



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000  
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March 15, 2022

Allen Shellfish, LLC  
Attn: Brian Allen  
PO Box 11775  
Bainbridge Island, WA 98110

Re: Water Quality Certification Order No. **21051** for Corps Reference No. **200701383**,  
Johnson Lease, Thurston County, Washington

Dear Brian Allen:

On February 7, 2022, Allen Shellfish, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Johnson Lease located on tidelands within Nisqually Reach, near Olympia, Thurston 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 Teresa Pucylowski by e-mail at [teressa.pucylowski@ecy.wa.gov](mailto:teressa.pucylowski@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

*Johnson Lease*  
*Order No. 21051, Corps No. 200701383*  
*Aquatics No. 139049*  
*March 15, 2022*  
*Page 2 of 2*

E-cc: Chelsea Fannin, U.S. Army Corps of Engineers (Corps)  
Loree' Randall, Ecology  
Teresa Pucylowski, Ecology  
ecyrefedpermits@ecy.wa.gov  
Aquaculture-Reinforcement-Team@usace.army.mil

**IN THE MATTER OF GRANTING A** ) **ORDER No. 21051**  
**WATER QUALITY CERTIFICATION TO** ) **Corps Reference No. 200701383**  
Allen Shellfish, LLC ) Johnson Lease located on tidelands within  
Pursuant to 33 U.S.C. 1341 ) Nisqually Reach, near Olympia, Thurston  
(FWPCA § 401), RCW 90.48.120, RCW ) County, Washington  
90.48.260 and Chapter 173-201A WAC )

Allen Shellfish, LLC  
Attn: Brian Allen  
PO Box 11775  
Bainbridge Island, WA 98110

On February 7, 2022, Allen Shellfish, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Johnson Lease, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on February 9, 2022.

This project would continue a commercial shellfish aquaculture farm that cultivates geoduck clams on approximately 0.25 acres of privately-owned tidelands between approximately +2.0ft and -4.5ft Mean Lower Low Water elevation contours. There is no eelgrass present at this site. The site is maintained through site visits to ensure that gear is in place. Regular access is via boat; no regular upland access.

Planting occurs when juvenile geoduck seed are placed in flexible high-density polyethylene (HDPE) mesh sleeves (4 x 13 inches) which are pushed into the substrate to a depth of 6-7 inches (leaving 6-7 inches emergent) by using low-pressure pumped seawater that prepares the substrate for installation. The top of the mesh tube is left open. The mesh sleeves stay in for about 30 months before the removal process begins (or about 1/2 the culture period).

The mesh sleeves are UV-stable; designed and manufactured for marine application. Typically, mesh sleeves are installed at a density of one tube per 1-1.3 square feet and planted with 3-4 seed clams in each tube. The mesh sleeves are removed once the geoducks are large enough and they are left to grow unprotected until harvest (2-5 years). Polyvinyl chloride (or PVC) tubes and predator exclusion nets are not used.

Geoduck clams are harvested using either dry (i.e., during low tide exposure) or wet (i.e., diving) harvest methods. Dive harvest is the majority harvest activity. Market size clams are harvested individually using a low-pressure water pump. Once harvested, a new crop is planted and the aforementioned process is repeated. Total growing time is approximately 4-7 years.

The project site is located on tidelands within Nisqually Reach, on parcel number 44900002802, adjacent to 6101 88th Avenue NE, near Olympia, Thurston County, Washington; Section 3, Township 19 North, Range 1 West; WRIA 13, Deschutes Watershed.

With this Order, Ecology is granting Allen Shellfish, LLC's request for a Section 401 Water Quality Certification for the Johnson Lease project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 7, 2022.

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, Allen Shellfish, LLC 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 Allen Shellfish, LLC 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 Allen Shellfish, LLC, Johnson 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. **21051** will remain valid for the duration of the associated DA permit. Allen Shellfish, LLC 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.

**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:

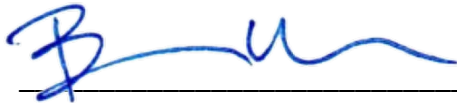
Teresa Pucylowski  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
teressa.pucylowski@ecy.wa.gov

#### **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**



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

March 15, 2022

Date