STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

November 22, 2021

Station House Oyster Company
Attn: James J. Kemmer
450 Chinook Valley Rd.
Chinook, WA 98614

RE: Water Quality Certification Order No. **20814** for Corps Reference No. **202100853**, Station House Oyster Company Project 2, Pacific County, Washington

Dear James J. Kemmer:

On September 29, 2021, Station House Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Station House Oyster Company Project 2 located on tidelands within Willapa Bay, near Oysterville, Pacific 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 Marco Pinchot by e-mail at marco.pinchot@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: Leanne E. Obra, Corps of Engineers (Corps)
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Marlene Meaders, Confluence Environmental Company
Loree' Randall, Ecology
Marco Pinchot, Ecology
ecyrefedpermits@ecy.wa.gov
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Station House 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. 20814** **Corps Reference No. 202100853** Station House Oyster Company Project 2 located on tidelands within Willapa Bay, near Oysterville, Pacific County, Washington

Station House Oyster Company
Attn: James J. Kemmer
450 Chinook Valley Rd.
Chinook, WA 98614

On September 29, 2021, Station House Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Station House Oyster Company Project 2, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 8, 2021.

This project proposes to continue shellfish aquaculture and harvest activities in Willapa Bay. The purpose of this project is to continue commercial culture of Pacific oysters (*Crassostrea gigas*) in existing farm areas for sale for human consumption. This area includes 4 individual parcels for a total of 47.3 acres, all of which is actively used for culture. The shellfish growing areas range from -6.0 feet mean lower low water (MLLW) to 0.0 feet MLLW.

No permanent construction is proposed. Project 2 is located near Oysterville along the western shoreline of Willapa Bay. The farm areas include fattening and seed beds for Pacific oysters with secondary crops from natural set.

PACIFIC OYSTER CULTURE – SEED BEDS

Pacific oysters are grown directly on the beach substrate. Prior to planting, shellfish beds will be prepared by removing debris by hand. Seeding will occur by using oyster cultch – setting out and securing bags of washed, aged oyster shell to collect natural set on-site. These sites will also be seeded with hatchery oyster seed. Oysters are put on the seed bed as small seed and left to grow for 2 years. They are then mechanically moved to a fattening bed (see description below). OB-E177 is used on a rotational basis. This area (10.0 acres) is primarily hand-picked with a few acres where mechanical harvest methods are used every other year. When putting out seed, dense native eelgrass (*Zostera marina*) areas are avoided to the extent practical. During hand harvest, workers use hand tools or hand-pick oysters and place them into various sized containers placed on the bed. Larger containers may be equipped with ropes and buoys that can be lifted with a boom crane onto the deck of a barge at high tide. Smaller containers are placed or dumped on decks of scows for retrieval at high tide or are carried off the beach at low tide. Mechanical (dredge) harvest occurs by use of a harvest bag that is lowered from a barge or boat by boom crane or hydraulic winch at high tide and pulled along the bottom to scoop up or 'dredge' the oysters. The dredge bags have a leading edge (blade) consisting of a steel frame with teeth and a steel mesh collection bag attached to the frame. As the dredge bags are towed across the substrate, the oysters are loosened and guided into the bags. The bag is then hoisted onto the boat

deck, emptied, and then redeployed. Two dredge bags may be towed simultaneously off each side of the boat. Dredge equipment can typically be adjusted so that the correct depth is dredged as tide levels change. Harrowing may occur between the 2 successive dredge events in order to increase recovery of oysters. Depth of substrate disturbance is approximately 1 to 2 inches. The effect of dredging is minimal due to the infrequency of the activity.

PACIFIC OYSTER CULTURE – FATTENING BEDS

Fattening beds are deep water beds. Oysters are planted and left for 9 months to a year. When they are mature for harvest, they are mechanically harvested (see description above). Oysters are harvested per market conditions. When ready to harvest, the bed will be worked for about a month and a half at 3 loads per week (650 bushels at a time).

The project site is located on tidelands within Willapa Bay, on parcel number #79005000217 (OB-E217), #79005000177 (OB-E177), #79005004238-A (OB-E238 West Half), #79005004238-B (OB-E238 East Half) and DNR Lease 20-A12866, near Oysterville, Pacific County, Washington; Section 35 and 2, Township 13 North and 12 North, Range 11 West; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Station House Oyster Company's request for a Section 401 Water Quality Certification for the Station House Oyster Company Project 2 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on September 29, 2021, and the following supporting documentation:

1. E-mail letter to Ecology dated September 29, 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 01EWFW00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Station House Oyster Company water quality monitoring plan.

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, Station House 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 Station House 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. If such work, conditions, or discharges occur, immediately notify 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 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 Station House Oyster Company, Station House Oyster Company Project 2 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. **20814** will remain valid for the duration of the associated DA permit. Station House Oyster Company 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.

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 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:

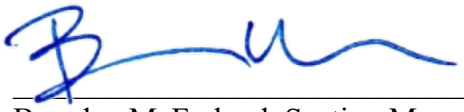
Marco Pinchot
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
marco.pinchot@ecy.wa.gov

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 22, 2021
Date

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