



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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May 18, 2021

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

RE: Water Quality Certification Order No. **19786** for Corps Reference No. **202000549**,
Wiegardt Shellfish Farm T-215 ATF, Pacific County, Washington

Dear Ken Wiegardt:

On June 26, 2020, Wiegardt & Sons Inc submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Shellfish Farm T-215 ATF 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,

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: Robert M. Smith, K&L Gates LLP
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. 138949
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A) ORDER No. 19786
WATER QUALITY) Corps Reference No. 202000549
CERTIFICATION TO) Wiegardt Shellfish Farm T-215 ATF located on
Wiegardt and Sons, Inc) tidelands within Willapa Bay near Ocean Park,
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)

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

On June 26, 2020, Wiegardt and Sons Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Shellfish Farm T-215 ATF, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 22, 2020.

This project proposes to continue operation on 11 acres of on bottom oyster culture, 3 acres floating cage oyster culture, 7 acres on bottom oyster cultch bag culture and 1 acre suspended oyster flip bag culture.

On bottom oysters are produced through both natural recruitment and hatchery-produced seed. For natural recruitment, the bed will be lightly frosted with clean oyster shell that has been aged for a minimum of 90 days. Frosting will occur when there is oyster larvae present in the water column and mature oysters have been previously removed from the bed. Frosting typically happens in July/August. Frosting with oyster shell will occur every 3 to 5 years. Hatchery-produced seed is planted after the mature oysters have been removed. Oysters are harvested every 2 to 5 years depending on oyster density and growth. All oyster harvest is done at low tide by hand.

Floating cage oyster culture consists of longlines using ½” Blue Steel rope that is 50 feet long. Rows are spaced 4 feet apart. There are three 4”x4” ¼” thick plastic anchors on each end of the longline as well as one every 5 feet on the longline. Each plastic anchor is attached to a ½” nylon rope that is 5 feet long. Each anchor is driven into the ground to a depth of 2 1/2 feet. The other end of the anchor line is attached to the longline using thimbles. Oyster seed is placed into tube shaped cages measuring approximately 2 feet by 1 foot. These cages are made of plastic coated wire mesh and have a plastic lid on both ends. Cages are attached to the longlines using plastic zip ties. Cages attached to the longlines have 2 small crab floats attached to them opposite of the attachment point to the longline. Floats are attached to the cage using thin polypropylene and plastic clips. Monthly visits along with visits after high wind events are made to check conditions of oysters and gear. Harvest is done by removing the cages from the longline and sorting/washing/packing the oysters at an upland location.

On bottom oyster cultch bag cultivation uses 3 foot long 8 inch diameter bags full of clean oyster shell. Shell in the bags may have oyster seed that was set on them in an upland location. Bags of clean shell may also be put out when there are oyster larvae present in the water column to attract natural recruitment. Bags will be stacked 3 deep on top of 3 pieces of 4" schedule 40 thin wall PVC pipe to keep the bottom layer of bags from smothering. Rows are spaced 3 feet apart. Bags will be put out from March through October. Bags will be left for approximately 6 months or until the seed is large enough for on bottom culture. Harvest is done at low tide by hand.

Suspended oyster flip bags consist of longlines that are 120 feet long with anchor lines at either end and supporting posts every 6 feet. Each row is spaced 6 feet apart. One block consists of up to 25 rows. Blocks are spaced a minimum of 50 feet from each other. The anchor lines consist of two ½" nylon ropes with a 4"x4"x1/4" piece of plastic driven 2 feet into the ground. The anchor lines are used to maintain line tension. The supporting posts are made of schedule 80, 1 ¼" PVC. Lines between the posts are ¼" Samson Amsteel. Longlines can be 1 foot to 4 feet in elevation above the ground. Longlines hold bags with floats. The bags are made from ¼" and 503367138 v1 3/8" VEXAR mesh and are approximately 2 feet by 3 feet. Bags are attached to the line using plastic zip-ties. Bags attached to the longlines have a small crab float attached to them opposite of the attachment to the long line. Floats are attached to the bag using thin polypropylene line and plastic clips. Monthly visits along with visits after high wind events are made to check condition of oysters and gear. Harvest is done by removing the bags from the longlines and sorting/washing/packing the oysters at an upland location.

The project site is located on tidelands within Willapa Bay on parcel number 12112755215, near Ocean Park, Pacific County, Washington; Section 27, Township 12N, Range 11W; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Wiegardt and Sons Inc.'s request for a Section 401 Water Quality Certification for the Wiegardt Shellfish Farm T-215 ATF project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on June 26, 2020, 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 01EWF00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Wiegardt and Sons Inc.'s 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 and 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 and 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 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.

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 and Sons Inc., Wiegardt Shellfish Farm T-215 ATF 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. **19786** will remain valid for the duration of the associated DA permit. Wiegardt and 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.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

- 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 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:

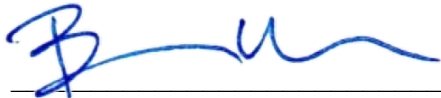
Marco Pinchot
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
marco.pinchot@ecy.wa.gov

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 18, 2021

Date