



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 12, 2021

Bay Center Mariculture Co.  
Attn: Richard L. Wilson  
PO Box 365  
Bay Center, WA 98527

RE: Water Quality Certification Order No. **20252** for Corps Reference No. **200701180**,  
Nationwide Permit (NWP 48), Bay Center Mariculture Co. dba Bay Center Farms,  
Pacific County, Washington

Dear Richard L. Wilson:

Bay Center Mariculture Co. notified the Department of Ecology (Ecology) that they have requested a Nationwide Permit (NWP) 48 authorization from the US Army Corps of Engineers (Corps) for the Bay Center Mariculture Co. dba Bay Center Farms located on tidelands within Willapa Bay, near Bay Center, Pacific County, Washington. Because the Corps Seattle District has notified Ecology that individual Section 401 Water Quality Certifications (WQC) are required for all NWP 48's, Bay Center Mariculture Co. submitted a request for a WQC on July 1, 2021 with supplemental information on July 6, 2021.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the WQC request 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](mailto:marco.pinchot@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

Loree' Randall on behalf of Brenden McFarland

A handwritten signature in black ink that reads "Loree' Randall". The signature is written in a cursive, flowing style.

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

Enclosure

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  
Marco Pinchot, Ecology  
Aquaculture-Reinforcement-Team@usace.army.mil  
ecyrefedpermits@ecy.wa.gov – Aquatics No. 139440

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 20252</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200701180 (NWP 48)</b>
<b>CERTIFICATION TO</b>	)	Bay Center Mariculture Co. dba Bay Center
Bay Center Mariculture Co.	)	Farms located on tidelands within Willapa Bay,
pursuant to 33 U.S.C. 1341 (FWPCA	)	near Bay Center, Pacific County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

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This project proposes to continue farming 453 acres of privately owned or leased tidelands in Willapa Bay. Specifically, this proposal consists of 423 acres of tidelands currently used for the cultivation of Pacific Oyster, Manila clams and cockles. The number of acres in production varies depending on crop rotations, production needs and has decreased due to burrowing shrimp population infestations. These tidelands have been actively farmed by Bay Center Mariculture using traditional bottom culture methods for over 40 years and were in production under previous company ownership. Planting new oysters involves scattering the ten or so new small oysters attached to an older oyster shell (cultch) on the area being seeded. This usually amounts to around ten or so cultch pieces per square meter. After two to four years of growth on the seed bed harvest involves either hand picking or mechanical harvest. Clam grounds are harvested by hand during low tide on a 2-4 year rotation depending on growth. Clam ground may be enhanced for larval recruitment by sprinkling crushed oysters shell pieces for the clam larvae to attach.

The project site is located on tidelands within Willapa Bay, on parcel numbers 79001000036, 79001000037, 79001000038, 79001000179, 79001000351, 79001000059, 79001000066, 79001000067, 79001000069, 79001000073, 79001000182, 79001000268 DNR 20-A12781, 79001000071, 79001000077, 79001000078, 79001000079, 79001000083, 79001000084, 79001000085, 79001000086, 79001000089, 79001000090, 79001000091, 79001000093, 79001000094, 79001000095, 79001000096, 79001000233, 79001000111, 79001000112, 79001000113, 79001000125, 79001000128, 79001000133, 79001000134, 79001000174, 79001000210, 79001000333, TL 131008 423 A, DNR lease 13100920-A12782, near Bay Center, Pacific County, Washington; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Bay Center Mariculture Co.'s request for a Section 401 Water Quality Certification for the Bay Center Mariculture Co. dba Bay Center Farms project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request Ecology received on July 1, 2021 and attachments received on July 6, 2021, and the following supporting documentation:

1. E-mail letter to Ecology dated July 2, 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 Bay Center Mariculture Co. water quality monitoring plan, and Bay Center Mariculture Co. commitment to follow the 2019 Puget Sound Shellfish Growers Association Environmental Codes of Practice for Shellfish Aquaculture.

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, Bay Center Mariculture Co. 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 Bay Center Mariculture Co. 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<sup>1</sup>. If such work, conditions, or discharges occur, immediately notify<sup>2</sup> 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<sup>3</sup> 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.

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<sup>1</sup> RCW 90.48

<sup>2</sup> WAC 173-303-145

<sup>3</sup> RCW 90.56.280

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 Bay Center Mariculture Co., Bay Center Mariculture Co. dba Bay Center Farms project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Nationwide Permit 48 authorization for this project. Order No. **20252** will remain valid for the duration of the associated Nationwide permit. Bay Center Mariculture Co. should send a copy of the final Nationwide permit to [fednotification@ecy.wa.gov](mailto: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
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> 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

Loree' Randall on behalf of Brenden McFarland



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

July 12, 2021  
Date