



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 14, 2021

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

RE: First Amendment to Section 401 Water Quality Certification Order 19639 for U.S. Army Corps of Engineers Reference No. 200901318, Taylor Shellfish Farms Oyster Bay 1, Oyster Bay, Shelton, Mason, Washington

Dear Erin Ewald:

Enclosed is an amendment to Water Quality Certification Order No. 19639 issued on March 2, 2021 for the above project. We have also included a strikeout version of the Water Quality Certification that reflects the changes made. All other conditions of Water Quality Certification No. 19639 remain in effect.

The purpose of this amendment is to reflect the changes in the farm plan for Taylor Shellfish Farms Oyster Bay 1. The amendment shows changes to tidal elevation, no use of bags for oyster cultivation and the use of graveling.

If you have any questions, please contact Jennifer Riedmayer at Jennifer.Riedmayer@ecy.wa.gov. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

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

e-cc: Colin Greenan, U.S. Army Corps of Engineers (Corps)
Emma Ross, U.S. Army Corps of Engineers (Corps)
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Jennifer Riedmayer – Ecology
Loree' Randall – Ecology
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov – Aquatics No. 138619

IN THE MATTER OF GRANTING A	)	ORDER No. 19639
WATER QUALITY	)	First Amendment
CERTIFICATION TO	)	Corps Reference No. 200901318
Taylor Shellfish Farms	)	Taylor Shellfish Farms Oyster Bay 1, located on
pursuant to 33 U.S.C. 1341 (FWPCA	)	tidelands within Oyster Bay, near Shelton,
§ 401), RCW 90.48.120, RCW 90.48.260	)	Mason County, Washington
and Chapter 173-201A WAC)	

TO: Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

On March 2, 2021 the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Taylor Shellfish Farms for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on June 8, 2021 from Taylor Shellfish Farms to modify the Water Quality Certification due to changes in Taylor Shellfish farm plan.

Order No. 19639 dated March 2, 2021 is hereby amended as follows:

I. The following paragraph which reads:

This project proposes to commercially cultivate up to 12 acres of clams and oysters between +4.5 foot (ft.) and -4.5 ft. Mean Lower Low Water (MLLW) tidal elevations on parcels 319224280051, 319221480052, and 319232380050 in Oyster Bay. Work will occur by accessing tidelands by boat.

The cultivation of oysters for commercial production are grown in bags, near bottom, and on-bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used. Some gravelling may occur, monitored to maintain 1 inch maximum depth of material across the project area.

Is replaced with:

This project proposes to commercially cultivate 12 acres of clams and oysters between +5.0 foot (ft.) and -3.0 ft. Mean Lower Low Water (MLLW) tidal elevations on parcels 319224280051, 319221480052, and 319232380050 in Oyster Bay. Work will occur by accessing tidelands by boat.

The cultivation of oysters for commercial production are grown near bottom, and on-bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Gravelling is proposed for this location. The site will

use no more than 2,000 cubic yards of gravel, which will be spread annually at a depth not to exceed 1 inch.

No other conditions or requirements of the above referenced Order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

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 STE 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:

Jennifer Riedmayer
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Jennifer.Riedmayer@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>

SIGNATURE



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

June 14, 2021
Date

This document shows the activities and conditions that have been amended since the original Order was issued. Therefore it is not the official Certification and should be used only for informational purposes.

First Amendment changes are reflected in RED.

IN THE MATTER OF GRANTING A	)	ORDER No. 19639
WATER QUALITY	)	Corps Reference No. NWS 2009-1318
CERTIFICATION TO	)	Oyster Bay 1 located on tidelands within Oyster
Taylor Shellfish Farms	)	Bay, near Shelton, Mason County, Washington
pursuant to 33 U.S.C. 1341 (FWPCA)	
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

On May 13, 2020, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Oyster Bay 1, Mason County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 12, 2020.

This project proposes to commercially cultivate ~~up to~~ 12 acres of clams and oysters between +5.0 foot (ft.) and -3.0 (ft.) ~~+4.5 foot (ft.) and -4.5 ft.~~ Mean Lower Low Water (MLLW) tidal elevations on parcels 319224280051, 319221480052, and 319232380050 in Oyster Bay. Work will occur by accessing tidelands by boat.

The cultivation of oysters for commercial production are grown ~~in bags~~, near bottom, and on-bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. ~~Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used. Some~~ Graveling is proposed for this location. The site will use no more than 2,000 cubic yards of gravel, which will be spread annually at a depth not to exceed 1 inch. ~~may occur, monitored to maintain 1-inch maximum depth of material across the project area.~~

Clam seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. The grower may also use a mechanical clam digger, which is powered by a small engine that propels a blade to loosen the soil and collect clams. The clams are collected by a rake under the machine that gathers them onto a conveyor belt and placed in a tub for sorting by staff. Once the clams are harvest they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.

The project site is located on tidelands within Oyster Bay, on parcel numbers 319224280051, 319221480052, 319232380050 adjacent to SE Bloomfield Road, near Shelton, Mason County, Washington; Section 22, Township 19 North, Range 3 West; WRIA 14, Kennedy-Goldsborough Watershed.

First Amendment changes are reflected in RED.

Order No. 19639, Corps No. NWS 2009-1318

Aquatics No. 138619

Originally Issued March 2, 2021

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With this Order, Ecology is granting Taylor Shellfish Farms's request for a Section 401 Water Quality Certification for the Oyster Bay 1 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 13, 2020, and the following supporting documentation:

1. January 26, 2021- Memo from Taylor Shellfish – Taylor Shellfish Water Quality Monitoring Protection Plan for this project. 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 Taylor Shellfish Farms 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, Taylor Shellfish Farms 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 Taylor Shellfish Farms 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.

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. If such work, conditions, or discharges occur, immediately notify 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 at 1-800-258-5990, for actual spills to water only.

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 Taylor Shellfish Farms, Oyster Bay 1 project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a permit for this project. Order No. **19639** will remain in effect for a period of five (5) years from the issuance of the Corps permit.