



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47600 • Olympia, Washington 98504-7600 • (360) 407-6300
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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. **19773** for Corps Reference No. **201001039**,
Rock Point Oyster Company-Case Shoal Farm, Jefferson County, Washington

Dear David Steele:

On February 28, 2021, Rock Point Oyster Company-Case Shoal Farm submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Case Shoal Farm located on tidelands within Squamish Harbor and Hood Canal, near Port Ludlow, 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

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Enclosure

e-cc: Kirsten Brown, Corps of Engineers (Corps)
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Jan Wold, citizen
Marilyn Showalter, citizen
Loree' Randall, Ecology
Adam Sant, Ecology
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov – Aquatics No. 139198

IN THE MATTER OF GRANTING A)	ORDER No. 19773
WATER QUALITY)	Corps Reference No. 201001039
CERTIFICATION TO)	Rock Point Oyster Company, Case Shoal Farm
Rock Point Oyster Company)	located on tidelands within Squamish Harbor and
pursuant to 33 U.S.C. 1341 (FWPCA)	Hood Canal, near Port Ludlow, Jefferson
§ 401), RCW 90.48.120, RCW 90.48.260)	County, Washington
and Chapter 173-201A WAC)	

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

On February 28, 2021, Rock Point Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Case Shoal Farm, Jefferson County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 25, 2021.

This project proposes to grow shellfish for human consumption with Pacific oysters, Kumamoto oysters, geoduck clams and Manila clams cultivated on this project area covering a total of 44.35 acres. There are 3.65 acres of the project that lay above the +5' tidal level that are not farmed. Pacific oysters are planted on the substrate covering 37 acres inside of the spit (no name) at the 0' to +5' tidal elevations. These oysters are either cultch set or single oysters that originate from our Tarboo facility or grown in a FLUPSY and are scattered on the tideland for growth to maturity. Pacific oysters and Kumamoto oysters that are single oyster seed are also placed in grow-out bags (flip bags) hanging from longlines or placed in baskets or trays for growth to maturity covering approximately 3.5 acre today with the desire to expand to 5 acres. These oysters are cultured in a tidal range from +1' to +4' elevation. Geoduck clams were cultivated by the previous lessee (Matt Skelley) and have been expanded over the past 4 years, but no harvest has taken place. These clams are grown on deeper tideland from 0' to -2.0' covering 8 acres. Manila clams are cultivated in an area covering 6 acres where seeding occurs, yet wild clam harvest occurs across most of the same areas as the on-ground oyster culture of 37 acres from 0' to +5'. All oyster and Manila clam harvest activity will be by hand with shellfish removed at high tide by boat or by ATV following a designated pathway. Harvest will be accomplished throughout the year. Planting oysters is either spat on shell or single oysters, spread onto the tideland, or placed in bags, trays, or baskets. Geoduck harvest has not occurred at this time but will be harvested either at low tide or by dive harvest using contract harvesters.

The project site is located on tidelands within Squamish Harbor and Hood Canal, on parcel number 721-092-001 and 721-092-003, adjacent to 1823 South Point Rd, near Port Ludlow, Jefferson County, Washington; Section 9, Township 27 North, Range 1 East; 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 Rock Point Oyster Company-Case Shoal Farm project,

provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 28, 2021, and the following supporting documentation:

1. Revised Joint Aquatic Resources Permit Application form (JARPA) dated March 15, 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 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 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, Case Shoal 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. **19773** will remain valid for the duration of the associated DA permit. Rock Point Oyster Company 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

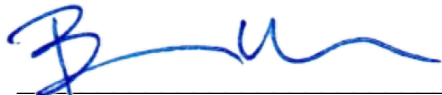
Please direct all questions about this Order to:

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