STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

May 6, 2021

Sound Shellfish Company
Attn: Ian Child
PO Box 12475
Olympia, WA 98508

RE: Water Quality Certification Order No. **19790** for Corps Reference No. **200701368**, Hairston Tidelands, Thurston County, Washington

Dear Ian Child:

On March 12, 2021, Sound Shellfish submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Hairston Tidelands located on tidelands within Dana Passage, 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 Teressa Pucylowski by e-mail at teressa.pucylowski@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

e-cc: Meghan Fullam, Corps of Engineers (Corps)
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Teressa Pucylowski, Ecology
ecyrefedpermits@ecy.wa.gov – Aquatics No. 139096
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Sound Shellfish Company pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	)))))))	**ORDER No. 19790** **Corps Reference No. 200701368** Hairston Tidelands located on tidelands within Dana Passage, near Olympia, Thurston County, Washington

Sound Shellfish Company
Attn: Ian Child
PO Box 12475
Olympia, WA 98508

On March 12, 2021, Sound Shellfish Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Hairston Tidelands, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 16, 2021.

The project will continue to cultivate 0.58 acres of geoduck clams on privately owned tidelands within 0.0ft to -3.6ft Mean Lower Low Water. The beach requires no site preparation prior to planting beyond raking any Ulva away from the immediate area to be planted. There will be no redirection of seepage of upland runoff and no native materials will be removed from the aquatic farm site.

To protect juvenile geoduck clams from predators, geoduck seed are placed in either PVC or Vexar mesh tubes that are pushed into the substrate (by hand for PVC tubes or using a low-pressure water jet for Vexar mesh tubes) at density not to exceed one tube per square foot. The tubes are all 4” in diameter and 12-16” in length and 3-5” of the tube will remain exposed above the substrate. PVC will be capped with individual mesh netting and secured with specialized rubber bands designed to withstand UV light and saltwater; mesh tubes will be secured using zip-ties or hog rings. Area nets may be placed over the tubes and weighed down with rebar stakes. Tubes and nets are removed after about 1-2 years after planting.

Geoduck are harvested either via dive harvest or beach harvest, although both use a motorized, low pressure water pump mounted on a vessel offshore. Water is delivered to the harvester at 20-30 gallons per minute, and is similar to a garden hose at full volume. The end of the hose is equipped with a nozzle which is inserted into the substrate, softening the sand adjacent to the geoduck and allowing the clams to be removed by hand. Harvest occurs about 5-7 years after planting.

The project site is located on tidelands within Dana Passage, on parcel number 12912240700, adjacent to 8133 NE Zangle Road, near Olympia, Thurston County, Washington; Section 12, Township 19 North, Range 2 West; WRIA 13, Deschutes Watershed.

With this Order, Ecology is granting Sound Shellfish Company's request for a Section 401 Water Quality Certification for the Hairston Tidelands project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 12, 2021.

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, Sound Shellfish Company 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 Sound Shellfish Company 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 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 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 Sound Shellfish Company, Hairston Tidelands 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. **19790** will remain valid for the duration of the associated DA permit. Sound Shellfish Company 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 **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

CONTACT INFORMATION

Please direct all questions about this Order to:

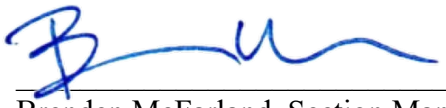
Teressa Pucylowski
Department of Ecology
PO Box 4760
Olympia, WA 98504-7600
teressa.pucylowski@ecy.wa.gov

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