



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Southwest Region Office
PO Box 47775, Olympia, WA 98504-7775 • 360-407-6300

August 13, 2024

Taylor Shellfish Farms
ATTN: Erin Ewald
130 SE Lynch Road
Shelton, Washington, 98684

Re: Water Quality Certification Order No. **23183** (Corps No. **NWS-2024-0422**), Rathburn Farm - Hammersley, Mason County, Washington

Dear Erin Ewald:

On July 2, 2024, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Rathburn Farm - Hammersley, Mason 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 Lydia Albright at (360) 870 -2983. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

Maria Sandercock, Section Manager
Southwest Region Office
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9489 0090 0027 6391 8521 18

WQC Order No. 23183, Corps No. NWS-2024-0422

Aquatics ID No. 143865

August 13, 2024

Page 2 of 2

Sent via e-mail: erine@taylorshellfish.com

E-cc: Brody Garner, U.S. Army Corps of Engineers

Loree' Randall, Ecology

Lydia Albright, Ecology

ECYREFEDPERMITS@ecy.wa.gov

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

Taylor Shellfish Farms
Attn: Erin Ewald
130 SE Lynch Road
Shelton, Washington, 98584

WQC Order No.	23183
Corps Reference No.	NWS-2024-0422
Site Location	Rathburn Farm - Hammersley located within Hammersley Inlet, Shelton, Mason County, Washington.

Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Rathburn Farm – Hammersley project, Mason County, Washington. The following required processing dates are listed below:

- On May 14, 2024, Taylor Shellfish Farms submitted a pre-filing meeting request.
- On July 2, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On July 9, 2024, Ecology issued a public notice for the project.
- Ecology’s “Reasonable Period of Time” for this project has been established as July 2, 2025.

This project proposes to commercially cultivate approximately 0.6 acres of clams and oysters, and approximately 0.7 acres of geoduck on privately owned intertidal land in Hammersley Inlet. Flexible HDPE mesh nursery tubes are inserted into the substrate and planted by hand with juvenile geoduck clams. Tubes are removed after 18-24 months. Nets may be used temporarily to cover the farm if predation pressure is high, and removed once geoduck can avoid predation. Harvest occurs by hand at low or high tide approximately 5-7 years after planting. Some netting of Manila clams may occur. Harvest of Manila clams is completed manually. Oysters are cultivated on bottom. Harvest is completed manually by forking or hand picking into baskets or tubs. Hatchery seed is used for all cultivated species.

The project site is located at Tidelands off 625 SE Old Arcadia, Hammersley Inlet, Mason County, Washington, Section 22, Township 20 N., Range 3 E., within Water Resource Inventory Area (WRIA) 14 Kennedy/Goldsborough

With this WQC Order, Ecology is granting with conditions Taylor Shellfish Farms's request for a Section 401 Water Quality Certification for the Rathburn Farm- Hammersley project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on July 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, Taylor Shellfish Farms 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 Taylor Shellfish Farms 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 Taylor Shellfish Farms from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special 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. **23183** 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. Taylor Shellfish Farms 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. If the Federal Agency determines the proposed project does not require a Federal permit, the Project Proponent shall immediately inform Ecology.
 - 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 Taylor Shellfish Farms 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 prohibited. If such work, conditions, or discharges occur, immediately notify 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 Division 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.
- Justification - This condition is necessary to prevent oil and 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. Ecology must protect waters of the state from all discharges and potential discharges of pollution that can affect water quality to protect aquatic life and beneficial uses.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.080, Chapter 90.56 RCW, RCW 90.56.280, Chapter 173-201A WAC, WAC 173-201A-300 - 330, WAC 173-204-120, WAC 173-225-010, and WAC 173-303-145.

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 Taylor Shellfish Farms for the Rathburn Farm – Hammersley project.

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 360-407-6831 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:

Lydia Albright

Department of Ecology

360-870-2983

Lydia.Albright@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>

WQC Order No. 23183, Corps No. NWS-2024-0422

Aquatics ID No. 143865

August 13, 2024

Page 6 of 6

- **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 13th day of August, 2024 at the Department of Ecology, Lacey, Washington.



Maria Sandercock, Section Manager
Southwest Region Office
Shorelands and Environmental Assistance Program