



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

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

August 31, 2023

Seattle Shellfish, LLC  
ATTN: Derek Epps  
2101 4<sup>th</sup> Ave E, STE 201  
Olympia, WA 98506

Re: Water Quality Certification Order No. **22014** (Corps No. **NWS-2015-0930**), Harstine Real Estate Partners Shellfish Farm, Mason County, Washington

Dear Derek Epps:

On May 22, 2023, Seattle Shellfish, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Harstine Real Estate Partners Shellfish Farm, Mason 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. 22014, Corps No. NWS-2015-0930  
Aquatics ID No. 138764  
August 31, 2023  
Page 2 of 2

Enclosure (2)

By certified mail: 9489 0090 0027 6383 9853 11

Sent via e-mail: [depps@seattleshellfish.com](mailto:depps@seattleshellfish.com)

E-cc: Rory Lee, U.S. Army Corps of Engineers  
Teressa Pucylowski, Ecology  
[ECYREFEDPERMITS@ecy.wa.gov](mailto:ECYREFEDPERMITS@ecy.wa.gov)

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

Seattle Shellfish, LLC  
Attn: Derek Epps  
2101 4<sup>th</sup> Ave E, STE 201  
Olympia, WA 98506

<b>WQC Order No.</b>	22014
<b>Corps Reference No.</b>	NWS-2015-0930
<b>Site Location</b>	Harstine Real Estate Partners Shellfish Farm located within Case Inlet, near Shelton, Mason County, Washington.

Seattle Shellfish, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Harstine Real Estate Partners Shellfish Farm, Mason County, Washington. The following required processing dates are listed below:

- On 12/1/2020, the Seattle Shellfish, LLC submitted a pre-filing meeting request.
- On 5/22/2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 5/31/2023, Ecology issued a public notice for the project.

This project will continue to commercially cultivate up to approximately 27.8 acres of various species of clams (geoduck, Manila, littleneck, butter, Eastern soft shell, horse, and razor clams) and various species of oysters (Pacific, Kumamoto, Eastern, Olympia, and European flat oysters) with no fallow ground. The entire project area lies between +5.0ft Mean Lower Low Water (MLLW) and -4.5ft MLLW, or other property boundary, and within the property boundaries. Both geoduck and other species are cultivated on about 23.7 acres of the project area, with non-geoduck species cultivation occurring on about 4.1 acres of the project area closest to the +5.0ft MLLW boundary. There is no use of mechanical bed preparation equipment.

Single-set seed or oyster cultch are cultivated in mesh grow bags that are either secured directly to the substrate bottom or are suspended in a tide-tumbled/flip bag system. Bags are attached to the racks, stakes, or lines using reusable plastic or wire ties. Installation occurs during low tide.

Oyster tumbling involves attaching a buoy and securing the bags to a horizontal crossbeam (stainless steel rod, polypropylene or nylon line, plastic-coated cable, or other approved material) for the hanging lines and held in place by rebar stakes or similar posts driven into the

substrate. Oysters grow in the bags and are checked periodically during low tides to ensure that the bags remain secure and to remove fouling organisms and predators. Oysters are harvested by hand at low or high tide.

Clam seed may be planted using different dispersal methods including at low tide on bare, exposed substrate, on an incoming tide when water depth is approximately four inches, on an outgoing tide in water depth of two to three feet, or at high tide from a boat. Immediately after seeding, cover or area nets may be placed over the seeded areas. Area netting is secured with rebar stakes placed vertically into the substrate. Sometimes rebar stakes are laid horizontally along the netting to ensure that netting does not become dislodged. Clam nursery systems, including bags or trays, may be used until seed is of sufficient size to plant. Clam bag culture uses similar methods and materials as the oyster bag culture. Clams are typically grown in plastic mesh bags, placed in the lower intertidal areas, and anchored with metal, rebar, or other materials. Market-size clams may take up to four years to grow, so they are selectively harvested, placed in buckets, bagged, tagged, and removed from the beds.

Juvenile geoducks are planted in PVC or flexible mesh tubes, up to 6 inches in diameter and up to 13 inches in length. The tubes are inserted into the substrate such that only the top section (approximately 1/3) of the tube protrudes above the beach. Two to four seed clams are placed in each tube and tubes are typically installed at a density of about 1 tube per square foot. PVC tubes may be covered by individual and/or area netting. Individual netting consists of a small, plastic mesh net secured to the tube by a UV-resistant rubber band. Area netting is secured with rebar stakes placed vertically into the substrate and may be installed over the PVC or flexible mesh tubes. About two years after planting, tubes are removed while area netting may be redeployed over the bed for several months for continued predator protection. Geoducks are then harvested as much as eight years after planting. Geoducks are harvested using a hand-operated water wand, which can occur at low (beach harvest) or high (dive harvest) tide. Typically, a wand is a pipe about 18 to 24 inches long with a nozzle on the end that releases surface-supplied seawater from a hose at a pressure of approximately 40 pounds per square inch (about the same pressure as that from a standard garden hose) and a flow of 20-30 gallons per minute. Multiple divers may work in an area at one time.

The project site is located on tidelands within Case Inlet, on parcel number 22125-00-83080 Tract A, B, and C, near Shelton, Mason County, Washington; Sections 25 and 30, Township 21 North, Range 1 West; WRIA 14, Kennedy-Goldsborough Watershed.

With this WQC Order, Ecology is granting Seattle Shellfish, LLC's request for a Section 401 Water Quality Certification for the Harstine Real Estate Partners Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 5/22/2023.

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, Seattle Shellfish, LLC 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 Seattle Shellfish, LLC 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 Seattle Shellfish, LLC for the Harstine Real Estate Partners Shellfish Farm.

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. **22014** will remain valid for the duration of the associated DA permit. Seattle Shellfish, LLC 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 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](mailto: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:

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



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