February 2, 2022

Heckes Clams Company Inc.
Attn: John Heckes
PO Box 131
Chinook, WA 98614

RE: Water Quality Certification Order No. 20992 for Corps Reference No. 202100752,
Heckes Bundle 8 - Mill Channel, Pacific County, Washington

Dear John Heckes:


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: Ronnie Smith, Corps of Engineers (Corps)
     Laura Hendricks, Coalition To Protect Puget Sound Habitat
     Amy van Saun, Center for Food Safety
     Loree’ Randall, Ecology
     Marco Pinchot, Ecology
     ecyrefedpermits@ecy.wa.gov
     Aquaculture-Reinforcement-Team@usace.army.mil
ORDER No. 20992
Corps Reference No. 202100752
Heckes Bundle 8 - Mill Channel located on
tidelands within Willapa Bay, near Ocean Park,
Pacific County, Washington

Heckes Clams Company Inc.
Attn: John Heckes
PO Box 1657
Ocean Park, WA  98640

On January 10, 2022, Heckes Clams Company Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Heckes Bundle 8 - Mill Channel, Pacific County, Washington.

This project proposes to continue commercial cultivation of Pacific oysters (Crassostrea gigas) and Manila clams (Venerupis philippinarum) in 46.79 acres of privately owned and leased tidelands in Willapa bay. Pacific oysters and Manila clams will be grown directly on the substrate between -4.0 to +3.7 feet. Also Pacific oyster and Kumamoto oyster (Crassostrea sikamea) may be suspended off bottom. Seeding will occur by hand or from a vessel. Harvest will occur by hand or dredge/barge after one to four years.

Manila Clam Culture
Manila clams will be grown in areas with suitable cultivation conditions. There are currently 20.79 acres in Manila clam cultivation, and the number of acres in clam cultivation is expected to vary from time to time based on environmental, market, and other conditions. The maximum area anticipated to be under Manila clam cultivation at any given time is 29.79 acres. Shell or gravel may be applied to enhance the substrate (no more than 1 inch per year). Clams may recruit naturally to the bed, but if there is no or inadequate natural recruitment, seed may be placed. Some or all of the acreage under Manila clam cultivation may be covered with predator exclusion netting. The mesh size of Manila clam nets is 1/4 inch. Nets are typically maintained throughout the culture cycle (approximately 2-3 years) and are secured to the substrate with rebar. Manila clams are harvested by hand at low tide with rakes.

Oyster Bottom Culture
Oysters will be grown directly on the substrate in areas with suitable cultivation conditions. There are currently 16.6 acres in oyster bottom cultivation, and the number of acres in oyster bottom cultivation is expected to vary from time to time based on environmental, market, and other conditions. The maximum area anticipated to be under oyster bottom cultivation at any given time is 24.6 acres. Oysters may naturally set on the bed or may be seeded by hand or from a vessel. Shell may be spread for catching naturally recruiting larvae. Oysters may be transplanted during grow-out to fattening beds. Oyster beds may be harrowed during grow-out to move the
oysters back to the sediment surface. Oysters will be harvested by hand during low tide or by
dredge after 3-4 years, depending on site conditions.

**Oyster Off-Bottom Culture**
Oysters will be grown off the bottom of the substrate, utilizing the longline and/or the tumble bag
methods. There are currently 0 acres in oyster off-bottom cultivation, and the number of acres in
oyster off-bottom cultivation is expected to vary from time to time based on environmental,
market, and other conditions. The maximum area anticipated to be under oyster off-bottom
cultivation at any given time is 29 acres. The longline method involves inserting pipes into the
substrate, and placing seeded cultch onto a rope suspended off the bottom by the pipes. The
tumble bag method involves placing oysters in bags or baskets off the bottom, and attaching a
float to the bag that tumbles the oysters. The oysters will be harvested by hand or mechanical
means, either at high tide or at low tide.

The project site is located on tidelands within Willapa Bay, on parcel number 12112755377,
12112755373, 12112255604, 12112255619, 12113455293, near Ocean Park, Pacific County,
Washington; Section 22, Township 12 North, Range 11 West; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Heckes Clams Company Inc.’s request for a Section 401
Water Quality Certification for the Heckes Bundle 8 - Mill Channel project, provided that the
activity is conducted in accordance with the Section 401 Water Quality Certification request and
attachments Ecology received on January 10, 2022, and the following supporting documentation:

1. E-mail letter to Ecology dated January 10, 2022, 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 01EFW00-2016-F-0121, National Marine Fisheries Service
(NMFS) Reference Number WCR-2014-1502). This email also includes a description of
Heckes Clams Company Inc. water quality monitoring plan, and Heckes Clams Company
Inc. 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, Heckes Clams Company Inc. 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
Heckes Clams Company Inc. 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 Heckes Clams Company Inc., Heckes Bundle 8 - Mill Channel 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. 20992 will remain valid for the duration of the associated DA permit. Heckes Clams Company Inc. 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  
300 Desmond Drive SE  
Lacey, WA  98503  
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**  

- **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**  
• Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington

• 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

[Signature]

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

February 2, 2022
Date