STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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November 2, 2021

Hama Hama Oyster Company
Attn: Adam James
35846 N US Hwy 101
Lilliwaup, WA 98555

RE: Water Quality Certification Order No. **20808** for Corps Reference No. **200701286**, Nationwide Permit (NWP) 48, Hama Hama Shellfish Farm, Mason County, Washington

Dear Adam James:

Hama Hama Oyster Company 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 Hama Hama Shellfish Farm located on tidelands within Hood Canal, near Lilliwaup, Mason 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, Hama Hama Oyster Company submitted a request for a WQC on October 22, 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 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: Steven B. Crosson, 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

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Hama Hama Oyster Company pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))	**ORDER No. 20808** **Corps Reference No. 200701286 (NWP 48)** Hama Hama Shellfish Farm located on tidelands within Hood Canal, near Lilliwaup, Mason County, Washington

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Hama Hama Oyster Company 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 Hama Hama Shellfish Farm located on tidelands within Hood Canal, near Lilliwaup, Mason 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, Hama Hama Oyster Company submitted a request for a WQC on October 22, 2021. The Corps has previously issued a joint public notice on June 25, 2021.

This project will continue to cultivate 190 acres for shellfish farming on 216 acres of privately-owned tidelands between the ordinary high water mark at (+12ft) and the extreme low tide (-4ft). This farm cultivates geoduck, Pacific oysters, and Manila, littleneck, savory, and butter clams. Oysters occur on 130 acres between +5ft Mean Lower Low Water (MLLW) and the extreme low tidal elevations; clams occur on 60 acres between +4ft MLLW and the -1ft MLLW tidal elevations; and geoduck occur on 30 acres between -1ft MLLW and the extreme low tidal elevations. Polyculture (co-culture) is practiced across much of the farm, meaning in many places multiple species of shellfish are grown in and around one another. There is some eelgrass present at the project site in the lower areas below -2ft MLLW. Access to tidelands is by boat and by foot through uplands.

Oyster cultivation occurs in clusters and singles. Clusters are cultivated through 'shell cultch' methodology, which entails oyster shells that are bagged, crated and/or threaded on a line and placed in the intertidal area during summer months to catch natural spat, and then transplanted and spread in a nursery or grow-out area. Harvest is completed by hand and oyster clusters are placed in a bushel basket and retrieved at high tide by a barge. Single oysters are grown directly on the substrate under anti-predator nets, in 'bag on bottom' culture method, or through off (near) bottom cultivation methodology that includes the following: 'rack and bag' culture, in which oysters are grown in bags secured to a wire mesh frame; floating bags, which are string along 100ft lines that are anchored to the substrate; and tipping bags, which are attached to posts and contain buoys that allow the bag to tip up and down with the tides. Grow out period for oysters is 2-3 years. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used.

Clams beds are 'frosted' with a mixture of washed gravel and oyster shell chaff, no more than 1" per acre per year. Clam seed is broadcasted by hand into the intertidal area. Some areas are netted and some are not, and the netted areas move around as needed. Anti-predator netting is installed by staking the net to the substrate using 24" bent rebar that is driven into the substrate. The grow-out period for clams is 18-24 months. Harvest takes place manually by hand at low tide using rakes to loosen the sediment and allow the clams to be collected into 5-gallon buckets. Full buckets are emptied into sacks for pick up by boat.

Geoduck cultivation will entail placing PVC or mesh nursery tubes, approximately 9" in length, manually into the lower intertidal substrate at a density of approximately one tube per square foot. Three to four geoduck seeds are placed in tubes. The PVC tubes are covered with canopy netting secured with rebar or with individual net coverings. Mesh tubes are covered with mesh caps. After approximately 18-24 months, the tubes are removed and the area is re-netted with canopy netting. Harvest occurs by hand using a low-pressure water pump with an attached wand that loosen the sediment around the geoducks for removal by hand. Harvest activity will occur approximately 5-7 years after planting.

The project site is located on tidelands within Hood Canal, on parcel numbers 324234380690, 324260004000, 324261280700, 324262180910, 324262280410, 324262280420, 324264470940, 32427107000, and 324271070890, adjacent to 35846 N US Hwy 101, near Lilliwaup, Mason County, Washington; Sections 23, 26, and 27, Township 24 North, Range 3 West; WRIA 16, Skokomish-Dosewallips Watershed.

With this Order, Ecology is granting Hama Hama Oyster Company's request for a Section 401 Water Quality Certification for the Hama Hama Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on October 22, 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, Hama Hama Oyster 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 Hama Hama Oyster 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[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 Hama Hama Oyster Company, Hama Hama Shellfish Farm 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. **20808** will remain valid for the duration of the associated Nationwide permit. Hama Hama Oyster Company should send a copy of the final Nationwide 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.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

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

Address and location information.

Filing an appeal with the 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

Serving a copy of the appeal on Ecology:

Mailing Address:
Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

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
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

November 2, 2021
Date

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