



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 29, 2021

Bay Center Mariculture Co.
Attn: Richard L. Wilson
PO Box 365
Bay Center, WA 98527

RE: Water Quality Certification Order No. **20002** for Corps Reference No. **200701180**,
Bay Center Mariculture Co. dba Bay Center Farms, Pacific County, Washington

Dear Richard L. Wilson:

On March 1, 2021, Bay Center Mariculture Co. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Bay Center Mariculture Co. dba Bay Center Farms located on tidelands within Willapa Bay, near Bay Center, Pacific 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 Marco Pinchot by e-mail at marco.pinchot@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

Bay Center Mariculture Co. dba Bay Center Farms
Order No. 20002, Corps No. 200701180
April 29, 2021
Page 2 of 2

e-cc: Aquaculture-Reinforcement-Team@usace.army.mil
Megan Biljan, Corps of Engineers (Corps)
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Marco Pinchot, Ecology
ecyrefedpermits@ecy.wa.gov – Aquatics No. 139440

IN THE MATTER OF GRANTING A) ORDER No. 20002
WATER QUALITY) Corps Reference No. 200701180
CERTIFICATION TO) Bay Center Mariculture Co. dba Bay Center
Bay Center Mariculture Co.) Farms located on tidelands within Willapa Bay,
pursuant to 33 U.S.C. 1341 (FWPCA) near Bay Center, Pacific County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Bay Center Mariculture Co.
Attn: Richard L. Wilson
PO Box 365
Bay Center, WA 98527

On March 1, 2021, Bay Center Mariculture Co. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Bay Center Mariculture Co. dba Bay Center Farms, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on April 5, 2021.

This project proposes to continue farming 453 acres of privately owned or leased tidelands in Willapa Bay. Specifically this proposal consists of 423 acres of tidelands currently used for the cultivation of Pacific Oyster, Manila clams and cockles. The number of acres in production varies depending on crop rotations, production needs and has decreased due to burrowing shrimp population infestations. These tidelands have been actively farmed by Bay Center Mariculture using traditional bottom culture methods for over 40 years and were in production under previous company ownership. Planting new oysters involves scattering the ten or so new small oysters attached to an older oyster shell (cultch) on the area being seeded. This usually amounts to around ten or so cultch pieces per square meter. After two to four years of growth on the seed bed harvest involves either hand picking or mechanical harvest. Clam grounds are harvested by hand during low tide on a 2-4 year rotation depending on growth. Clam ground may be enhanced for larval recruitment by sprinkling crushed oysters shell pieces for the clam larvae to attach.

The project site is located on tidelands within Willapa Bay, on parcel numbers 79001000036, 79001000037, 79001000038, 79001000179, 79001000351, 79001000059, 79001000066, 79001000067, 79001000069, 79001000073, 79001000182, 79001000268 DNR 20-A12781, 79001000071, 79001000077, 79001000078, 79001000079, 79001000083, 79001000084, 79001000085, 79001000086, 79001000089, 79001000090, 79001000091, 79001000093, 79001000094, 79001000095, 79001000096, 79001000233, 79001000111, 79001000112, 79001000113, 79001000125, 79001000128, 79001000133, 79001000134, 79001000174, 79001000210, 79001000333, TL 131008 423 A, DNR lease 13100920-A12782, near Bay Center, Pacific County, Washington; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Bay Center Mariculture Co.'s request for a Section 401 Water Quality Certification for the Bay Center Mariculture Co. dba Bay Center Farms project, provided that the activity is conducted in accordance with the Section 401 Water Quality

Certification request and attachments Ecology received on March 1, 2021 and March 29, 2021, and the following supporting documentation:

E-mail letter to Ecology dated March 26, 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 01EWF00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Bay Center Mariculture Co. water quality monitoring plan, and Bay Center Mariculture Co. 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, Bay Center Mariculture Co. 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 Bay Center Mariculture Co. 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.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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 Bay Center Mariculture Co., Bay Center Mariculture Co. dba Bay Center Farms 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. **20002** will remain valid for the duration of the associated DA permit. Bay Center Mariculture Co. 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:

Marco Pinchot
Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503
marco.pinchot@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 29, 2021
Date