



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 10, 2021

Puget Beach Shellfish
Attn: Timothy Salo
6818 Puget Beach Road NE
Olympia, WA 98516

RE: Water Quality Certification Order No. **19899** for Corps Reference No. **200701165**,
Puget Beach Shellfish – Berndt, Salo and Johnson, Thurston County, Washington

Dear Timothy Salo:

On March 22, 2021, Puget Beach Shellfish submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Puget Beach Shellfish – Berndt, Salo and Johnson located on tidelands within Nisqually Reach, 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 Teresa 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

Puget Beach Shellfish
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Enclosure

e-cc: Lee Wolf, Corps of Engineers (Corps)
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Teresa Pucylowski, Ecology
ecyrefedpermits@ecy.wa.gov – Aquatics No. 137058
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A)	ORDER No. 19899
WATER QUALITY)	Corps Reference No. 200701165
CERTIFICATION TO)	Puget Beach Shellfish – Berndt, Salo and
Puget Beach Shellfish)	Johnson located on tidelands within Nisqually
pursuant to 33 U.S.C. 1341 (FWPCA)	Reach, near Olympia, Thurston County,
§ 401), RCW 90.48.120, RCW 90.48.260)	Washington
and Chapter 173-201A WAC)	

Puget Beach Shellfish
Attn: Timothy Salo
6818 Puget Beach Road NE
Olympia, WA 98516

On March 22, 2021, Puget Beach Shellfish submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Puget Beach Shellfish – Berndt, Salo and Johnson, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 24, 2021.

This project will continue to cultivate geoduck, oysters, and clams. Geoduck will be commercially farmed on a 3.5-acre area between +3.0ft Mean Lower Low Water (MLLW) and -4.5 MLLW for extreme low tide, with 2.7 acres of planted geoduck at a time. Oysters and Manila clams will be cultivated, mostly for non-commercial harvest, on a 0.5-acre area between +5.0ft Mean Lower Low Water (MLLW) and +3.0ft MLLW, with 0.1 acres of planted shellfish at a time. There will be 1.2 acres left fallow. There is no eelgrass at the farm site. Access to the project are will be by boat or from the upland.

Oysters and Manila clams are grown in 20-30 mesh grow bags directly on the beach. They are seeded and harvest by hand. Juvenile geoduck are planted in 4"-wide x 10"-long PVC tubes which are pushed into the substrate about 6-8" deep. Tubes are spaced about 12" apart, and about 250,000 geoducks are planted within the entire project area. Canopy nets will be used to cover the tubes over an area of about 35' x 35'. After 2 years, the tubes and nets are removed and are moved to another part of the project area for new planting.

Geoduck harvest 7 years after they are planted, and this practice is done by a third party contractor (Seattle Shellfish) on an annual basis. Geoducks are harvested by divers at high tide using a 1"-wide saltwater hose which liquefies the substrate as geoducks are the pulled out from a depth of 3-4 ft. The harvesting activity leaves small indents in the substrate that typically go away after a few weeks.

The project site is located on tidelands within Nisqually Reach, on parcel numbers 1195430100, 1195430101, and 1195430102, adjacent to 6818 Puget Beach Road NE, near Olympia, Thurston County, Washington; Section 15, Township 19 North, Range 1 West; WRIA 13, Deschutes Watershed.

With this Order, Ecology is granting Puget Beach Shellfish's request for a Section 401 Water Quality Certification for the Puget Beach Shellfish – Berndt, Salo and Johnson project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 22, 2021, and the following supporting documentation:

1. E-mail to Ecology dated March 24, 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 Puget Shellfish'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, Puget Beach Shellfish 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 Puget Beach Shellfish 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.

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 Puget Beach Shellfish – Berndt, Salo and Johnson 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. **19899** will remain valid for the duration of the associated DA permit. Puget Beach Shellfish 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

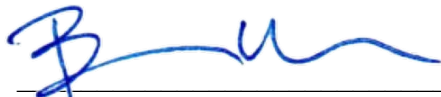
Please direct all questions about this Order to:

Teressa Pucylowski
Department of Ecology
PO Box 47600
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 10, 2021
Date