



3/22/2022 - Minor edit
to the date the MDNS
was rec'd, see page 4

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • PO Box 330316 • Shoreline, Washington 98133-9716 • (206) 594-0000
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March 22, 2022

City of Oak Harbor Marina
Attn: Christopher Raine Sublet, Harbormaster
865 SE Barrington Drive
Oak Harbor, WA 98277

RE: Water Quality Certification Order No. 21039 for Corps Reference No. NWS-2021-1185,
Oak Harbor Marina Salmon Rearing Program Project, Oak Harbor, Island County,
Washington

Dear Christopher Raine Sublet:

On February 4, 2022, City of Oak Harbor Marina submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Oak Harbor Marina Salmon Rearing Program project, located in Oak Harbor, Island County, Washington.

On behalf of the State of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents 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, please contact Rebekah Padgett at (425) 365-6571b or via email at Rebeka.Padgett@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Burcar".

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office

Enclosure

City of Oak Harbor Marina

March 22, 2022

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E-cc: Christopher Sublet, Oak Harbor Marina
Kelsey Rogers, US Army Corps of Engineers
Kirk Lakey, WA Department of Fish and Wildlife
Joe Coutu, WA Department of Fish and Wildlife
Edward Eleazer, WA Department of Fish and Wildlife
Solenne Walker-Westcott, WA Department of Natural Resources
Dennis Lefevre, City of Oak Harbor Development Services
Railin Santiago, Ecology
Laurie Niewolny, Ecology
Amy Jankowiak, Ecology
Loree' Randall, Ecology
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A)	ORDER No. 21039
WATER QUALITY)	Corps Reference No. NWS-2021-1185
CERTIFICATION TO)	<i>Oak Harbor Marina Salmon Rearing Program</i>
City of Oak Harbor Marina)	<i>Project, located within Oak Harbor Bay,</i>
pursuant to 33 U.S.C. 1341 (FWPCA)	<i>Oak Harbor, Island County, Washington</i>
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

City of Oak Harbor Marina
ATTN: Christopher Raine Sublet, Harbormaster
865 SE Barrington Drive
Oak Harbor, WA 98277

On February 4, 2022, City of Oak Harbor Marina submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Oak Harbor Marina Salmon Rearing Program project, Oak Harbor Bay, Island County, Washington. The following processing dates are referenced below:

- On February 28, 2022, the U.S. Army Corps of Engineers (Corps) notified Ecology that they would be reviewing the project for authorization under Nationwide Permit #56, and an individual Section 401 is required.
- On February 28, 2022, Ecology issued a public notice for the project.

This project proposes to rear up to 30,000 salmon (Coho or Chinook) in two approximately 30-by 15-foot pens made of untreated lumber, stainless steel fasteners, and plastic barrel floats. A nylon, knotless net will contain the salmon within the pens, and will be approximately 8 feet deep. The net pens are proposed to be secured within four marina slips at the Oak Harbor Marina. After approximately five months, or once salmon reach the desired size, they would be released into Oak Harbor Bay, and the net pens would then be stored ashore. The project is intended to also serve as an outdoor classroom for nearby students and increase salmon abundance to provide food for orcas and revive the local salmon fishery.

The project site is located at the Oak Harbor Marina, 1401 SE Catalina Drive, in Oak Harbor Bay, Oak Harbor, Island County, Washington, Section 1, Township 32 N., Range 1 E., within Water Resource Inventory Area (WRIA) 6 – Island County.

With this Order, Ecology is granting the City of Oak Harbor Marina's request for a Section 401 Water Quality Certification for the Oak Harbor Marina Salmon Rearing Program project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments that Ecology received on February 4, 2021, and the following supporting documentation:

1. Hydraulic Project Approval, *Washington Department of Fish and Wildlife*, dated October 15, 2021 (received February 4, 2021).
2. Issuance of the initial SEPA Exemption, through a memorandum from Dennis Lefevre, City of Oak Harbor Development Services Department, to David Kuhl, City of Oak Harbor

Development Services Department, RE: SEPA permitting for salmon fish rearing pens at Oak Harbor Marina, dated October 1, 2021 (received February 8, 2022). On February 9, 2022 the City of Oak Harbor issued a Mitigated Determination of Non-Significance (received ~~March~~ ~~February~~ 9, 2022) for the project, replacing the initial SEPA Exemption.

3. Washington Department of Natural Resources Aquatic Land Lease No. 20-A10082 Work Approval Letter, dated December 22, 2021 (received February 9, 2022).
4. E-mail from Chris Sublet, City of Oak Harbor Marina to Rebekah Padgett, Ecology, RE: Oak Harbor Marina Salmon Rearing Program, dated February 9, 2022 (received February 9, 2022).
5. Sheet 2 of 3, Docks/Net Pens Plan View, undated (received February 9, 2022).
6. Photos (six), undated (received February 9, 2022).
7. E-mail from Chris Sublet, City of Oak Harbor Marina to Rebekah Padgett, Ecology, RE: Oak Harbor Marina Salmon Rearing Program, dated February 10, 2022 (received February 10, 2022).
8. Oak Harbor Marina Net Pen Project Biological Evaluation, prepared by Grette Associates, LLC, dated February 2022 (received February 22, 2022).

Based on the information submitted, Ecology has determined that the discharge(s) from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, City of Oak Harbor Marina 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 City of Oak Harbor Marina 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.

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 City of Oak Harbor Marina for the Oak Harbor Marina Salmon Rearing Program project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. Order No. 21039 will remain valid for the duration of the associated DA permit. City of Oak Harbor Marina 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 Hearings 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 all 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 WQC Order to:

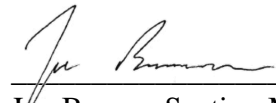
Rebekah Padgett
Department of Ecology
Rebekah.Padgett@ecy.wa.gov
(425) 365-6571

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



Joe Burcar, Section Manager
Northwest Regional Office
Shorelands and Environmental Assistance Program
Department of Ecology

3/22/2022

Date