



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

September 23, 2021

Jamestown S'Klallam Tribe
ATTN: Ron W. Allen
1033 Old Blyn Highway
Sequim, WA 98382

RE: Water Quality Certification Order No. 20718 for Corps Reference No. NWS-2020-1187,
Jamestown S'Klallam Tribe Sequim Bay Shellfish Farm, Sequim Bay near Sequim,
Clallam County, Washington

Dear Ron W. Allen:

On July 19, 2021, Jamestown S'Klallam Tribe Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Sequim Bay Shellfish Farm located on tidelands within Sequim Bay, near Sequim, Clallam 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 Lori Kingsbury at (360) 407-6926 or by e-mail at Lori.kingsbury@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry J Lund", is written over a circular blue ink stamp.

Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office

Enclosure

cc: Aquaculture-Reinforcement-Team@usace.army.mil
Lee Wolf, Corps of Engineers
Linda Storm, EPA
Robert Knapp, Jamestown S’Klallam Tribe
Sissi Bruch, Jamestown S’Klallam Tribe
Laura Hendricks, Coalition to Protect Puget Sound
Amy van Saun, Center for Food Safety
Sean Carlson, WA DNR
Loree’ Randall, Ecology
Lori Kingsbury, Ecology
Rebecca Rothwell, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 140615

IN THE MATTER OF GRANTING A)	ORDER No. 20718
WATER QUALITY)	Corps Reference No. NWS-2020-1187
CERTIFICATION TO)	Jamestown S’Klallam Sequim Bay Shellfish
Jamestown S’Klallam Tribe)	Farm located on tidelands within Sequim Bay,
pursuant to 33 U.S.C. 1341 (FWPCA)	near Sequim, Clallam County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Jamestown S’Klallam Tribe
 Attn: Ron W. Allen
 1033 Old Blyn Highway
 Sequim, WA 98382

On July 19, 2021, the Jamestown S’Klallam Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Jamestown S’Klallam Sequim Bay Shellfish Farm in Clallam County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on July 20, 2021.

This project proposes to continue existing Tribal shellfish aquaculture, enhancement, and restoration activities which include commercial and subsistence harvest of oysters within the intertidal zone of South Sequim Bay. The total project area is 116 acres and includes approximately 27.5 acres of protected eelgrass habitat with a 25 foot buffer. There are approximately 15 acres of tidelands within the DNR lease area that are not suitable for farming and 74 acres available for farming outside of the DNR lease area. The cultivated area will not exceed 59 acres.

All planting, maintenance, and harvesting are performed by hand (except Geoduck harvest). The exact farming method used on a specific patch of tideland will vary. For example, bags and nets may be used until oysters reach sufficient size. Then, they are placed on the beach until ready for harvest. Therefore, acreage listed are approximate and fluctuate; however, the total cultivable area does not change.

The following activities are proposed:

On-Bottom Beach Oysters (Up to 20 acres) are oysters that are raised on tidal beaches with muddy, sandy, or rocky bottoms. Seed oysters (<1") are distributed over the substrate and involves staking down a mesh predator net over the oysters to prevent the seed from being washed away or being consumed by predators. The net is removed when the oysters reach a larger size, within 90- 120 days. Oysters grow out for approximately 14 months, then are harvested by hand and placed into oyster harvest bags. This activity occurs between +4 ft. and 0 ft. MLLW.

On-Bottom Flip Bags (Up to 10 acres) are used to grow oysters in mesh bags that are attached to a line and anchored to the substrate. Oysters will also grow out for either 14 months in the bags or be spread onto the beach after reaching a larger size. On-bottom bags have vertical relief of <1ft. when stocked. This method of cultivation does not require use of buoys. The activity occurs between +3 ft. and 0 ft. MLLW.

Suspended Tumbled Oyster Culture: (Up to 2 acres) Bag culture oysters are grown in mesh bags, which are generally staked about one to two feet off the bottom. This suspension method is usually done horizontally and staked about one to two feet above the bottom in an intertidal region. Tumbled oysters are raised in bags with floats on them and are periodically tumbled with normal tide exchange. This activity occurs between 0 and -1 ft. MLLW.

Manila Clam Farming Methods: (Up to 15 acres) Seeding of manila clams will take place throughout the property on any substrate at an elevation between +1 ft. to +4 ft. MLLW. Seed will be spread on an incoming tide and will be covered with 15x50 foot predator netting.

Geoduck Clam Farming Methods: (Up to 12 acres) Seeding of geoduck clams may take place throughout the property on any substrate at an elevation between +1 ft. to -2 ft. MLLW, outside of existing eelgrass. PVC tubes 4 inch to 6 inch in diameter and 12 inches long will be stomped into the substrate. Geoduck seed will then be placed into tubes on an incoming tide. Each tube will then be covered with a plastic mesh topper and rubber band. Plastic mesh tubes may be used instead of PVC tubes. Tubes are left in the substrate for 2 years and then removed. Geoduck are left to grow out for an additional 1-3 years. Geoduck are harvested with the aid of pumped water and a stinger tube.

No Shellfish aquaculture activities will occur above the +5 MLLW tidal elevation. No gear will be placed within freshwater channels (JCL and Dean Creek) and these channels shall not be restricted or manipulated. Nets will not be used on more than five (5) acres at any one time. Shellfish harvest areas are located to avoid native eelgrass. Native eelgrass beds will be separated by a 25-foot buffer. No pesticides will be applied. No frosting or graveling will be performed. No mechanical planting or harvesting methods will be used other than those described above. Site access will be primarily by boat or occasionally via land access.

The purpose of the project is to continue existing Tribal shellfish aquaculture which include commercial, enhancement, subsistence, ceremonial, and restoration activities.

The project site is located on tidelands within the southern portion of Sequim Bay adjacent to 1033 Old Blyn Highway, near Sequim, Clallam County, Washington; Section 12, Township 29 North, Range 3 West; WRIA 17, Quilcene - Snow Watershed.

With this Order, Ecology is granting the Jamestown S’Klallam Tribe’s request for a Section 401 Water Quality Certification for the Jamestown S’Klallam Sequim 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 July 19, 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, the Jamestown S’Klallam Tribe 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 the Jamestown S’Klallam Tribe 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 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 Jamestown S’Klallam Tribe’s, Sequim Bay Shellfish Farm.

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. **20718** will remain valid for the duration of the associated DA permit. The Jamestown S’Klallam Tribe 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.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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:

Lori Kingsbury
Department of Ecology
Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775
lori.kingsbury@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



Perry J Lund, Section Manager
Shorelands and Environmental Assistance Program
Southwest Regional Office
Department of Ecology

September 23, 2021
Date