



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, Washington 98504-7600 • (360) 407-6000  
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October 18, 2021

Minor edit see below

Sound Shellfish  
ATTN: Ian Child  
PO Box 12475  
Olympia, WA 98508

RE: Amendment to 401 Water Quality Certification Order No. **19790** for U.S. Army Corps of Engineers Reference No. ~~201701368~~, Hairston Tidelands, Dana Passage, Olympia, Thurston County, Washington **Correct # 200701368**

Dear Ian Child:

Enclosed is an amendment to Water Quality Certification Order No. 19790, issued on May 6, 2021, for the above project. We have also included a strikeout version of the Water Quality Certification that reflects the changes made. All other conditions of Water Quality Certification No. 19790 remain in effect.

The purpose of this amendment is to include the proposal to cultivate Pacific oysters, in addition to geoduck clams, within the existing project area.

If you have any questions, please contact Teresa Pucylowski at [teressa.pucylowski@wa.ecy.gov](mailto:teressa.pucylowski@wa.ecy.gov). The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Brenden McFarland, Section Manager, by

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

Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program

e-cc: Steven B. Crosson, U.S. Army Corps of Engineers  
[Aquaculture-Reinforcement-Team@usace.army.mil](mailto:Aquaculture-Reinforcement-Team@usace.army.mil)  
Laura Hendricks, Coalition to Protect Puget Sound Habitat  
Amy van Saun, Center for Food Safety  
Teresa Pucylowski, Project Manager  
Loree' Randall – HQ  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov) – Aquatics No. 139096

**IN THE MATTER OF GRANTING** ) **ORDER No. 19790,**  
**A WATER QUALITY** ) **First Amendment**  
**CERTIFICATION TO** ) **Corps Reference No. ~~201701368~~**  
***Sound Shellfish Company*** ) **Correct # 200701368**  
In accordance with 33 U.S.C. 1341 )  
(FWPCA §401), RCW 90.48.120, RCW )  
90.48.260 and Chapter 173-201A WAC )

TO: Ian Child  
PO Box 12475  
Olympia, WA 98508

On May 6, 2021, the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Sound Shellfish Company for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

On September 21, 2021, Ecology received notification from the U.S. Army Corps of Engineers (Corps) stating that Sound Shellfish Company intended to modify their farming practices. Ecology notified the grower on October 4, 2021 that a modification to the Section 401 Water Quality Certification was required to include the proposal to cultivate Pacific oysters, in addition to geoduck clams, within the existing project area.

Order No. 19790 dated May 6, 2021 is hereby amended as follows:

I. The first sentence of the first paragraph, which reads:

The project will continue to cultivate 0.58 acres of geoduck clams on privately owned tidelands within 0.0ft to -3.6ft Mean Lower Low Water.

Is replaced with:

The project will continue to cultivate 0.15 acres of geoduck clams within 0.0ft to -4.0ft Mean Lower Low Water (MLLW), while proposing to cultivate 0.14 acres of Pacific oysters between 0.0ft and +3.5ft MLLW. The entire project area occurs on 0.29 acres of privately owned tidelands.

II. The following paragraph is added after the fourth paragraph:

Oysters will be cultivated using on-bottom mesh bags. About 200-250 oyster seed are placed within each bag, which are then placed directly on the substrate in rows of ten. The oyster bags are secured by two ropes strung through zip-ties, two on each end to the bag. The ropes are then tied to 24 inch re-bar pins stuck into the beach. Rows of bags are placed approximately 3feet apart. Each bag is marked with a tag with company information. Oyster harvest is done by hand during low tides. Each oyster bag is removed and placed into a boat to be taken back to the facility for processing.

No other conditions or requirements of the above referenced Order are affected by this amendment.

Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

## **YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearings 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 all 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.

### **Filing an appeal with PCHB:**

**Mailing Address:**

Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

**Street Address:**

Pollution Control Hearings Board  
1111 Israel RD SW  
STE 301  
Tumwater, WA 98501

### **Filing an appeal with PCHB:**

**Mailing Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-0903

**Street Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

## **CONTACT INFORMATION**

Please direct all questions about this Order to:

Teressa Pucylowski  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
360-764-0546  
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>

#### SIGNATURE

Brenden McFarland, Section Manager, by



Environmental Review and Transportation Section  
Shorelands and Environmental Assistance Program  
Department of Ecology

September 30, 2021  
Date

This document shows the activities and conditions that have been amended since the original Order was issued. Therefore, it is not the official certification and should be used for information purposes only.

