



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

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November 4, 2021

BDN LLC Geoduck Farm
Attn: Brad Nelson
3011 Chandler St.
Tacoma, WA 98409

RE: Water Quality Certification Order No. **20162** for Corps Reference No. **201700230**,
BDN LLC Geoduck Farm–Mocean WA Shellfish and BDN Parcels,
Jefferson County, Washington

Dear Brad Nelson:

On May 11, 2021, BDN LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the BDN LLC Geoduck Farm-Mocean WA Shellfish and BDN Parcels located on tidelands within Squamish Bay, near Port Ludlow, Jefferson 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 Adam Sant by e-mail at Adam.Sant@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: Jaimee Davis, Corps of Engineers (Corps)
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Marilyn Showalter
Jan Wold
Sue Corbett
Loree' Randall, Ecology
Adam Sant, Ecology
Aquaculture-Reinforcement-Team@usace.army.mil
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	ORDER No. 20162
WATER QUALITY)	Corps Reference No. 201700230
CERTIFICATION TO)	BDN LLC Geoduck Farm-Mocean WA Shellfish
BDN LLC Geoduck Farm)	and BDN Parcels located on tidelands within
pursuant to 33 U.S.C. 1341 (FWPCA)	Squamish Harbor, near Port Ludlow, Jefferson
§ 401), RCW 90.48.120, RCW 90.48.260)	County, Washington
and Chapter 173-201A WAC)	

BDN LLC
Attn: Brad Nelson
3011 Chandler St.
Tacoma, WA 98409

On May 11, 2021, BDN LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the BDN LLC Geoduck Farm-Mocean WA Shellfish and BDN Parcels, Jefferson County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on May 24, 2021.

This project proposes that BDN, LLC cultivate Pacific geoduck (*Panopea generosa*) at the following sites. The planting areas will be as follows: **Site #1** (the former Washington Shellfish Site) 2.64 acres generally between approximately +2 ft. MLLW and a 5-meter (16.4 ft.) buffer of the established native eelgrass (*Zostera marina*) bed edge, located between approximately -1 MLLW and -2 MLLW. **Site #2** (BDN Site) .28 acres, generally between approximately +2 ft. MLLW and a 5-meter (16.4 ft.) buffer of the established native eelgrass (*Zostera marina*) bed edge, located between approximately -1 MLLW and -2 MLLW. **Site #3** (the former Mocean Site) .65 acres, generally between approximately +2 ft. MLLW and a 5-meter (16.4 ft.) buffer of the established native eelgrass (*Zostera marina*) bed edge, located between approximately -1 MLLW and -2 MLLW.

The project site is located on tidelands within Squamish Harbor, on parcel numbers: **Site #1** (Former Washington Shellfish) 821334073, **Site #2** BDN 821334011, **Site #3** (Former Mocean) 821334079, adjacent to 1160-1254 Shine Road, near Port Ludlow, Jefferson County, Washington; Section 3, Township 27 North, Range 1 East; WRIA 17, Quilcene-Snow Watershed.

With this Order, Ecology is granting BDN LLC's request for a Section 401 Water Quality Certification for the BDN LLC Geoduck Farm-Mocean WA Shellfish and BDN Parcels project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 11, 2021, and the following supporting documentation:

1. E-mail letters to Ecology dated May 11, 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

BDN LLC's water quality monitoring plan, and BDN LLC's 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, BDN 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 BDN 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 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 BDN LLC Geoduck Farm's Mocean WA Shellfish and BDN 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. **20162** will remain valid for the duration of the associated DA permit. BDN LLC should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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.

Filing and 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 98504

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:

Adam Sant
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
Adam.Sant@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

November 4, 2021
Date