



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

Re: Amendment to Section 401 Water Quality Certification Order No. **19788** for Corps Reference No. **200901400**, Ziegler Tidelands, Thurston County, Washington

Dear Ian Child:

Enclosed is an amendment to Water Quality Certification Order No. 19778, 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. 19788 remain in effect.

The purpose of this amendment is to include the proposal to cultivate Pacific and Olympia oysters and to increase the acreage of geoduck 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](mailto: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. 19788  
Ziegler Tidelands  
Aquatics No. 139098, Corps No. 200901400  
February 16, 2022  
Page 2 of 2*

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

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 19788</b>
<b>WATER QUALITY CERTIFICATION TO</b>	)	<b>First Amendment</b>
Sound Shellfish	)	<b>Corps Reference No. 200901400</b>
In accordance with 33 U.S.C. 1341	)	Ziegler Tidelands located on tidelands
(FWPCA §401), RCW 90.48.120, RCW	)	Within Dana Passage, near Olympia,
90.48.260 and Chapter 173-201A WAC	)	Thurston County, Washington

Sound Shellfish Company  
 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 Sounds 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 8, 2022 that a modification to the Section 401 Water Quality Certification was required to include the proposal to cultivate Pacific and Olympia oysters and to increase the acreage of geoduck cultivation, all within the existing project area.

Order No. 19788 dated May 6, 2021 is hereby amended as follows:

I. The second paragraph, which reads:

The project will continue to cultivate 0.25 acres of geoduck clams on privately owned tidelands within 0.0ft to -3.6ft Mean Lower Low Water. Maintenance of the site would include routine inspections during low tide to ensure that equipment remains on site, and to ensure no entanglement of fish and wildlife. Access to the farm site will occur by boat or by upland.

Is replaced with:

The project will continue to cultivate 0.57 acres shellfish within a 2.0-acre project are on privately owned tidelands. This includes 0.29 acres of geoduck clams between within 0.0ft to -4.1ft Mean Lower Low Water (MLLW), and 0.28 acres of Pacific and Olympia oysters between +3.5ft and 0.0ft MLLW. Maintenance of the site would include routine inspections during low tide to ensure that equipment remains on site, and to ensure no entanglement of fish and wildlife. Access to the farm site will occur by boat or by upland. There is no eelgrass present at this site.

II. The following paragraph is added after the fourth paragraph:

Oyster seed are placed in Vexar mesh bags (18" x 3" x 3") which are placed directly onto the tidelands in rows of ten and connected to two ropes via zip ties. The rows of bags are placed at 3ft intervals and the connecting ropes would be anchored to the tideland substrate by 24-inch-long rebar pins. After one to three years of growth, oysters will be hand-harvested during low tides. Each bag would be removed and placed into a boat for transport to a processing facility.

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 of 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  
Teresa.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**



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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. 19788 – First Amendment**  
**WATER QUALITY ) Corps Reference No. 200901400**  
**CERTIFICATION TO ) Ziegler Tidelands located on tidelands within**  
Sound Shellfish Company ) Dana Passage, near Olympia, Thurston County,  
pursuant to 33 U.S.C. 1341 (FWPCA ) 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 Ziegler 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 ~~0.25~~ 0.57 acres of ~~geoduck clams~~ shellfish within a 2.0-acre project area on privately owned tidelands. This includes 0.29 acres of geoduck clams between ~~within~~ 0.0ft to -4.1ft ~~-3.6ft~~ Mean Lower Low Water (MLLW), and 0.28 acres of Pacific and Olympia oysters between +3.5ft and 0.0ft MLLW. Maintenance of the site would include routine inspections during low tide to ensure that equipment remains on site, and to ensure no entanglement of fish and wildlife. Access to the farm site will occur by boat or by upland. There is no eelgrass present at this site.

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.

Oysters seed are placed in Vexar mesh bags (18" x 3" x 3") which are placed directly onto the tidelands in rows of ten and connected to two ropes via zip ties. The rows of bags are placed at

3ft intervals and the connecting ropes would be anchored to the tideland substrate by 24-inch-long rebar pins. After one to three years of growth, oysters will be hand-harvested during low tides. Each bag would be removed and placed into a boat for transport to a processing facility.

The project site is located on tidelands within Dana Passage, on parcel numbers 12912240500 and 12912240600, adjacent to 8139 Zangle Road NE, near Olympia, Thurston County, Washington; Section 12, 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 Ziegler 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 prohibited<sup>1</sup>. If such work, conditions, or discharges occur, immediately notify<sup>2</sup> 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<sup>3</sup> 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.

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<sup>1</sup> RCW 90.48

<sup>2</sup> WAC 173-303-145

<sup>3</sup> RCW 90.56.280



*First Amendment February 16, 2022*  
*Order No. 19788, Corps No. 200901400*  
*Aquatics No. 139098*  
*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, Ziegler 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. **19788** 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](mailto:fednotification@ecy.wa.gov) within two weeks of receiving it.

### CONTACT INFORMATION

Please direct all questions about this Order to:

Teressa Pucylowski  
Department of Ecology  
PO Box 4760  
Olympia, WA 98504-7600  
[teressa.pucylowski@ecy.wa.gov](mailto:teressa.pucylowski@ecy.wa.gov)

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