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 19790 – 1<sup>st</sup> Amendment</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200701368</b>
<b>CERTIFICATION TO</b>	)	Hairston Tidelands located on tidelands within
Sound Shellfish Company	)	Dana Passage, near Olympia, Thurston County,
pursuant to 33 U.S.C. 1341 (FWPCA	)	Washington
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Sound Shellfish Company  
Attn: Ian Child  
PO Box 12475  
Olympia, WA 98508

On March 12, 2021, Sound Shellfish Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Hairston Tidelands, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 16, 2021.

The project will continue to cultivate 0.15 acres of geoduck clams within 0.0ft to -4.0ft Mean Lower Low Water (MLLW), while proposing to cultivate 0.14 acres of Pacific oysters between 0.0ft and +3.5ft MLLW. The entire project area occurs on 0.29 acres of privately owned tidelands. ~~The project will continue to cultivate 0.58 acres of geoduck clams on privately owned tidelands within 0.0ft to -3.6ft Mean Lower Low Water.~~ The beach requires no site preparation prior to planting beyond raking any Ulva away from the immediate area to be planted. There will be no redirection of seepage of upland runoff and no native materials will be removed from the aquatic farm site.

To protect juvenile geoduck clams from predators, geoduck seed are placed in either PVC or Vexar mesh tubes that are pushed into the substrate (by hand for PVC tubes or using a low-pressure water jet for Vexar mesh tubes) at density not to exceed one tube per square foot. The tubes are all 4" in diameter and 12-16" in length and 3-5" of the tube will remain exposed above the substrate. PVC will be capped with individual mesh netting and secured with specialized rubber bands designed to withstand UV light and saltwater; mesh tubes will be secured using zip-ties or hog rings. Area nets may be placed over the tubes and weighed down with rebar stakes. Tubes and nets are removed after about 1-2 years after planting.

Geoduck are harvested either via dive harvest or beach harvest, although both use a motorized, low pressure water pump mounted on a vessel offshore. Water is delivered to the harvester at 20-30 gallons per minute, and is similar to a garden hose at full volume. The end of the hose is equipped with a nozzle which is inserted into the substrate, softening the sand adjacent to the geoduck and allowing the clams to be removed by hand. Harvest occurs about 5-7 years after planting.

Oysters will be cultivated using on-bottom mesh bags. About 200-250 oyster seed are placed within each bag, which are then placed directly on the substrate in rows of ten. The oyster bags are secured by two ropes strung through zip-ties, two on each end to the bag. The ropes are then tied to 24 inch re-bar pins stuck into the beach. Rows of bags are placed approximately 3feet apart. Each bag is marked with a tag with company information. Oyster harvest is done by hand during low tides. Each oyster bag is removed and placed into a boat to be taken back to the facility for processing.

The project site is located on tidelands within Dana Passage, on parcel number 12912240700, adjacent to 8133 NE Zangle Road, near Olympia, Thurston County, Washington; Section 12, Township 19 North, Range 2 West; WRIA 13, Deschutes Watershed.

With this Order, Ecology is granting Sound Shellfish Company's request for a Section 401 Water Quality Certification for the Hairston Tidelands project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 12, 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, Sound Shellfish Company 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 Sound Shellfish Company 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

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<sup>1</sup> RCW 90.48

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

<sup>3</sup> RCW 90.56.280

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 Sound Shellfish Company, Hairston Tidelands 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. **19790** will remain valid for the duration of the associated DA permit. Sound Shellfish Company 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.

#### **CONTACT INFORMATION**

Please direct all questions about this Order to:

Teressa Pucylowski  
Department of Ecology  
PO Box 4760  
Olympia, WA 98504-7600  
[teressa.pucylowski@ecy.wa.gov](mailto:teressa.pucylowski@ecy.wa.gov)