



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

April 11, 2023

Gustave A. Wiegardt Jr.  
PO Box 305  
Ocean Park, WA 98640

Re: Water Quality Certification Order No. **21675** for Corps Reference No. **201200581**,  
Nationwide Permit (NWP) 48, Gustave Wiegardt Jr. & Northern Oyster Co. Clams, Pacific  
County, Washington

Dear Gustave A. Wiegardt Jr.:

On November 8, 2022, the Department of Ecology (Ecology) received Gustave A. Wiegardt Jr.'s request for a Section 401 Water Quality Certifications (WQC).

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the WQC request 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 (WQC Order).

Please ensure that anyone doing work under this WQC Order has read, is familiar with, and is able to follow all of the provisions within the attached WQC 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 WQC Order may be appealed by following the procedures described within the WQC Order.

Sincerely,

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

Enclosure

WQC Order No. 21675, Corps No. 201200581

Aquatics ID No. 139711

April 11, 2023

Page 2 of 2

By certified mail: 9489 0090 0027 6383 9288 38

Sent via e-mail: baymist75@gmail.com

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

**IN THE MATTER OF GRANTING A  
WATER QUALITY CERTIFICATION TO**  
Gustave A. Wiegardt Jr.  
pursuant to 33 U.S.C. 1341 (FWPCA  
§ 401), RCW 90.48.120, RCW 90.48.260  
and Chapter 173-201A WAC

) **WQC ORDER No. 21675**  
) **Corps Reference No. 201200581 (NWP 48)**  
) *Gustave Wiegardt Jr. & Northern Oyster Co. Clams*  
) *located on tidelands within Willapa Bay, near*  
) *Oysterville, Pacific County, Washington*  
)

Gustave A. Wiegardt Jr.  
PO Box 305  
Ocean Park, WA 98640

On November 8, 2022, the Department of Ecology (Ecology) received Gustave A. Wiegardt Jr.'s request for a Section 401 Water Quality Certification (WQC) for the Gustave Wiegardt Jr. & Northern Oyster Co. Clams located on tidelands within Willapa Bay, near Oysterville, Pacific County, Washington. Ecology issued a public notice for the project on March 1, 2023.

This project proposes to continue farming Manila Clams and some Pacific Oysters on 16.63 acres of previously permitted, privately owned tidelands using traditional ground culture methods including seeding and harvesting by hand, between +1.5 and +3.0 feet (MLLW). The applicant will apply up to 50 cubic yards of washed gravel annually to maintain up to a 1-inch-thick layer of gravel on the substrate (frosting). Approximately 5 acres are frosted per year. Clam nets will not be deployed. Clam ground may be enhanced for larval recruitment by sprinkling crushed oyster shell pieces for clam larvae to attach. Sites are accessed by boat or from shore. Clams are harvested by hand during low tides on a 2-to-4-year rotation depending on size, growth, density, natural recruitment, and mortality. Any oysters grown will be by traditional ground culture methods and will be harvested by hand.

The project site is located on tidelands within Willapa Bay, on parcel numbers 12111055540 and 79005000249, adjacent to 31920 Sandridge Road, Oysterville, WA 98641, Pacific County, Washington; Section 10 and 15, Township 12 North, Range 11 West; WRIA 24, Willapa Watershed.

With this WQC Order, Ecology is granting Gustave A. Wiegardt Jr.'s request for a Section 401 Water Quality Certification for the Gustave Wiegardt Jr. & Northern Oyster Co. Clams project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on November 8, 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, Gustave A. Wiegardt Jr. 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 Gustave A. Wiegardt Jr. 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.

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 Gustave A. Wiegardt Jr., Gustave Wiegardt Jr. & Northern Oyster Co. Clams project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Nationwide Permit 48 authorization for this project. WQC Order No. **21675** will remain valid for the duration of the associated Nationwide permit. Gustave A. Wiegardt Jr. should send a copy of the final Nationwide 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 Hearings Board (PCHB) within 30 days of the date of receipt. The appeal process is governed by RCW 43.21B and WAC 371-08. "Date of receipt" is defined in RCW 43.21b.001(2). More information is available at <https://eluh.wa.gov/content/11>.

To appeal, you must do all of the following within 30 days of the date of receipt of this Order:

- File your notice of appeal and a copy of this Order with the PCHB (see filing options below). "Filing" means actual receipt by the PCHB during regular business hours as defined in WAC 371-08-305 and -335. "Notice of appeal" is defined in WAC 371-08-340.
- Serve a copy of your notice of appeal and this Order on the Department of Ecology, in paper form, by mail or in person (see addresses below). E-mail is not accepted.

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<sup>1</sup> RCW 90.48

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

<sup>3</sup> RCW 90.56.280

You must also comply with other applicable requirements in RCW 43.21B and WAC 371-08.

#### **Filing an appeal with the PCHB:**

For the most current information regarding filing with the PCHB, visit:  
<https://elaho.wa.gov/content/11>

##### **Filing by mail**

###### **Mailing Address:**

Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

##### **Filing in person (or by certified mail/courier)**

###### **Street Address:**

Pollution Control Hearings Board  
1111 Israel RD SW, STE 301  
Tumwater, WA 98501

##### **Filing Electronically**

###### **E-mail Address:**

[Pchb-shbappeals@elaho.wa.gov](mailto:Pchb-shbappeals@elaho.wa.gov)

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

Electronic copies of appeals are not accepted at the Department Ecology per WAC 371-08-305(10).

##### **Filing by mail**

###### **Mailing Address:**

Department of Ecology  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

##### **Filing in person (or by certified mail/courier)**

###### **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:

Teresa Pucylowski  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
[teressa.pucylowski@ecy.wa.gov](mailto:teressa.pucylowski@ecy.wa.gov)

#### **More Information**

- **Pollution Control Hearings Board Website**  
<http://www.elaho.wa.gov/content/11>

- **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, HQ  
Shorelands and Environmental Assistance Program  
Department of Ecology

April 11, 2023

Date