



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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May 7, 2021

Heckes Clams Inc.  
Attn: John Heckes  
PO Box 1657  
Ocean Park, WA 98640

RE: Water Quality Certification Order No. **20054** for Corps Reference No. **201700818**,  
Oyster Beds E-181 and E-184, Pacific County, Washington

Dear John Heckes:

On May 15, 2020, Heckes Clams Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Oyster Beds E-181 and E-184 located on tidelands within Willapa Bay near Nahcotta, 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

Oyster Beds E-181 and E-184  
Order No. 20054, Corps No. 201700818  
May 7, 2021  
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e-cc: 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. 135728  
Aquaculture-Reinforcement-Team@usace.army.mil

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 20054</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 201700818</b>
<b>CERTIFICATION TO</b>	)	Oyster Beds E-181 and E-184 located on
Heckes Clams Inc.	)	tidelands within Willapa Bay, near Nahcotta,
pursuant to 33 U.S.C. 1341 (FWPCA	)	Pacific County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Heckes Clams Inc.  
Attn: John Heckes  
PO Box 1657  
Ocean Park, WA 98640

On May 15, 2020, Heckes Clams Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Oyster Beds E-181 and E-184, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on May 19, 2020.

This project proposes to continue farming Pacific Oysters on two parcels in Willapa Bay. The maximum area that would be used for on bottom oyster cultivation at one time is 20 acres (10 acres on each oyster bed). Oysters may naturally set on the bed or may be seeded by hand or from a vessel using a sluicing technique. Shell may be spread for catching naturally recruiting larvae. Oysters may be transplanted during grow-out to fattening beds. Oyster beds may be harrowed during grow-out to move the oysters back to the sediment surface. Oysters are harvested by dredge basket at high tide when they reach market size, after 3 or 4 years.

The project site is located on tidelands within Willapa Bay, on parcel numbers 79005000184 and 79005000181, adjacent to 28107 Sandridge Road, Nahcotta, Pacific County, Washington; Section 35, Township 13 North, Range 11 West; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Heckes Clams Inc.'s request for a Section 401 Water Quality Certification for the Oyster Beds E-181 and E-184 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 15, 2020, and the following supporting documentation:

1. E-mail letter to Ecology dated May 5, 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 Heckes Clams Inc. water quality monitoring plan, and Heckes Clams Inc. 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, Heckes Clams 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 Heckes Clams 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 prohibited<sup>1</sup>. If such work, conditions, or discharges occur, immediately notify<sup>2</sup> 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<sup>3</sup> 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 Heckes Clams Inc., Oyster Beds E-181 and E-184 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. **20054** will remain valid for the duration of the associated DA permit. Heckes Clams Inc. should send a copy of the final DA permit to [fednotification@ecy.wa.gov](mailto: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).

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<sup>1</sup> RCW 90.48

<sup>2</sup> WAC 173-303-145

<sup>3</sup> RCW 90.56.280

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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503  <b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608  <b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

#### CONTACT INFORMATION

Please direct all questions about this Order to:

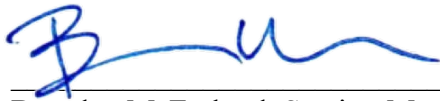
Marco Pinchot  
Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503  
marco.pinchot@ecy.wa.gov

#### 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

May 7, 2021  
Date