



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 18, 2023

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

Re: Amendment to Section 401 Water Quality Certification Order No. **19662** for Corps Reference No. **201600527**, Mazanti Lease – North Bay, Mason County, Washington

Dear Erin Ewald:

Enclosed is an amendment to Water Quality Certification Order No. 19662, issued on March 8, 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. 19962 remain in effect.

The purpose of this amendment is to remove the cultivation of clams and oysters from the project description, as it is no longer being proposed. Consequent changes to tidal elevation and acreage are also adjusted accordingly.

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, HQ
Shorelands and Environmental Assistance Program

Enclosure 2

By certified mail: 9489 0090 0027 6383 9288 07

First Amendment to WQC Order No. 19662
Aquatics No. 138858, Corps No. 201600527
April 17, 2023
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Sent via e-mail: erine@taylorshellfish.com

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

IN THE MATTER OF GRANTING A) WQC ORDER No. 19662
WATER QUALITY CERTIFICATION TO) First Amendment
Taylor Shellfish Farms) Corps Reference No. 201600527
In accordance with 33 U.S.C. 1341) Mazanti Lease – North Bay. located within
(FWPCA §401), RCW 90.48.120,) North Bay, near Belfair, Mason County,
RCW90.48.260 and Chapter 173-201A WAC) Washington

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
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On March 8, 2021, the Washington Department of Ecology (Ecology) issued a Section 401 Water Quality Certification to Taylor Shellfish Farms for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

On March 30, 2023, Ecology received a request to remove the cultivation of clams and oysters from the project proposal and to adjust the tidal elevations and acreage accordingly. Clams and oysters are no longer being cultivated within the project area.

WQC Order No. 19662, dated March 8, 2021, is hereby amended as follows:

I. Paragraph two which reads:

This project proposes to commercially cultivate up to 0.7 acres of oysters, clams and geoducks between the +3 foot (ft.) and -4.5 ft. Extreme Low tidal elevation on parcel number 122282180292. Access to tidelands is by boat.

Is replaced with:

This project proposes to commercially cultivate up to 0.5 acres of geoducks between the 0.0ft Mean Lower Low Water (MLLW) and Extreme Low tidal elevation on parcel number 122282180292. Access to tidelands is by boat.

II. The 3rd and 4th paragraphs are deleted:

The cultivation of oysters for commercial production are grown in bags, near bottom, and on-bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used. No gravelling or frosting is proposed for this site.

Clam seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. The grower may also use a mechanical clam

digger, which is powered by a small engine that propels a blade to loosen the soil and collect clams. The clams are collected by a rake under the machine that gathers them onto a conveyor belt and placed in a tub for sorting by staff. Once the clams are harvest they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.

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 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).

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

- File your notice 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 -355. "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.

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://eluh.wa.gov/content/11>

Address and Location Information

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE

Lacey, WA 98503

Pollution Control Hearings Board

1111 Israel RD SW
STE 301
Tumwater, WA 98501

Mailing Addresses:

Department of Ecology

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

Pollution Control Hearings Board

PO Box 40903
Olympia, WA 98504-0903

E-Mail Address:

Department of Ecology

Not currently available (see WAC 371-08)

Pollution Control Hearings Board

Pchb-shbappeals@elaho.wa.gov

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

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 18, 2023

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. 19662, First Amendment
WATER QUALITY)	Corps Reference No. NWS-2016-527
CERTIFICATION TO)	Mazanti Lease – North Bay, located on tidelands
Taylor Shellfish Farms)	within North Bay, near Belfair, Mason County,
pursuant to 33 U.S.C. 1341 (FWPCA)	Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, WA 98584

On May 21, 2020, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Mazanti Lease – North Bay, Mason County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 14, 2020.

This project proposes to commercially cultivate up to 0.5 ~~7~~ acres of ~~oysters, clams and~~ geoducks between the 0.0ft Mean Lower Low Water (MLLW) and +3 foot (ft.) and ~~4.5 ft.~~ Extreme Low tidal elevation on parcel number 122282180292. Access to tidelands is by boat.

~~The cultivation of oysters for commercial production are grown in bags, near bottom, and on-bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used. No gravelling or frosting is proposed for this site.~~

~~Clam seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. The grower may also use a mechanical clam digger, which is powered by a small engine that propels a blade to loosen the soil and collect clams. The clams are collected by a rake under the machine that gathers them onto a conveyor belt and placed in a tub for sorting by staff. Once the clams are harvest they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.~~

Geoduck cultivation will entail placing nursery tubes, approximately 9” in length, manually into lower intertidal substrate at a density of approximately one tube per square foot. Three to four geoduck seed are placed in tubes. The tubes may be covered with canopy netting secured with rebar or individual net coverings.

After approximately 12-15 months, the tubes are removed and the area is re-netted with canopy netting. The net is removed once it has been determined the geoduck are able to evade predation and the beach is left undisturbed until harvest. Harvest occurs by hand using a low-pressure water pump with an attached wand that loosen the sediment around the geoducks for removal by hand. Harvest activity will occur approximately 5-7 years after planting.

The project site is located on tidelands within North Bay, on parcel number 122282180292, near Belfair, Mason County, Washington; Section 28, Township 22 North, Range 1 West; WRIA 15, Kitsap Watershed.

With this Order, Ecology is granting Taylor Shellfish Farms's request for a Section 401 Water Quality Certification for the Mazanti Lease – North Bay project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on May 21, 2020, and the following supporting documentation:

1. February 4, 2021- Memo from Taylor Shellfish – Taylor Shellfish Water Quality Monitoring Protection Plan for this project. Regarding the project's compliance with the conservation measures associated with the "Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters" (U.S. Fish and Wildlife Service (USFWS) Reference Number 01EWF00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Taylor Shellfish Farms water quality monitoring plan

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, Taylor Shellfish Farms 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 Taylor Shellfish Farms 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.

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.

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 Taylor Shellfish Farms, Mazanti Lease – North Bay 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. **19662** will remain

First Amendment April 18, 2023
Order No. 19662, Corps No. 201600527
Aquatics No. 138858
March 8, 2021
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valid for the duration of the associated permit. Taylor Shellfish Farms should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

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