



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

June 29, 2023

Heckes Clams Inc.  
ATTN: John P. Heckes  
PO Box 131  
Chinook, WA 98614

Re: Water Quality Certification Order No. **21933** (Corps No. **NWS-2022-169**), Heckes Clams Inc. DNR Lease 20-013272 and 20-013271, Pacific County, Washington

Dear John P. Heckes:

On May 17, 2023, Heckes Clams Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Heckes Clams Inc. DNR Lease 20-013272 and 20-013271, Pacific 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 enclosed Water Quality Certification 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 at (360) 764-0546. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Loree' Randall, Section Manager  
Federal Permitting Section  
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9489 0090 0027 6383 9286 09

WQC Order No. 21933, Corps No. NWS-2022-169

Aquatics ID No. 141472

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Sent via e-mail: johnheckes14@gmail.com

E-cc: Danette Guy, U.S. Army Corps of Engineers

Rhonda Foster, Heckes Clam Company

Teresa Pucylowski, Ecology

ECYREFEDPERMITS@ecy.wa.gov

In The Matter of Granting a Water Quality  
Certification to Heckes Clams Inc.  
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW  
90.48.260 and Chapter 173-201A WAC

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<b>WQC Order No.</b>	21933
<b>Corps Reference No.</b>	NWS-2022-169
<b>Site Location</b>	Heckes Clams Inc. DNR Lease 20-013272 and 20-013271 located within Willapa Bay, near Long Island, Pacific County, Washington.

Heckes Clams Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Heckes Clams Inc. DNR Lease 20-013272 and 20-013271, Pacific County, Washington. The following required processing dates are listed below:

- On 4/6/2023, Heckes Clams Inc. submitted a pre-filing meeting request.
- On 5/17/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 5/22/2023, Ecology issued a public notice for the project.

This project proposes to continue commercial cultivation of Pacific Oysters (*Crassostrea gigas*) on 53.59 acres of leased tidelands in Willapa Bay. Pacific oysters will be grown directly on the substrate between +2.0 feet to -16.0 feet. Seeding will occur from a vessel and harvest by dredge/barge will occur after one to four years.

Oyster Bottom Culture Oysters will be grown directly on the substrate in areas with suitable cultivation conditions. There are currently 53.59 acres in oyster bottom cultivation; the number of acres in oyster bottom cultivation is expected to vary from time to time based on environmental, market, and other conditions. The maximum area anticipated to be under oyster bottom cultivation at any given time is 53.59 acres. Oysters may naturally set on the bed or may be seeded by hand or from a vessel. Shell may be spread for catching naturally recruiting larvae not to exceed one inch averaged coverage. Up to 7,202 cubic yards may be discharged per year. Oysters may be transplanted during grow-out to fattening beds. Oyster beds may be harrowed during grow-out to move the oysters back to the sediment surface.

Oysters will be harvested by hand during low tide or by dredge after one to four years, depending on site conditions. Harvesting may occur at any time of the year, depending on

environmental and market conditions. During hand harvest, workers use hand tools or hand-pick oysters and place them into containers. Larger containers may be equipped with ropes and buoys that can be lifted onto the deck of a barge at high tide. Smaller containers may be placed or dumped on decks of scows for retrieval at high tide or are carried off the beach at low tide. Dredge harvest occurs by use of a harvest bag that is lowered from a barge or boat at high tide and pulled along the bottom to scoop up the oysters, and then emptied onto the boat or barge. Two dredge bags may be towed simultaneously off each side of the boat. An area may be dredged twice in succession to ensure maximum recovery of oysters. Harrowing may occur between the two successive dredge events to increase recovery. Oysters may be dredged after one year and then transplanted to a grow-out bed. In other cases, oysters may not be transplanted until they are closer to harvest size.

The project site is located on tidelands within Willapa Bay, on DNR Leases 20-013272 and 20-013271, near Long Island, Pacific County, Washington; Section 25, Township 12 North, Range 11 West; Water Resources Inventory Area (WRIA) 24 - Willapa.

With this WQC Order, Ecology is granting Heckes Clams Inc.'s request for a Section 401 Water Quality Certification for the Heckes Clams Inc. DNR Lease 20-013272 and 20-013271 project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 5/17/2023.

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, Heckes Clams Inc. 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 Heckes Clams Inc. 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 Heckes Clams Inc. for the Heckes Clams Inc. DNR Lease 20-013272 and 20-013271 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. WQC Order No. **21933** will remain valid for the duration of the associated DA permit. Heckes Clams Inc. 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 Hearings Board (PCHB) within 30 days of the date of receipt. 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 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.

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

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

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

### **Address and Location Information**

#### **Street Addresses:**

##### **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 Chapter 371-08 WAC)

**Pollution Control Hearings Board**

Pchb-shbappeals@elaho.wa.gov

## Americans with Disabilities Act Information

### Accommodation Requests

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

## Contact Information

Please direct all questions about this WQC Order to:

Teresa Pucylowski

Department of Ecology

(360) 764-0546

[teressa.pucylowski@ecy.wa.gov](mailto:teressa.pucylowski@ecy.wa.gov)

## More Information

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

Dated this 29th day of June, 2023, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager

Federal Permitting Section

Shorelands and Environmental Assistance Program