



**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Southwest Region Office**

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

May 8, 2025

Allen Shellfish LLC
Attn: Brian Allen
PO Box 11775
Bainbridge Island, WA 98110

Re: Water Quality Certification Order No. **23619** (Corps No. **NWS-2024-212**), Steel Shellfish Farm, Mason County, Washington

Dear Brian Allen:

On November 9, 2024, Allen Shellfish LLC (Brian Allen) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Steel Shellfish Farm, 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 Lydia.Albright@ecy.wa.gov or (360) 870-2983. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

A handwritten signature in blue ink, appearing to read "Maria Sandercock".

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

WQC Order No. 23619, Corps No. NWS-2024-212

Aquatics ID No. 143638

May 8, 2025

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Enclosure (1)

By certified mail: 9489 0090 0027 6085 7507 20

Sent via e-mail: allenshellfish@gmail.com

E-cc: Kelsey Blubaugh, U.S. Army Corps of Engineers

Erin Hanlon Brown, Ecology

Lydia Albright, Ecology

Brook Swensen, Ecology

ecyrefedpermits@ecy.wa.gov

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

Allen Shellfish LLC
Attn: Brian Allen
PO Box 11775
Bainbridge Island, WA 98110

WQC Order No.	23619
Corps Reference No.	NWS-2024-212
Site Location	Steel Shellfish Farm located within Case Inlet, Stretch Island, Mason County, Washington.

Allen Shellfish LLC (Brian Allen) submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Steel Shellfish Farm, Mason County, Washington. The required processing dates are listed below:

- On March 11, 2024, Allen Shellfish LLC (Brian Allen) submitted a pre-filing meeting request.
- On November 9, 2024, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- On November 15, 2024, Allen Shellfish LLC (Brian Allen) submitted additional information, and the Department of Ecology (Ecology) considered the Request valid on this date.
- On November 27, 2024, Ecology issued a public notice for the project.
- Ecology's "Reasonable Period of Time" for this project has been established as November 9, 2025.

This project proposes to commercially cultivate Pacific oysters and Pacific geoduck clams on 1.33 acres of Case Inlet between tidal elevations +1.0 and -4.5 feet (mean lower low water) at Stretch Island, Mason County, Washington (tax parcels 121084100080 and 121084190071). Oysters will be cultivated on-bottom in black plastic mesh grow bags attached to ground lines anchored on 30-foot centers with half cinderblock bricks buried 18 inches in the substrate. Geoducks will be planted in flexible HDPE mesh sleeves for predator exclusion, installed by hand using low volume and low pressure pumped seawater to prepare the tube location for installation of the sleeve, which is pushed into the beach manually to a depth of 6 to 7 inches, leaving 5 to 6 inches emergent. Typically, tubes are installed at a density of one tube per 1 to 1.3 square feet and planted with 3 to 4 seed clams. The top of the mesh tube is left open. The

predator exclusion materials remain in place for 24 to 36 months. The cultivation period per growing cycle is about 7 years. Geoduck harvesters will use a low volume/pressure pumped water hand wand to dislodge clams from the substrate during low or high tide conditions. Access will be by boat.

The project site is located within Case Inlet, Mason County, Washington, Section 8, Township 21 N., Range 1 W., within Water Resource Inventory Area (WRIA) 14 Kennedy-Goldsborough.

With this WQC Order, Ecology is granting with conditions Allen Shellfish LLC (Brian Allen)'s request for a Section 401 Water Quality Certification for the Steel Shellfish Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on November 9, 2024, the attachments received November 15, 2024, and the following supporting documentation:

1. State Environmental Policy Act Determination of Non-Significance (SEPA DNS) issued February 13, 2025.

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, Allen Shellfish LLC (Brian Allen) 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 Allen Shellfish LLC (Brian Allen) 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 Allen Shellfish LLC (Brian Allen) 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. **23619** 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. Allen Shellfish LLC (Brian Allen) 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, Allen Shellfish LLC (Brian Allen) 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 Allen Shellfish LLC (Brian Allen) 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 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 Allen Shellfish LLC (Brian Allen) 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 the Allen Shellfish LLC (Brian Allen) for the Steel 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://eluhho.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 8th day of May 2025 at the Department of Ecology, Lacey, Washington.



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