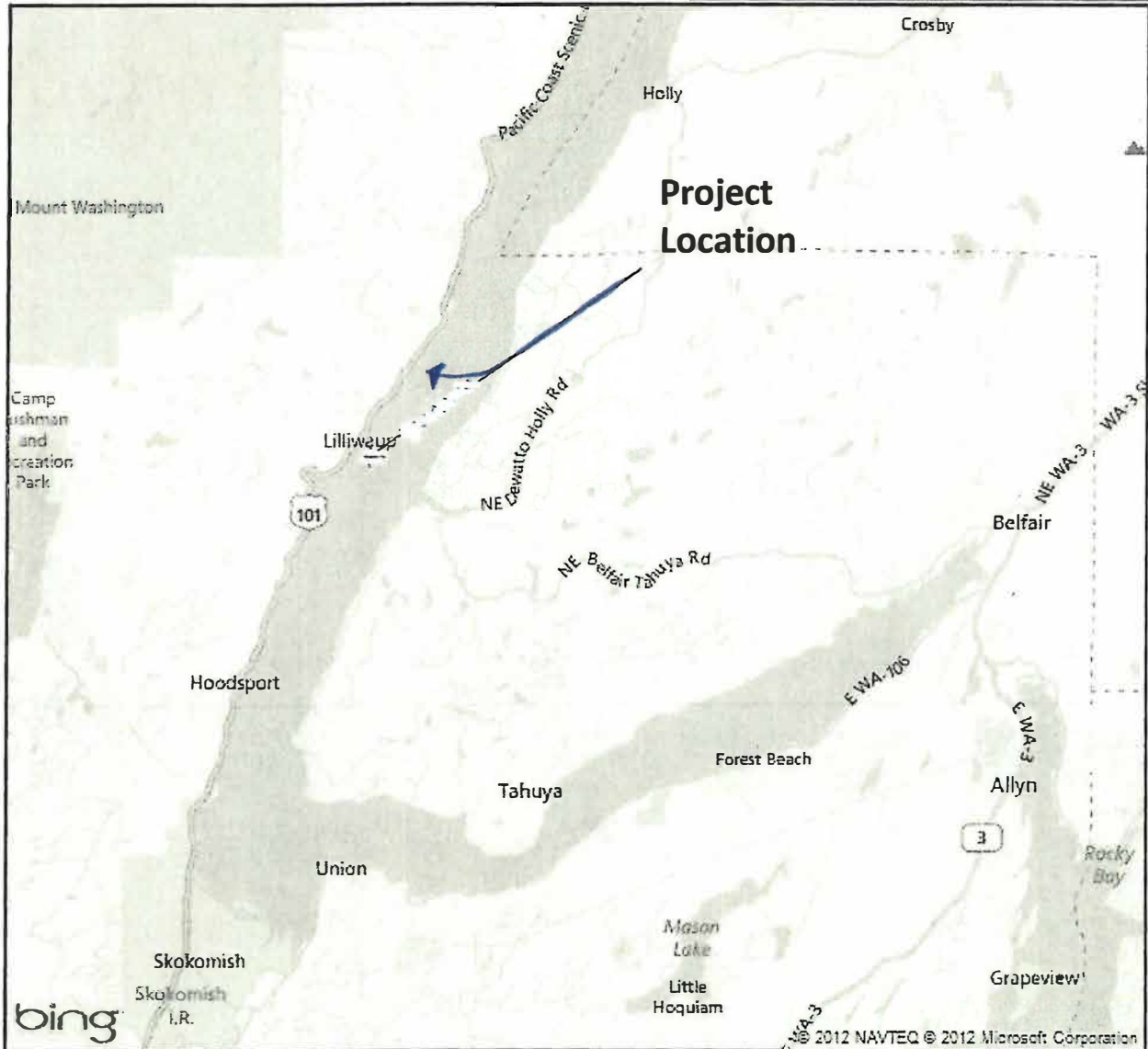
BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for Alexander "Xander" L. Bullock
Colonel, Corps of Engineers
District Engineer

Enclosures

cc: USFWS (wfwocap@fws.gov); ECOLOGY (ecyrefedpermits@ecy.wa.gov);
DNR(lalena.amiotte@dnr.wa.gov)

Vicinity Map



Reference: NWS-2010 - 1102

Application by: Joe Leonard Oyster Co.

Waterbody: Hood Canal

Project Description: Existing 10 acre shellfish farm

County: Mason

State: Washington

Latitude/Longitude: 47.550, -123.03

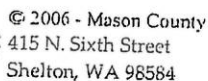
Date: 6/17/07

Sheet 1 of 3

Joe Leonard Oyster
17 June 2007



The data used to make this map have been tested for accuracy, and every effort has been made to ensure that these data are timely, accurate and reliable. However, Mason County makes no guarantee or warranty to its accuracy as to labeling, dimensions, or placement or location of any map features contained herein. The boundaries depicted by these data are approximate, and are not necessarily accurate to surveying or engineering standards, and are intended for informational purposes only. Mason County does not assume any legal liability or responsibility arising from the use of this map in a manner not intended by Mason County. In no event shall Mason County be liable for direct, indirect, incidental, consequential, special, or tort damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising from use of or reliance on the information contained herein.

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Reference: NWS-2010-1102
Appl. By: Joe Leonard Oyster Co.
Project Description: Existing shellfish farm
Waterway: Hood Canal
County: Mason **State:** WA
Project lat & long: 47.550, -123.035
In: Marine, Intertidal **Datum:** 0.00' MLLW
Date: 07/17/07 **Page:** 1 of 3

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Ed Lester

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2277.12

2261.72

2235.66

GARY Webb

2197.04 NWS-2010-1102
State of Washington DNR
22000809956
GARY MAZZONCINI Lease 20-A09956

26.92

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HAMA

Ed Lester 2009-887

GARY MAZZONCINI (2008-539)

GARY Webb

State of WA

Clam Nets approx 16' X 50'

Hungry Bear Cafe

Tom Sawley

Catharine Street

Norm Walden

32423-50-02011

32423-50-02014

32423-50-02015

Eldon Store

Reference: NWS-2009-885
Appl. By: Joe Leonard Oyster Co.
Project Description: Existing shellfish farm
Waterway: Hood Canal
County: Mason State: WA
Project lat & long: 47.549, -123.035
In: Marine. Intertidal Datum: 0.00' MLLW
Date: 06-20-2012 Page: 3 of 4