



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 17, 2021

Buck Bay Shellfish
Attn: Mark Sawyer
77 E.J. Young Road
Olga, WA 98279

RE: Water Quality Certification Order No. **20152** for Corps Reference No. **200701131**,
Buck Bay Shellfish Farm, San Juan County, Washington

Dear Mark Sawyer:

On May 3, 2021, Buck Bay Shellfish submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Buck Bay Shellfish Farm located on tidelands within Buck Bay, near Olga, San Juan 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

Enclosure

Buck Bay Shellfish Farm
Order No. 20152, Corps No. 200701131
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e-cc: Megan Biljan, 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
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov – Aquatics No. 140101

IN THE MATTER OF GRANTING A)	ORDER No. 20152
WATER QUALITY)	Corps Reference No. 200701131
CERTIFICATION TO)	Buck Bay Shellfish Farm located on tidelands
Buck Bay Shellfish)	within Buck Bay, near Olga, San Juan County,
pursuant to 33 U.S.C. 1341 (FWPCA)	Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Buck Bay Shellfish
Attn: Mark Sawyer
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Olga, WA 98279

On May 3, 2021, Buck Bay Shellfish submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Buck Bay Shellfish Farm, San Juan County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on May 20, 2021.

This project will continue to commercially cultivate various shellfish species on 17.8 acres within a 22.8-acre project area. This includes 5 acres of geoduck; 5 acres of Manila clams; and 5.8 acres of Pacific, Kumamoto, and European flat oysters. The project area also includes 5 acres that have never been used for aquaculture. There is also typically about 2 acres of fallow grounds present at any time, which rotates seasonally. Cultivation of geoduck occurs between -3.5ft Mean Lower Low Water (MLLW) and -1.0ft MLLW; cultivation of Manila clams occur between 0.0ft MLLW and +2.0ft MLLW; and cultivation of oysters occurs between -3.5ft MLLW and +3.0ft MLLW. Wild harvest of natural set littleneck and butter clams, as well as on on-bottom mussels also occurs that the farm site. There are some small patches of eelgrass present on the project site. Access to the project area is by boat or from the upland. This farm has been in existence for seven decades. There is currently a FLUPSY nursery system located within the project area for oysters that is only in use when seed is of insufficient size, which is currently not the case.

Manila clams are seeded by hand directly onto the tidelands. Predator exclusion nets are used to cover the clams, and are secured to the substrate with rebar stakes. Nets are in place for about 2-3 years until harvest. Manila clams are harvested by hand (including any natural set of littleneck or butter clams).

Oysters are grown using various methods, including rack and bag culture, floating bags, on direct on-bottom culture. Oyster racks are constructed out of 3 lb. grade stainless steel with a 2" PVC at the bottom to prevent them from sinking into the substrate. The racks are designed to hold 20 grow bags per rack, however 16 per rack is used as the standard procedure. Floating bags are in strings of 10 bags maximum that are anchored to the bottom. There are recycled gillnet corks placed into each bag to obtain floating capability. During low tide, the bags rest on the bottom, as the tide rises, the bags lift up and float vertically, fully submerged. The oysters that are grown on-bottom are single seed that have been sorted, as well as oyster seed that escaped from the grow bags and growing free range. All oysters are hand-harvested on an outgoing tide.

Geoduck seed are placed within PVC tubes that are then pushed into the substrate. Tubes are in place for 4 years and are covered with individual nets which are secured with rubber bands. No large area nets are used. After 7 years the geoduck are harvested using a water wand at low tide. The water wand releases high volume, low pressure water directly into the substrate in order to loosen it. This allows the geoduck to then be dug out of the sediment by hand.

The project site is located on tidelands within Buck Bay, on parcel number 160946001000, adjacent to 119 E.J. Young Road, near Olga, San Juan County, Washington; Section 9, Township 36 North, Range 1 West; WRIA 2, San Juan Watershed.

With this Order, Ecology is granting Buck Bay Shellfish's request for a Section 401 Water Quality Certification for the Buck Bay Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 3, 2021, and the following supporting documentation:

1. Pre-construction notification form emailed to Ecology dated May 19, 2021, regarding additional project details regarding specific farming operations and property descriptions.

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, Buck Bay 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 Buck Bay 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

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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 Buck Bay Shellfish, Buck Bay 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. **20152** will remain valid for the duration of the associated DA permit. Buck Bay 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

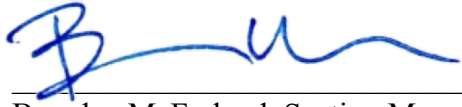
Please direct all questions about this Order to:

Teresa 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

June 17, 2021

Date