



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

August 31, 2023

Jamestown S’Klallam Tribe
ATTN: Ron Allen
1033 Old Blyn Hwy
Sequim, WA 98382

Re: Water Quality Certification Order No. **22138** (Corps No. **NWS-2023-0223**), Sequim Bay Olympia Oyster Habitat Enhancement, Clallam County, Washington

Dear Ron Allen:

On March 9, 2023, the Jamestown S’Klallam Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Sequim Bay Olympia Oyster Habitat Enhancement project, Clallam 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

WQC Order No. 22138, Corps No. NWS-2023-0223

Aquatics ID No. 142175

August 31, 2023

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Enclosure (2)

By certified mail: 9489 0090 0027 6383 6852 81

Sent via e-mail: rallen@jamestowntribe.org

E-cc: Matthew Bennett, U.S. Army Corps of Engineers
Robert Knapp, Jamestown S'Klallam Tribe
Kelly McDonald, EPA
Teresa Pucylowski, Ecology
ECYREFEDPERMITS@ecy.wa.gov

**In The Matter of Granting a Water Quality
Certification to the Jamestown S’Klallam Tribe
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC**

Jamestown S’Klallam Tribe
Attn: Ron Allen
1033 Old Blyn Hwy
Sequim, WA 98382

WQC Order No.	22138
Corps Reference No.	NWS-2023-0223
Site Location	Sequim Bay Olympia Oyster Habitat Enhancement located within Sequim Bay, near Sequim, Clallam County, Washington.

The Jamestown S’Klallam Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Sequim Bay Olympia Oyster Habitat Enhancement, Clallam County, Washington. The following required processing dates are listed below:

- On 11/10/2022, the Jamestown S’Klallam Tribe submitted a pre-filing meeting request.
- On 3/9/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 6/17/2023, the U.S. Army Corps of Engineers (Corps) sent an email notification to Ecology that they are reviewing the project for authorization under Nationwide Permit No. 27 and requires an individual Section 401.
- On 6/13/2023, Ecology issued a public notice for the project.

The purpose of this project is to enhance Olympia Oyster (*Ostrea lurida*) habitat in Sequim Bay by providing suitable substrate (i.e., clean shell) for Olympia oyster larvae that are naturally dispersing from the nearby extant population to settle on. This in turn improves ecosystem conditions for other marine species that migrate through or live, feed, and seek shelter in native shellfish beds. The Sequim Bay Olympia oyster population is 1 of 19 priority sites identified in the Washington Olympia Oyster Restoration Plan (2012). Monitoring for recruitment, survival, and growth will occur each summer during the life of the permit. No commercial harvesting of Olympia oyster is planned as part of this project.

The project area is intertidal and spans both state (Tribal Fee) and federal jurisdiction (Tribal Trust and Reservation). State jurisdiction is approximately 30.5 acres and federal jurisdiction is approximately 4.7 acres. The project site is primarily mudflats with some vegetation present

(no kelp). Native eelgrass (*Zostera marina*) is mapped inside the project area, located at lower tidal elevations; substrate enhancement areas are located to avoid native eelgrass.

The proposal includes placing up to 500 cubic yards of certified clean oyster shell on 35.2 acres of Sequim Bay tideflats, between tidal elevations -1.0 and +5.0 feet (mean lower low water). Clean bagged, blank (no seed) Olympia oyster shell will be transported to the South end of Sequim Bay via small boat at high tide and attached to a temporary anchor. During the next daylight low tide, volunteers and staff will spread the shell onto the tidelands. New clean shell will be added in subsequent years as needed to maintain target density and replace shell that is moved by wave action out of the project area or sunk into the mud substrate.

Avoidance measures include careful placement of shell to avoid any increase of suspended sediments and turbidity, as well as careful sourcing of clean shell material (free from pathogens and invasive species). No shell will be placed within any freshwater channels (including Jimmycomelately and Dean Creek) and these channels shall not be restricted or manipulated. The project design minimizes impacts to eelgrass by including a 25-foot buffer between eelgrass and the areas in which shell is placed. Monitoring transects will be recorded using GPS. No permanent markers will be placed in the project area.

The project site is located on state and tribal tidelands within Sequim Bay, Jimmycomelately Creek, and Dean Creek; on parcel numbers 032912240000, 032912130000, 032912140240, 032912110080, and 032912110070; adjacent to 1033 Old Blyn Hwy, near Sequim, Clallam County, Washington; Section 12, Township 29 North, Range 3 West; WRIA 17, Quilcene-Snow Watershed.

With this WQC Order, Ecology is granting the Jamestown S'Klallam Tribe's request for a Section 401 Water Quality Certification for the Sequim Bay Olympia Oyster Habitat Enhancement project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 3/9/2023.

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, the Jamestown S'Klallam Tribe 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 the Jamestown S'Klallam Tribe 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 Jamestown S’Klallam Tribe for the Sequim Bay Olympia Oyster Habitat Enhancement 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. **22138** will remain valid for the duration of the associated DA permit. The Jamestown S’Klallam Tribe 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. 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 information 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 mail, in person, or by email (see addresses below).

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

Filing an appeal

Filing with the PCHB

For the most current information regarding filing with the PCHB, visit: <https://elaho.wa.gov/> or call: 360-664-9160.

Service on Ecology

Street Addresses:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Mailing Addresses:

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

E-Mail Address:

ecologyappeals@ecy.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

More Information

- **[Pollution Control Hearings Board Website](https://elaho.wa.gov)**
<https://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)**
<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)**
<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)**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>

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- **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 31st day of August 2023 at the Department of Ecology, Lacey, Washington.



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