



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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July 19, 2021

Washington State Seafood, LLC  
Attn: Jamie Courtney  
22680 NW Thunder Ridge Way  
Seabeck, WA 98380

RE: Water Quality Certification Order No. **20166** for Corps Reference No. **202001157**,  
Kitsap Oyster Farm – East Parcels, Kitsap County, Washington

Dear Jamie Courtney:

On June 1, 2021, Washington State Seafood, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Kitsap Oyster Farm – East Parcels located on tidelands within Hood Canal, near Seabeck, Kitsap 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](mailto: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

Kitsap Oyster Farm – East Parcels  
Order No. 20166, Corps No. 202001157  
July 19, 2021  
Page 2 of 2

e-cc: Kirsten Brown, 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. 139901

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 20166</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 202001157</b>
<b>CERTIFICATION TO</b>	)	Kitsap Oyster Farm – East Parcels located on
Washington State Seafood, LLC	)	tidelands within Hood Canal, near Seabeck,
pursuant to 33 U.S.C. 1341 (FWPCA	)	Kitsap County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Washington State Seafood, LLC  
Attn: Jamie Courtney  
22680 NW Thunder Ridge Way  
Seabeck, WA 98380

On June 1, 2021, Washington State Seafood, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Kitsap Oyster Farm – East Parcels, Kitsap County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on June 3, 2021.

This project proposes to commercially cultivate oysters, Manila clams, and geoduck on 21.4 acres of private tidelands. There will be 6 acres of flip-bag oyster culture between +2ft and +5ft Mean Lower Low Water (MLLW) tidal elevations; 2.2 acres of Manila clam culture between +5ft and +7ft (MLLW); 6.8 acres of geoduck culture between -5ft and +2ft (MLLW); and 6.4 acres that will not be farmed. A dense native eelgrass (*Zostera marina*) bed was found along the lower intertidal margin of the delta below approximately -3 feet and -4 feet (MLLW). Dense non-native, dwarf eelgrass (*Zostera japonica*) was observed along the upper margins of the native eelgrass bed between approximately -3.5ft and -2.5 ft (MLLW). The delta is substantially devoid of vegetation above approximately -2.5ft elevation (MLLW). The proposed farming activities will not occur within 16 horizontal feet of eelgrass. No beach amendments or frosting will occur. Access will be from the upland property or by boat.

Oyster seed will be placed by hand into mesh grow bags or flipbag-style cages for rearing. Flip bags and cages are attached to rebar frames that have been driven into the substrate. All cages and grow bags will hang at least 3 inches above the substrate, avoiding contact with the substrate. The site will be inspected a minimum of 2 to 3 times per week for debris or disrepair. Harvest will typically occur by hand during low tides. When tides are not low enough to allow access to the bags and cages, boats may be used to reach the oyster bags and cages. Oyster bags and cages will be opened by hand and oysters will be deposited into crates or wheelbarrows to be sorted and bagged on the beach for transport to market. Some oysters, from natural seeding events, may be reared directly on the substrate until they are marketable size.

Only naturally seeding Manila clams will be harvested within the project area. No predator exclusion nets will be used on Manila clam beds. Maintenance of the site will be minimal, as clams will rear in existing conditions. Manila clams will be hand-harvested by workers accessing the cultivation area during appropriate tide levels.

Geoduck rearing areas will be planted/harvested on a 5-8 year cycle. Geoduck seed will be placed inside tubes made of mesh or PVC, which are pushed into the substrate at densities of 5-9 tubes per square meter. Two or three geoduck seed will be planted into each tube and cover netting will be spread over the tubes. The cover netting will be anchored to the substrate using rebar stakes. The cover netting will increase protection from predators while also ensuring the tubes do not become dislodged from the substrate. Cover netting and tubes will be removed approximately 24 months after geoduck have grown to a large enough size to avoid predation. Geoduck will grow, unprotected by tubes, for another 3-6 years until they are a marketable size. Geoduck will be harvested using low pressure water jets (i.e., stingers) to dislodge geoduck from the beach at low tide.

The project site is located on tidelands within Hood Canal, on parcel number 092402-2-002-1003, adjacent to 22680 NW Thunder Ridge Way, near Seabeck, Kitsap County, Washington; Section 9, Township 24 North, Range 2 West; WRIA 15, Kitsap Basin Watershed.

With this Order, Ecology is granting Washington State Seafood, LLC's request for a Section 401 Water Quality Certification for the Kitsap Oyster Farm – East Parcels project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on June 1, 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, Washington State Seafood, 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 Washington State Seafood, 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<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

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<sup>1</sup> RCW 90.48

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

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.

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 Washington State Seafood, LLC, Kitsap Oyster Farm – East Parcels 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. **20166** will remain valid for the duration of the associated DA permit. Washington State Seafood, LLC should send a copy of the final DA 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.

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<sup>3</sup> RCW 90.56.280

## 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>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608  <b>Pollution Control Hearings Board</b> 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**



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

July 19, 2021  
Date