February 16, 2022

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

RE: Amendment to Section 401 Water Quality Certification Order No. 19958 for Corps Reference No. 201200711, Hopley Trust Lease, Skagit County, Washington

Dear Erin Ewald:

Enclosed is an amendment to Water Quality Certification Order No. 19958, issued on April 21, 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. 19958 remain in effect.

The purpose of this amendment is to reduce the cultivation footprint and increase the tidal elevation.

If you have any questions about this decision, please contact Jennifer Riedmayer via e-mail at Jennifer.Riedmayer@ecy.wa.gov. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

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

Enclosure
e-cc: F. Kelly Finn, Corps of Engineers (Corps)
Christian Karvounis, Corps of Engineers (Corps)
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree’ Randall, Ecology
Jennifer Riedmayer, Ecology
ecyrefedpermits@ecy.wa.gov
Aquaculture-Reinforcement-Team@usace.army.mil
ORDER No. 19958
First Amendment
Corps Reference No. 201200711

Hopley Trust Lease located on tidelands within Samish Bay, near Bow, Skagit County, Washington

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

On April 21, 2021, the Washington Department of Ecology (Ecology) issued a Section 401 Water Quality Certification to Taylor Shellfish Farms for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request January 26, 2022 to reduce the cultivation footprint and increase the tidal elevation.

Order No. 19958 dated April 21, 2021 is hereby amended as follows:

I. The following paragraph, which reads:

This project proposes to commercially cultivate up to 24 acres of clams between +3.0 foot (ft.) and -3.0 ft. Mean Lower Low Water (MLLW) tidal elevations on parcel numbers P61590, P61591, P61592, P61593, P61594, and P61577.

Is replaced with:

This project proposes to commercially cultivate up to 16.8 acres of clams between +5.0 foot (ft.) and -3.0 ft. Mean Lower Low Water (MLLW) tidal elevations on parcel numbers P61590, P61591, P61592, P61593, P61594, and P61577.

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 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:**

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>Street Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pollution Control Hearings Board</td>
<td>Pollution Control Hearings Board</td>
</tr>
<tr>
<td>PO Box 40903</td>
<td>1111 Israel RD SW</td>
</tr>
<tr>
<td>Olympia, WA  98504-0903</td>
<td>STE 301</td>
</tr>
<tr>
<td></td>
<td>Tumwater, WA  98501</td>
</tr>
</tbody>
</table>

**Serving a copy of the appeal on Ecology:**

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>Street Address:</th>
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<tbody>
<tr>
<td>Department of Ecology</td>
<td>Department of Ecology</td>
</tr>
<tr>
<td>Attn: Appeals Processing Desk</td>
<td>Attn: Appeals Processing Desk</td>
</tr>
<tr>
<td>PO Box 47608</td>
<td>300 Desmond Drive SE</td>
</tr>
<tr>
<td>Olympia, WA  98504-7608</td>
<td>Lacey, WA  98503</td>
</tr>
</tbody>
</table>

**CONTACT INFORMATION**

Please direct all questions about this Order to:

Jennifer Riedmayer  
Department of Ecology  
PO Box 47600  
Olympia, WA  98504-7600  
Jennifer.Riedmayer@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

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

February 16, 2022
Date
IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO

Taylor Shellfish Farms
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC

ORDER No. 19958 – 1st Amendment

Corps Reference No. 201200711

Hopley Trust Lease located on tidelands within Samish Bay, near Bow, Skagit County, Washington

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA  98584


This project proposes to commercially cultivate up to 24 16.8 acres of clams between +3 +5.0 foot (ft.) and -3.0 ft. Mean Lower Low Water (MLLW) tidal elevations on parcel numbers P61590, P61591, P61592, P61593, P61594, and P61577. Access to tidelands is by boat.

Clam seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Mechanical nets may be used to prevent predation. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. The grower may also use a mechanical clam digger, which is powered by a small engine that propels a blade to loosen the soil and collect clams. The clams are collected by a rake under the machine that gathers them onto a conveyor belt and placed in a tub for sorting by staff. Once the clams are harvest they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.

The project site is located on tidelands within Samish Bay, on parcel numbers P61590, P61591, P61592, P61593, P61594, and P61577, near Bow, Skagit County, Washington; Section 30, Township 36 North, Range 3 West; WRIA 3, Low Skagit-Samish Watershed.

With this Order, Ecology is granting Taylor Shellfish Farms’s request for a Section 401 Water Quality Certification for the Hopley Trust Lease project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 26, 2021, and the following supporting documentation:

1. February 26, 2021 - Memo from Taylor Shellfish – Taylor Shellfish Water Quality Monitoring Protection Plan for this project. 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

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.
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, Taylor Shellfish Farms 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 Taylor Shellfish Farms 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 Taylor Shellfish Farms, Hopley Trust Lease 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. 19958 will remain valid for the duration of the associated permit. Taylor Shellfish Farms should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

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1 RCW 90.48
2 WAC 173-303-145
3 RCW 90.56.280
CONTACT INFORMATION

Please direct all questions about this Order to:

Jennifer Riedmayer
Department of Ecology
PO Box 47600
Olympia, WA  98504-7600
Jennifer.Riedmayer@ecy.wa.gov