STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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June 30, 2021

Fisherport LLC
Jeffrey and Stacy Fisher
9735 Steamboat Island Road NW
Olympia, WA 98502

RE: Water Quality Certification Order No. **20150** for Corps Reference No. **200701164**, Fisherport LLC Existing Shellfish Farm-1, Thurston County, Washington

Dear Jeffrey and Stacy Fisher:

On May 25, 2021, Fisherport LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Fisherport LLC Existing Shellfish Farm-1 located on tidelands within Totten Inlet, 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 Teressa 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

e-cc: Benjamin Sherman, Corps of Engineers (Corps)
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Teressa Pucylowski, Ecology
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov – Aquatics No. 135942

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Fisherport LLC pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))	**ORDER No. 20150** **Corps Reference No. 200701164** Fisherport LLC Existing Shellfish Farm-1 located on tidelands within Totten Inlet, near Olympia, Thurston County, Washington

Fisherport LLC
Attn: Jeffrey and Stacy Fisher
9735 Steamboat Island Road NW
Olympia, WA 98502

On May 25, 2021, Fisherport LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Fisherport LLC Existing Shellfish Farm-1, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on May 27, 2021.

This project will continue to commercially cultivate geoduck, Manila clams, and oysters within a 2.5-acre privately-owned project area between about +4.5ft Mean Lower Low Water (MLLW) to extreme low, per deeded parcel (approximately -4.5 MLLW). Geoduck cultivation occurs within about 2.2 acres of this project area, from about +2 MLLW to extreme low. Manila clams and oysters are grown on about 0.3 acres of this overall project area in the higher elevation band of the farm footprint, above the geoduck, from about +2 MLLW to +4.5 MLLW. There is no eelgrass present at this site. Access to the farm is from adjacent upland property or via boat. Typical farm maintenance activities occur such as installing and removing temporarily placed aquaculture gear (e.g. bags, tubes, area nets), and seed planting and harvest activities within the farm footprint as described below.

Oysters are predominately grown via a suspended long line flip-bag system, but also grown directly on-bottom. The suspended aquaculture involves the use of 30-ft oyster lines which are suspended and secured with removable 4-ft long, 5/8" diameter metal earth anchors. Lines are spaced a minimum of 6-ft apart, with a maximum of 48 lines (1,440 ft) in use at one time. Line is run through eyelets on the earth anchors and polyethylene oyster bags of approximately 20-inches by 36-inches are attached horizontally such that they do not scrape the bottom substrate. Floats are attached inside the oyster bags for bag flotation at high tides for tumbling. Oysters are harvested directly from the bags or the oysters may be emptied onto the beach from the bags for a period of weeks or several months for bottom culture growth and associated shell hardening. Harvest is done by hand only, with the occasional use of a hand rake to coalesce oysters into mounds for ease of harvest and transfer into harvest baskets. Oysters are sold to market typically from 1 to 3 years after seeding, depending on the market demand, and the size at seeding.

Manilla clams may be grown in polyethylene mesh bags on the bottom for up to 6 months, integrated within the same intertidal zone used for oysters: +4.5 MLLW to +2 MLLW. Manila clam seed is cultured initially within the bags and is then hand-spread directly atop the substrate,

beneath and between lines where oyster bags are suspended. A ¼ - ½" predator exclusion net is then typically applied for about another 6 to 9 months for predator protection, and is secured to the substrate with rebar stakes. Market size is attainable after about 3-4 years. Harvest is conducted by hand raking and digging at low tide. Holes are filled after substrate disturbance following harvest removal.

Geoduck clams may be cultured from +2-ft MLLW to the extreme low tide at -4.5-ft MLLW. The culture of geoduck involves the use of 4-inch diameter PVC tubes for planting juvenile seed during the early-phase of the culture cycle, with the 10-inch to 12-inch long tubes hand-pushed into the sandy substrate to a depth where approximately 3 to 4-inches of the tube extends above the sediment surface. Tubes are placed at a density of 1 tube per square foot, and are covered with individual cup (top) nets secured with rubber bands and/or canopy nets after planting, which are secured extensively around the perimeter of the netting with rebar hooks. Top nets are pulled from individual tubes after about 6 months, and coverage nets and tubes are pulled after 1 to 2 years of deployment, depending on geoduck growth. Replanting is conducted after harvest, generally 5 to 7 years after planting. On any given year, a maximum of about 25% of the geoduck ground will have tubes with predator netting in use, as only a portion of the parcel is planted each year as part of crop rotations.

Geoduck harvest involves using a hydraulic wand that releases water under controlled pressure. The harvest wand has an inside diameter of 5/8 inches or less and is operated by hand to emit water at maximum pressure of about 40 psi. The wand is directed by hand into the sand a maximum of 36" to loosen the substrate and allow for the harvest of the geoduck. This action generates localized sediment disturbance and turbidity that rapidly dissipates after harvest actions cease. Harvest most often occurs via diver, though beach harvest at low tide using the same equipment may be used. In both cases, access to the site is by boat and water pumps are housed on the harvest vessel platform. Intake pumps for the pumps are screened to meet NMFS screening criteria. Noise levels are managed to conform to Thurston County noise ordinance 10.36, with a maximum of two harvesters operating at any one time and separated sufficiently to reduce suspended sediment disturbance.

The project site is located on tidelands within Totten Inlet, on parcel number 39000001300, adjacent to 9711 Steamboat Island Road NW, near Olympia, Thurston County, Washington; Section 33, Township 20 North, Range 2 West; WRIA 14; Kennedy-Goldsborough Watershed.

With this Order, Ecology is granting Fisherport LLC's request for a Section 401 Water Quality Certification for the Fisherport LLC Existing Shellfish Farm-1 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 25, 2021.

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, Fisherport LLC 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 Fisherport LLC 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 Fisherport LLC, Fisherport LLC Existing Shellfish Farm-1 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. **20150** will remain valid for the duration of the associated DA permit. Fisherport LLC 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:

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

- 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 **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:

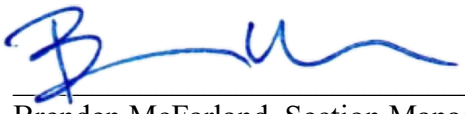
Teressa Pucylowski
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
teressa.pucylowski@ecy.wa.gov

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



June 30, 2021
Date

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