



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
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February 16, 2022

Sound Shellfish
Attn: Ian Child
PO Box 12475
Olympia, WA 98508

Re: Amendment to Section 401 Water Quality Certification Order No. **19791** for Corps Reference No. **200701160**, Christenson Tidelands, Thurston County, Washington

Dear Ian Child:

Enclosed is an amendment to Water Quality Certification Order No. 19791, issued on May 6, 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. 19791 remain in effect.

The purpose of this amendment is include the proposal to increase the acreage of geoduck and Pacific oyster cultivation, all within the existing project area.

If you have any questions about this decision, please contact Teresa Pucylowski by e-mail at teressa.pucylowski@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

*First Amendment to Order No. 19791
Christenson Tidelands
Aquatics No. 139097, Corps No. 200701160
February 16, 2022
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E-cc: S. Brad Crosson, U.S. Army Corps of Engineers
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Teresa Pucylowski, Ecology
ecyrefedpermits@ecy.wa.gov
Aquaculture-Reinforcement-Team@usace.army.mil

IN THE MATTER OF GRANTING A)	ORDER No. 19791
WATER QUALITY CERTIFICATION TO)	First Amendment
Sound Shellfish)	Corps Reference No. 200701160
In accordance with 33 U.S.C. 1341)	Christenson Tidelands located on tidelands
(FWPCA §401), RCW 90.48.120, RCW)	within Squaxin Passage, near Olympia,
90.48.260 and Chapter 173-201A WAC)	Thurston County, Washington

Sound Shellfish
 Attn: Ian Child
 PO Box 12475
 Olympia, WA 98508

On May 6, 2021 the Washington Department of Ecology (Ecology) issued a Section 401 Water Quality Certification to Sound Shellfish for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a notification from the U.S. Army Corps of Engineers (Corps) stating that Sound Shellfish intended to modify their farming practices. Ecology notified the grower on February 9, 2022 that a modification to the Section 401 Water Quality Certification was required to include the proposal to increase the acreage of geoduck and Pacific oyster cultivation, all within the existing project area.

Order No. 19791 dated May 6, 2021 is hereby amended as follows:

I. The second paragraph which reads:

The project will continue to cultivate 0.07 acres of geoduck clams on privately owned tidelands within 0.0ft to -3.5ft Mean Lower Low Water (MLLW) and 0.09 acres of Pacific oysters between +3.2ft and +0.0ft MLLW. The beach requires no site preparation prior to planting beyond raking any Ulva away from the immediate area to be planted. There will be no redirection of seepage of upland runoff and no native materials will be removed from the aquatic farm site. Access to the farm site will occur by boat or by upland.

Is replaced with:

The project will continue to cultivate 0.13 acres of geoduck clams between 0.0ft and - 3.5ft Mean Lower Low Water (MLLW) and 0.16 acres of Pacific oysters between +3.5ft and 0.0ft MLLW, all within the existing 0.3-acre project area. The beach requires no site preparation prior to planting beyond raking any Ulva away from the immediate area to be planted. There will be no redirection of seepage of upland runoff and no native materials will be removed from the aquatic farm site. Access to the farm site will occur by boat or by upland. There is no eelgrass present at this site.

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:

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:

Teresa 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



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

February 16, 2022
Date

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.

IN THE MATTER OF GRANTING A) ORDER No. 19791 – 1st Amendment
WATER QUALITY) Corps Reference No. 200701160
CERTIFICATION TO) Christenson Tidelands located on tidelands
Sound Shellfish Company) within Squaxin Passage, near Olympia, Thurston
pursuant to 33 U.S.C. 1341 (FWPCA) County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

Sound Shellfish Company
Attn: Ian Child
PO Box 12475
Olympia, WA 98508

On March 12, 2021, Sound Shellfish Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Christenson Tidelands, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on March 16, 2021.

The project will continue to cultivate ~~0.07~~ 0.13 acres of geoduck clams between 0.0ft and -3.5ft Mean Lower Low Water (MLLW) and 0.16 acres of Pacific oysters between +3.5ft and 0.0ft MLLW, all within the existing 0.3-acre project area. ~~on privately owned tidelands within 0.0ft to -3.5ft Mean Lower Low Water (MLLW) and 0.09 acres of Pacific oysters between +3.2ft and +0.0ft MLLW.~~ The beach requires no site preparation prior to planting beyond raking any Ulva away from the immediate area to be planted. There will be no redirection of seepage of upland runoff and no native materials will be removed from the aquatic farm site. Access to the farm site will occur by boat or by upland. **There is no eelgrass present at this site.**

About 250 juvenile Pacific oyster seed are placed in 6mm x 9mm mesh grow bags for cultivation. The mesh bags are placed onto the beach in rows of ten. Two ropes are pinned on either end of the rows with 24” rebar to secure the bags in place. The grow-out period for oyster can range from 8-18 months after planting. All harvest is done by hand at low tide. Bags are removed from the beach, put onto a boat, and processed in an upland facility.

To protect juvenile geoduck clams from predators, geoduck seed are placed in either PVC or Vexar mesh tubes that are pushed into the substrate (by hand for PVC tubes or using a low-pressure water jet for Vexar mesh tubes) at density not to exceed one tube per square foot. The tubes are all 4” in diameter and 12-16” in length and 3-5” of the tube will remain exposed above the substrate. PVC will be capped with individual mesh netting and secured with specialized rubber bands designed to withstand UV light and saltwater; mesh tubes will be secured using zip-ties or hog rings. Area nets may be placed over the tubes and weighed down with rebar stakes. Tubes and nets are removed after about 1-2 years after planting.

Geoduck are harvested either via dive harvest or beach harvest, although both use a motorized, low pressure water pump mounted on a vessel offshore. Water is delivered to the harvester at 20-

30 gallons per minute, and is similar to a garden hose at full volume. The end of the hose is equipped with a nozzle which is inserted into the substrate, softening the sand adjacent to the geoduck and allowing the clams to be removed by hand. Harvest occurs about 5-7 years after planting.

The project site is located on tidelands within Squaxin Passage, on parcel number 45800102501, adjacent to 2831 Schrim Loop NW, near Olympia, Thurston County, Washington; Section 9, Township 19 North, Range 2 West; WRIA 13, Deschutes Watershed.

With this Order, Ecology is granting Sound Shellfish Company's request for a Section 401 Water Quality Certification for the Christenson Tidelands project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on March 12, 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, Sound Shellfish 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 Sound Shellfish 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 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.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

1st Amendment February 16, 2022
Order No. 19791, Corps No. 200701160
Aquatics No. 139097
May 6, 2021
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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 Sound Shellfish Company, Christenson Tidelands 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. **19791** will remain valid for the duration of the associated DA permit. Sound Shellfish Company should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

CONTACT INFORMATION

Please direct all questions about this Order to:

Teresa Pucylowski
Department of Ecology
PO Box 4760
Olympia, WA 98504-7600
teresa.pucylowski@ecy.wa.gov

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