



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

May 23, 2024

Goose Point Oyster Company
ATTN: Kathleen Nisbet-Moncy
7081 Niawiakum St Hwy #101
Bay Center, WA 98527

Re: Water Quality Certification Order No. **22871** (Corps No. **NWS-2017-1069**), Goose Point Oyster Cedar River, Pacific County, Washington

Dear Kathleen Nisbet-Moncy:

On April 2, 2024, Goose Point Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Goose Point Oyster Cedar River, Pacific County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies with conditions 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. 22871, Corps No. NWS-2017-1069

Aquatics ID No. 140302

May 23, 2024

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Enclosure (1)

By certified mail: 9489 0090 0027 6381 5320 13

Sent via e-mail: kathleen@goosepoint.com

E-cc: Brody Garner, U.S. Army Corps of Engineers
Kelsey Blubaugh, U.S. Army Corps of Engineers
Rory Spurr, Confluence Environmental Company
Kelly McDonald, Confluence Environmental Company
Teresa Pucylowski, Ecology
ECYREFEDPERMITS@ecy.wa.gov

**In The Matter of Granting a Water Quality
Certification with Conditions to Goose Point Oyster Company
pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC**

Goose Point Oyster Company
Attn: Kathleen Nisbet-Moncy
7081 Niawiakum St. Hwy #101
Bay Center, WA 98527

WQC Order No.	22871
Corps Reference No.	NWS-2017-1069
Site Location	Goose Point Oyster Cedar River located within Willapa Bay, near Tokeland, Pacific County, Washington.

Goose Point Oyster Company submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Goose Point Oyster Cedar River, Pacific County, Washington. The following required processing dates are listed below:

- On 12/2/2020, Goose Point Oyster Company submitted a pre-filing meeting request.
- On 4/2/2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On 4/11/2024, Ecology issued a public notice for the project.

This project will continue to commercially cultivate up to 129.7 of on-bottom Pacific oysters on private tidelands from +4.0ft to -2.0ft feet Mean Lower Low Water tidal elevations. Access to the site will be by boat. Native eelgrass (*Zostera marina*) is present at the site.

Oysters will be planted by scow on shell, and as seed or transplanted as adults into the area via an oyster barge. The grow-out period of the oysters is 2-3 years. All oysters will remain on-bottom for the duration of their grow-out time; no structures are used. Harvest is either done by hand at low tide or through mechanical dredge. Mechanical dredge harvest consists of a metal blade backed by a mesh bag which is skimmed across the substrate surface by cables attached to boom on a small boat. No more than 44 acres would be mechanically harvested in any year. Mechanical harvest occurs at a maximum of once every 3 years. Dredging occurs on high-mid tide and is done by skimming the surface of the substrate to minimize turbidity. Visual monitoring will be used to confirm that project-related discharges do not cause turbidity plumes that extend beyond 150 feet and corrective action will be employed to cure any such exceedances.

The project site is located on tidelands within Willapa Bay, on parcel numbers 79000000042, 79000000044, 79000000045, and 79000000050, near Tokeland, Pacific County, Washington; Section 6, Township 14 North, Range 11 West; WRIA 24, Willapa Watershed.

With this WQC Order, Ecology is granting with conditions Goose Point Oyster Company's request for a Section 401 Water Quality Certification for the Goose Point Oyster Cedar River project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 4/2/2024.

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, Goose Point Oyster Company 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 Goose Point Oyster Company 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 Goose Point Oyster Company from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Conditions:

1. 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. **22871** will remain valid for the duration of the associated Corps permit for the project.
 - Justification – Certifications are required for any license or permit that authorizes an activity that may result in a discharge or fill material into waters. This WQC Order is not valid until the Federal agency issues a permit. Additionally, Ecology needs to be able to specify how long the WQC Order will be in effect.
 - Citation – Chapter 90.48 RCW, Chapter 173-201A WAC, and WAC 173-225-010.
2. Goose Point Oyster Company shall send a copy of the final Federal permit via e-mail to fednotification@ecy.wa.gov and cc to Federal Permit Manager prior to the starting of any work authorized by this WQC Order.
 - Justification - This condition is needed to ensure that the federal permit has been issued and all the conditions of the WQC Order have been included into the federal permit.

- Citation - 40 CFR 121.10, 40 CFR 121.11, and Chapter 90.48 RCW.
3. To transfer this WQC Order to a new owner or operator Goose Point Oyster Company shall:
- a. Complete a Request for Transfer of Order with a specific transfer date of the WQC Order's obligations, coverage, and liability and submit it to Ecology at fednotification@ecy.wa.gov and cc to Federal Permit Manager. Link to form: <https://apps.ecology.wa.gov/publications/SummaryPages/ECY070695.html>;
 - b. Provide a copy of this WQC Order to the new owner or operator; and
 - c. The transfer is not considered valid until the Project Proponent receives written notification from Ecology that the transfer has been approved.
 - Justification – Ecology has independent state authority to ensure protection of state water quality. Ecology needs to ensure that anyone conducting work at the project, including any new owners or operators, are aware of and understand the required conditions of this WQC Order to ensure compliance with the water quality standards and other applicable state laws.
 - Citation – 40 CFR 121.5, Chapter 90.48 RCW, RCW 90.48.030, Chapter 173-201A WAC, and WAC 173-225-010.
4. 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 Goose Point Oyster Company for the Goose Point Oyster Cedar River project.

¹ RCW 90.48

² WAC 173-303-145

³ RCW 90.56.280

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://eluhwa.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 360-407-6831 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>

WQC Order No. 22871, Corps No. NWS-2017-1069


Aquatics ID No. 140302

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Signature

Dated this 23rd day of May 2024 at the Department of Ecology, Lacey, Washington.

A handwritten signature in black ink that reads "Loree' Randall". The signature is written in a cursive style with a large initial 'L' and 'R'.

Loree' Randall, Section Manager

Aquatic Permitting & Protection Section

Shorelands and Environmental Assistance Program