



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 7, 2021

Rock Point Oyster Company
Attn: David Steele
1733 Dabob Post Office Road
Ouilcene, WA 98376

RE: Water Quality Certification Order No. **19781** for Corps Reference No. **200701150**,
Rock Point Oyster Company, Tarboo Bay Farm, Jefferson County, Washington

Dear David Steele:

On March 13, 2021, Rock Point Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Tarboo Bay Farm located on tidelands within Tarboo Bay, near Quilcene, Jefferson 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 Adam Sant by e-mail at adam.sant@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brenden", is written over a horizontal line.

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

Enclosure

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e-cc: Kirsten Brown, Corps of Engineers (Corps)
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Marilyn Showalter
Jan Wold
Loree' Randall, Ecology
Adam Sant, Ecology
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov – Aquatics No. 138725

IN THE MATTER OF GRANTING A) ORDER No. 19781
WATER QUALITY) Corps Reference No. 200701150
CERTIFICATION TO) Rock Point Oyster Company, Tarboo Bay Farm
Rock Point Oyster Company) located on tidelands within Tarboo Bay, near
pursuant to 33 U.S.C. 1341 (FWPCA) Quilcene, Jefferson County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Rock Point Oyster Company, Tarboo Bay Farm
Attn: David Steele
1733 Dabob Post Office Road
Ouilcene, WA 98376

On March 13, 2021, Rock Point Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Tarboo Bay Farm, Jefferson County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on April 1, 2021.

This project proposes to grow shellfish for human consumption. The project area is 220 acres, divided among 173.6 acres of harvestable tideland. Manila clam culture is in the substrate covering 173.6 acres. Clams are naturally propagated and harvested by hand. We propose to use a converted bulb harvest machine to harvest Manila clams in some areas that are flat. Pacific oysters are naturally propagated or seed planted as ground culture on 129.7 acres and rack and bag, tray, and tumble bag culture on 7.6 acres. Kumamoto oysters are seeded into a rack and bag system and tumble bag system on the same 7.6 acres. Oyster seed is produced at our upland nursery or purchased from a local seed producer. Since most shellfish on this site is natural propagation, little site preparation is used. Crews will operate at low tide whenever harvest occurs, day or night. Clams are placed into plastic mesh harvest bags and oysters are sized and placed into plastic mesh harvest bags and tied to longlines with floats for retrieval at high tide. At high tide, a 50' harvest boat travels to the floats and a davit used to pull the harvest bags onto the deck for transport to the pier where they are moved into wet storage or processed for shipping. Processing involves tagging, placing into totes, icing, and moving into cold storage. The harvest boat uses large lights during night work and special care is taken to reduce motor noise. The project area is accessed on foot from headquarters and 12'-14' boats used to cross channels at low tide. Periodically, a tracked ATV is used to access portions of the farm. Grow-out trays are used in the Kumamoto Oyster Rack area. The trays are 20" square and stacked 2' high and used to hold oysters during planting activities. Approximately 20 stacks of 4 trays remain around the rack and bag system and flip bag system.

The project site is located on tidelands within Tarboo Bay, on parcel numbers 701091004 and 701163002, adjacent to 1733 Dabob Post Office Road, near Quilcene, Jefferson County, Washington; Section 9 and 16, Township 27 North, Range 1 West; WRIA 17, Quilcene-Snow Watershed.

With this Order, Ecology is granting Rock Point Oyster Company's request for a Section 401 Water Quality Certification for the Tarboo Bay Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 13, 2021, and the following supporting documentation:

1. Joint Aquatic Resources Permit Application form (JARPA) dated March 9, 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 Rock Point Oyster Company's water quality monitoring plan, and Rock Point Oyster Company's 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, Rock Point Oyster Company, Tarboo Bay Farm 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 Rock Point Oyster Company, Tarboo Bay Farm 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 Conditions:

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 Rock Point Oyster Company, Tarboo Bay Farm 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. **19781** will remain valid for the duration of the associated DA permit. Rock Point Oyster Company, Tarboo Bay Farm 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:

Adam Sant
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
adam.sant@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