



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 22, 2023

J&G Gunstone Clams, Inc.
ATTN: Reed Gunstone
PO Box 4118
Sequim, WA 98382

Re: Water Quality Certification Order No. **22392** (Corps No. **NWS-2008-0557**), Hardwick Point, Clallam County, Washington

Dear Reed Gunstone:

On August 30, 2023, J&G Gunstone Clams, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Hardwick Point, 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
Aquatic Permitting & Protection Section
Shorelands and Environmental Assistance Program

WQC Order No. 22392, Corps No. NWS-2008-0557

Aquatics ID No. 138711

December 22, 2023

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Enclosure (1)

By certified mail: 9489 0090 0027 6383 2201 85

Sent via e-mail: jgclams@gmail.com

E-cc: Kelsey Blubaugh, U.S. Army Corps of Engineers
Alex Scagliotti, Jamestown S'Klallam Tribe
Allison Cutting, Agent
Teresa Pucylowski, Ecology
ECYREFEDPERMITS@ecy.wa.gov

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

J&G Gunstone Clams, Inc.
Attn: Reed Gunstone
PO Box 4118
Sequim, WA 98382

WQC Order No.	22392
Corps Reference No.	NWS-2008-0557
Site Location	Hardwick Point located within Sequim Bay, near Sequim, Clallam County, Washington.

J&G Gunstone Clams, Inc. submitted a request for a Section 401 Water Quality Certification under the federal Clean Water Act for Hardwick Point, Clallam County, Washington. The following required processing dates are listed below:

- On July 12, 2023, J&G Gunstone Clams, Inc. submitted a pre-filing meeting request.
- On August 30, 2023, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On September 15, 2023, J&G Gunstone submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On September 22, 2023, Ecology issued a public notice for the project.

This project is for an existing shellfish farm with the proposed new use of a mechanical clam harvester. This shellfish farm cultivates Pacific oysters, and Manila clams, with incidental harvest of natural set Pacific littleneck clams, butter clams, eastern softshell clams, horse clams, mud clams, and cockle clams. Cultivation occurs on 4 acres of privately owned tidelands between +3.5 ft to -2.5 ft mean lower low water tidal elevations, within a 5-acre project area. Access to tidelands is by foot and ATV during low tide and occasionally by boat/public boat ramp during high tides. Patchy eelgrass is present outside of the harvest area.

Existing operations consist of 0.5-acre of Pacific oysters grown in bags on-bottom, 2.5 acres of Manila clams and Pacific oysters grown on-bottom, and 1 acre of natural set oysters and clams. Bag on-bottom oyster cultivation would involve placing single-set seed or oyster cultch in bags, which would then be secured to lines or stakes directly on the substrate until harvest. For on-bottom cultivation of both clams and oysters, seed is scattered by hand on the beach during incoming tides and covered by anti-predation netting. Cover nets will be used on 1 acre and installed with rebar cane that is 0.5-inch thick and 2-ft long. The cover nets are temporary and

will be in place for a growing season, usually 2 years. Nets will be rotated in and out due to age, damage, and fouling. Generally, space will be left between cover nets, to allow for fallow areas and for walkways. Cement blocks may be used temporarily as needed to prevent newer nets from floating and will be removed when no longer needed. Monitoring is conducted 3 or more times per week.

The proposed mechanical clam harvester is a modified tulip bulb harvester. Operation will be conducted during low tide. Pilot harvests will be conducted to see how the harvester works at the various sites, given the variation in substrate and depth of shellfish. Where there is “successful” harvest, meaning the mechanical device can move along the substrate, and where the clams are not too deep in the substrate and can therefore be accessed efficiently with minimal disturbance, then the device will be used to assist the harvesting process. It is expected that the harvester will be used roughly 10-12 days per month and 2-4 hours per day. The harvest depth will be about 3-4 inches.

The project site is located on tidelands within Sequim Bay, on parcel numbers 033036210175, 033036500015, 033036240075, 033036240175, 033036240225, and 033036240250, near Sequim, Clallam County, Washington; Section 36, Township 30 North, Range 3 West; WRIA 17, Quilcene-Snow Watershed.

With this WQC Order, Ecology is granting with conditions J&G Gunstone’s request for a Section 401 Water Quality Certification for the Hardwick Point project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on August 30, 2023, and the following supporting documentation:

1. E-mail letter to Ecology dated 9/15/2023, regarding the project’s Water Quality Monitoring Plan and statement of commitment to the conservation measures in the 2016 Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters (U.S. Fish and Wildlife Service Reference Number 01EWF00-2016-F-0121; National Marine Fisheries Service Reference Number WCR-2014-1502).
2. The updated JARPA application received on 9/15/2023.

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, J&G Gunstone 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 J&G Gunstone 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.

Special Condition:

1. 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 prohibited¹. If such work, conditions, or discharges occur, immediately notify² 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 Division³ at 1-800-258-5990, for spills to water only. This condition is necessary to prevent oil and other 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 with conditions to J&G Gunstone Clams, Inc. for the Hardwick Point 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. **22392** will remain valid for the duration of the associated DA permit. J&G Gunstone Clams, Inc. should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it. To transfer this Order to a new owner or operator, complete a Request for Transfer of Order form following the instructions at the top of the form. Link to form: <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html>.

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.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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- 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

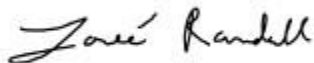
teressa.pucylowski@ecy.wa.gov

More Information

- **Pollution Control Hearings Board Website**
<https://elaho.wa.gov>
- **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 22nd day of December 2023, at the Department of Ecology, Lacey, Washington.



Loree' Randall, Section Manager

Aquatic Permitting & Protection Section

Shorelands and Environmental Assistance Program