



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

April 10, 2025

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

Re: Water Quality Certification Order No. **23491** (Corps No. **NWS-2021-231**), Burley Lagoon
(Western Oyster Tidelands) Shellfish Farm, Pierce County, Washington

Dear Erin Ewald:

On April 11, 2024, Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Burley Lagoon (Western Oyster Tidelands) Shellfish Farm, Pierce 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.

WQC Order No. 23491, Corps No. NWS-2021-231
Aquatics ID No. 139632
April 10, 2025
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If you have any questions about this decision, please contact Lydia Albright at (360) 870-2983 or Lydia.Albright@ecy.wa.gov. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,



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

Enclosure (1)

By certified mail: 9489 0090 0027 6085 7507 82

Sent via e-mail: erine@taylorshellfish.com

E-cc: Brody Garner, U.S. Army Corps of Engineers
See attached, commentors
Erin Hanlon Brown, 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.	23491
Corps Reference No.	NWS-2021-231
Site Location	Burley Lagoon (Western Oyster Tidelands) Shellfish Farm, located within Burley Lagoon, Gig Harbor, Pierce County, Washington.

Taylor Shellfish Farms submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Burley Lagoon (Western Oyster Tidelands) Shellfish Farm, Pierce County, Washington. The required processing dates are listed below:

- On April 10, 2024, the Taylor Shellfish Farms submitted a pre-filing meeting request.
- On April 11, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On April 22, 2024, the U.S. Army Corps of Engineers (Corps) issued a joint public notice.
- Ecology's "Reasonable Period of Time" for this project has been established as April 11, 2025.

This project proposes to commercially cultivate up to 175 acres of oysters and clams, and 25.5 acres of geoduck using predator protection between +5.0 foot (ft.) and -4.5 ft. Extreme Low tidal elevations on parcel numbers 0122132009, 0122141027, 0122141005, 0122141028, 0122133031, 0122133029, 0122133078, 012231065, 0122231067, 0122231071, 0122242054, 0122242016, 0122242009, 0122231041, 0122231047, 0122231048, 0122231020, and 7860000170. Access to tidelands is through a locked gate on private upland property adjacent to the farm and located on the east side of the Purdy (SR 302) bridge at 6721 Tyee Drive NW, Gig Harbor.

The cultivation of oysters for commercial production are grown in bags, near bottom, and on bottom as both singles and clusters. Harvest takes place manually by hand during low tide and oysters are placed into tubs for pick up and transfer. Bags are harvested by pulling and emptying oysters onto barges for transfer. Bags are reused and hatchery seed is used. Dredge harvest is proposed for this location in areas that are outside of established eelgrass beds. Clam

seed is broadcasted by hand into the intertidal area. Some areas are netted, and some are not. Harvest takes place manually by hand at low tide by using rakes to loosen the sediment and clams are collected. Once the clams are harvest, they are placed into sacks for pick up by boat. Littleneck and butter clams may be harvested incidentally when seeded clams are harvested.

The cultivation of geoduck for commercial production are grown in HDPE mesh nursery tubes, approximately 18-inches in length and inserted into lower intertidal and subtidal substrate at a density of approximately one tube per 1.25-square-foot. Four juvenile geoduck are placed in each tube. Area net is not required over HDPE mesh when installed. After approximately 18-36 months, the tubes are removed. Area net may be installed over the bed if predation is observed. The net is removed once it has been determined the geoduck are able to avoid predation and the beach is then left undisturbed until harvest. Harvest occurs approximately 5-6 years after planting.

The project site is located within tidelands within Burley Lagoon north of State Route 302, Pierce County, Washington, parts of Sections 23, 24, 13 and 14 Township 22 N., Range 1 E., within Water Resource Inventory Area (WRIA) 15 Kitsap.

With this WQC Order, Ecology is granting with conditions Taylor Shellfish Farms' request for a Section 401 Water Quality Certification for the Burley Lagoon (Western Oyster Tidelands) Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 4/11/2024.

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. **23491** will remain valid until December 31, 2036.

