STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

May 17, 2021

Wiegardt & Sons, Inc.
Attn: Ken Wiegardt
PO Box 309
Ocean Park, WA 98640

RE: Water Quality Certification Order No. **19999** for Corps Reference No. **201000240**, Wiegardt Seal Spit DNR Shellfish Farm, Pacific County, Washington

Dear Ken Wiegardt:

On January 8, 2021, Wiegardt and Sons, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Seal Spit DNR Shellfish Farm located on tidelands within Willapa Bay, near Ocean Park, 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

e-cc: Benjamin Reile, Corps of Engineers (Corps)
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. 139858
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Wiegardt & Sons, Inc. pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))	**ORDER No. 19999** **Corps Reference No. 201000240** Wiegardt Seal Spit DNR Shellfish Farm located on tidelands within Willapa Bay, near Ocean Park, Pacific County, Washington

Wiegardt & Sons, Inc.
Attn: Ken Wiegardt
PO Box 309
Ocean Park, WA 98640

On January 8, 2021, Wiegardt & Sons, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Seal Spit DNR Shellfish Farm, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on April 21, 2021.

This project proposes to continue to farm 16 acres of on bottom oyster culture. Oysters that are near market size are placed on the substrate and left to fatten until they are market ready. Oysters are harvested every 1 to 2 years depending on oyster meat condition and growth. Oyster harvest will either be done by dredge at high tide or by hand at low tide. Up to 16 acres of dredge harvest may occur each year.

The project site is located on tidelands within Willapa Bay, on DNR Lease 20-A13354, near Ocean Park, Pacific County, Washington; Section 26, 27, Township 13 North, Range 11 West; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Wiegardt & Sons, Inc.'s request for a Section 401 Water Quality Certification for the Wiegardt Seal Spit DNR Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 8, 2021, and the following supporting documentation:

1. E-mail letter to Ecology dated February 12, 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 01EWFW00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Wiegardt & Sons, Inc. water quality monitoring plan.

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, Wiegardt & Sons, 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 Wiegardt & Sons, 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[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 Wiegardt & Sons, Inc., Wiegardt Seal Spit DNR Shellfish 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. **19999** will remain valid for the duration of the associated DA permit. Wiegardt & Sons, Inc. 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.

[1] RCW 90.48
[2] WAC 173-303-145
[3] RCW 90.56.280

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:

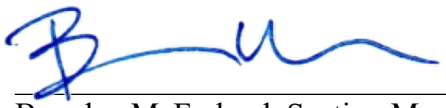
Marco Pinchot
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
marco.pinchot@ecy.wa.gov

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 17, 2021
Date