



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47600 • Olympia, Washington 98504-7600 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341*

May 6, 2021

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

RE: Water Quality Certification Order No. **19954** for Corps Reference No. **202100351**,
Samish Management Area 3, Skagit County, Washington

Dear Erin Ewald:

On March 1, 2021, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Samish Management Area 3 located on tidelands within Samish Bay, near Bow, Skagit County, Washington.

On May 3, 2021, Taylor Shellfish Farms submitted a revised WQC request for Samish Management Area 3, which removed the use of a cultipacker on shellfish beds identified with invasive Bamboo Shoot worms. Therefore, this WQC does not allow the use of a cultipacker at this time.

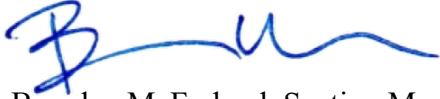
On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable 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 Jennifer Riedmayer by e-mail at jennifer.riedmayer@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Taylor Shellfish Farms
Order No. 19954, Corps No. 202100351
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Sincerely,



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

Enclosure

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
Jennifer Riedmayer, Ecology
ecyrefedpermits@ecy.wa.gov – Aquatics No. 139897

IN THE MATTER OF GRANTING A)	ORDER No. 19954
WATER QUALITY)	Corps Reference No. 202100351
CERTIFICATION TO)	Samish Management Area 3 located on tidelands
Taylor Shellfish Farms)	within Samish Bay, near Bow, Skagit County,
pursuant to 33 U.S.C. 1341 (FWPCA)	Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Taylor Shellfish Farms
Attn: Erin Ewald
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Shelton, WA 98584

On March 1, 2021, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Samish Management Area 3, Skagit County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 18, 2021.

This project proposes to commercially cultivate 31 acres of clams between +3.0 foot (ft.) and - 3.0 ft. on parcel numbers P48467, P61564, P120919, P61569, P61582 and P61580. Access to tidelands is by boat and upland Taylor owned property off Chuckanut Drive and leased access points off Blue Heron Road.

Clam seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Mechanically installed netting may be used to prevent predation. Nets are swept of silt or algae as needed using a tractor and sweeps. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. The grower may also use a mechanical clam digger, which is powered by a small engine that propels a blade to loosen the soil and collect clams. The clams are collected by a rake under the machine that gathers them onto a conveyor belt and placed in a tub for sorting by staff. Once the clams are harvest they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.

The project site is located on tidelands within Samish Bay, on parcel numbers P48467, P61564, P120919, P61569, P61582 and P61580, near Bow, Skagit County, Washington; Section 29 and 30, Township 36 North, Range 3 East; WRIA 3, Low Skagit-Samish Watershed.

With this Order, Ecology is granting Taylor Shellfish Farms's request for a Section 401 Water Quality Certification for the Samish Management Area 3 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 the following supporting documentation:

1. March 1, 2021- Memo from Taylor Shellfish – Taylor Shellfish Water Quality Monitoring Protection Plan for this project. 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 Taylor Shellfish Farms 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, Taylor Shellfish 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 Taylor Shellfish 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.

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 Taylor Shellfish Farms, Samish Management Area 3 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. **19954** will remain valid for the duration of the associated permit. Taylor Shellfish Farms should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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:

Jennifer Riedmayer
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
Jennifer.Riedmayer@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

May 6, 2021
Date