- 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 Lydia.Albright@ecy.wa.gov 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, Taylor Shellfish Farms 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 Lydia.Albright@ecy.wa.gov. 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 Taylor Shellfish Farms 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.
5. Work authorized by this WQC Order is limited to the work described in the WQC request package received by Ecology on April 11, 2024.
- Justification - Ecology has the authority to prevent and control pollution of state waters. By authorizing a discharge into a water of the state, through a WQC, Ecology is certifying the project as proposed will not negatively impact water quality. Therefore, it is imperative the project is conducted as it was presented during the review process. Any deviations from information within the WQC Request package and this WQC Order must be disclosed prior to the initiation of the planned work and may require a new WQC request.
 - Citation - 40 CFR 121.5, 40 CFR 121.10, 40 CFR 121.11, Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC, Chapter 173-201A WAC, Chapter 173-204 WAC, and WAC 173-225-010.
6. Taylor Shellfish Farms shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, and/or necessary data collection, to ensure that conditions of this WQC Order are being met.

- Justification - Ecology must be able to investigate and inspect construction sites and facilities for compliance with all state rules and laws.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.090, RCW 90.48.120, Chapter 173-201A WAC, and WAC 173-225-010.
7. This WQC Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources including berming, water redirection and rock piling, except as specifically provided for in conditions of this WQC Order.
- Justification - Ecology has the authority to prevent and control pollution of state waters, and to protect designated uses. By authorizing a discharge into a water of the state, through a water quality certification, Ecology is certifying the project as proposed will not negatively impact state water quality and will comply with the state's water quality requirements. Therefore, it is imperative the project is conducted as it was presented during the review process, and as conditioned herein.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.120, Chapter 173-200 WAC, Chapter 173-201A WAC, WAC 173-201A-300(2)(e)(i), WAC 173-201A-310, WAC 173-204-120, and WAC 173-225-010.
8. Failure of any person or entity to comply with the WQC Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the state's water quality standards and the conditions of this WQC Order.
- Justification - 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. Ecology has independent state authority to ensure protection of state water quality. Civil penalties and other enforcement actions are the primary means of securing compliance with water quality requirements.
 - Citation - Chapter 90.48 RCW, RCW 90.48.030, RCW 90.48.037, RCW 90.48.080, RCW 90.48.120, RCW 90.48.140, RCW 90.48.142, RCW 90.48.144, and WAC 173-225-010.
9. Taylor Shellfish Farms shall provide Ecology documentation for review before undertaking any major changes to the proposed project that could significantly and adversely affect water quality including berming, water redirection and rock piling, other than those project changes required by this WQC Order.

- Justification - Ecology has independent authority to enforce our 401 certification conditions issued through this WQC Order pursuant to RCW 90.48 and has independent state authority to ensure protection of state water quality. In order to ensure the project will comply with water quality standards in the event of any major changes, Ecology must be able to review the scope of work involved in the construction and operation of the project, otherwise all work must stop and a new 401 certification pre-filing meeting, followed by a new WQC request (after requisite 30-days) is required.
- Citation - 40 CFR 121.1(k) and (n), 40 CFR 121.3, 40 CFR 121.5, 40 CFR 121.11, Chapter 90.48 RCW, and Chapter 173-201 WAC.

10. All work in and near waters of the state shall be conducted to minimize turbidity, erosion, and other water quality impacts.

- Justification - 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, Chapter 90.48.030 RCW, Chapter 90.48.080 RCW, Chapter 173-201A WAC, Chapter 173-201A-300-330 WAC, Chapter 173-204-120 WAC, and Chapter 173-225-010 WAC.

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 the Taylor Shellfish Farms for the Burley Lagoon (Western Oyster Tidelands) Shellfish Farm 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 by 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.

Address and Location Information

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 Address:

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

Mailing Address:

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://eluhc.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

WQC Order No. 23491, Corps No. NWS-2021-231

Aquatics ID No. 139632

April 10, 2025

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Dated this 10th day of April 2025 at the Department of Ecology, Lacey, Washington.



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

WQC Order No. 23491, Corps No. NWS-2021-231

Aquatics ID No. 139632

April 10, 2025

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Attachment A

Statement of Understanding Water Quality Certification Conditions

Burley Lagoon (Western Oyster Tidelands) Shellfish Farm

Water Quality Certification WQC Order No. 23491

As the Project Proponent for Burley Lagoon (Western Oyster Tidelands) Shellfish Farm project, I have read and understand the conditions of Washington State Department of Ecology WQC Order No. 23491 and any permits, plans, documents, and approvals referenced in the WQC Order. I have and will continue to ensure that all project engineers, contractors, and other workers at the project site with authority to direct work have read and understand the conditions of this WQC Order and any permits, plans, documents, and approvals referenced in the WQC Order.

Signature

Date

Title

Phone

Company