



STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Northwest Region Office  
PO Box 330316, Shoreline, WA 98133-9716 • 206-594-0000

July 17, 2025

Stillaguamish Tribe of Indians  
Attn: The Honorable Sara Thitipraserth  
3322 236<sup>th</sup> Street Northeast  
Arlington, WA 98223

Re: Water Quality Certification Order No. **23836** (Corps No. **NWS-2017-175**), Triangle Cove Shellfish Aquaculture, Island County, Washington

Dear Honorable Sara Thitipraserth:

On 4/30/2025, Stillaguamish Tribe of Indians submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Triangle Cove Shellfish Aquaculture, Island 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 Austin Schmalz at (425) 301-6989. The enclosed WQC Order may be appealed by following the procedures described within.

Sincerely,

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Joe Burcar, Section Manager  
Northwest Region Office  
Shorelands and Environmental Assistance Program

Enclosure (1)

By certified mail: 9171 9690 0935 0233 1817 71

WQC Order No. 23836, Corps No. NWS-2017-175  
Aquatics ID No. 140629  
July 17, 2025  
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Sent via e-mail: [sthitipra@stillaguamish.com](mailto:sthitipra@stillaguamish.com)

E-cc: Brody Garner, U.S. Army Corps of Engineers  
Franchesca Perez, Stillaguamish Tribe of Indians  
Erin Hanlon Brown, Ecology  
Austin Schmalz, Ecology  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

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

Stillaguamish Tribe of Indians  
Attn: The Honorable Sara Thitipraserth  
3322 236<sup>th</sup> Street Northeast  
Arlington, WA 98223

<b>WQC Order No.</b>	23836
<b>Corps Reference No.</b>	NWS-2017-175
<b>Site Location</b>	Triangle Cove Shellfish Aquaculture located within Port Susan Bay, Whidbey Basin and north-central Puget Sound, Camano Island, Island County, Washington.

The Stillaguamish Tribe of Indians submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Triangle Cove Shellfish Aquaculture, Island County, Washington. The required processing dates are listed below:

- On 3/24/2025, the Stillaguamish Tribe of Indians submitted a pre-filing meeting request.
- On 4/30/2025, Ecology received a request for Clean Water Section 401 Water Quality Certification.
- Ecology's "Reasonable Period of Time" for this project has been established as 4/30/2026.
- On 5/21/2025, Ecology issued a public notice for the project.

This project proposes to continue cultivation/harvest of Pacific, Kumamoto and Olympia oysters, and Manila clams for ceremonial and subsistence purposes; the subsistence harvest of naturally occurring varnish and eastern softshell clams, and mussels; and the restoration of Olympia oysters. Specifically, it includes the following elements:

- On-bottom bag and/or basket culture: oyster seed is purchased from outside sources approved by Washington Dept. of Fish and Wildlife. Approximately one-half to three-quarters of an inch single seed is placed in nylon grow bags that are 18 inches wide by 30 inches long by 3 inches deep. Grow bags are tagged with ownership information and attached to leaded rope and then secured to the substrate by tying the rope to U-shaped rebar driven flush with the surface of the substrate. Grow bags covering about one quarter acre are moved around the growing area according to water temperatures, dissolved oxygen, and sediment movement. Because winter storms accelerate sediment

movement across the tidelands, occasionally entire lines of bags need to be moved to different, more stable sections of substrate.

- Oyster bottom culture: once oysters reach about two inches or more in length, they are removed from the bags and spread on the tidelands to continue growing, and later hand harvested.
- Suspended or stacked aquaculture (oyster) baskets or bags will be deployed seasonally (May through October) in a cooler pool at the east end of the cove. If suspended, two large aquaculture buoys would be secured with a helical anchor and a line strung between them. Stacks of bags or baskets would be hung from the line between. If anchored, baskets will be stacked and secured with an aluminum pole that runs through the basket center, driven into the substrate. Each basket stack footprint is one half meter square.
- Manila clam cultivation: the Tribe will enhance Manila clams by spreading seed purchased from approved producers. Up to one inch of gravel per year may be added to support clam habitat. To reduce avian predation, in trial areas the Tribe will invert three-inch-tall aquaculture baskets over seeded clams. These baskets are about the same height and square area as oyster bags. The basket mesh size is about one inch and permits shore crab and small fish movement in and out. The Tribe may also use one-eighth inch mesh predator netting laid out in roughly four to eight foot lengths and secured at either end with U-shaped pieces of rebar and buried at the edges. The netting will be flush with the surface of the tideland.
- Olympia oyster restoration trials: bags of seeded Olympia oyster cultch will be placed. After one season bags will be opened and the shell will be distributed. Mature oysters and empty oyster shell from on-site will be moved to the vicinity of the Olympia oyster cultch. Up to one inch of washed oyster shell may be placed annually.

With this WQC Order, Ecology is granting with conditions Stillaguamish Tribe of Indians' request for a Section 401 Water Quality Certification for the Triangle Cove Shellfish Aquaculture project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on 4/30/2025, and the Water Quality Monitoring Plan dated February 26<sup>th</sup>, 2025, and received 3/20/2025.

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, Stillaguamish Tribe of Indians 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 Stillaguamish Tribe of Indians 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 Stillaguamish Tribe of Indians 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. **23836** 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. Stillaguamish Tribe of Indians shall send a copy of the final Federal permit via e-mail to [fednotification@ecy.wa.gov](mailto:fednotification@ecy.wa.gov) and cc to [Austin.Schmalz@ecy.wa.gov](mailto:Austin.Schmalz@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, 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 Stillaguamish Tribe of Indians 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](mailto: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 the Stillaguamish Tribe of Indians for the Triangle Cove Shellfish Aquaculture 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](mailto: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:

Austin Schmalz

Department of Ecology

425-301-6989

[Austin.Schmalz@ecy.wa.gov](mailto:Austin.Schmalz@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 17 day of July, 2025 at the Department of Ecology, Shoreline, Washington.



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Joe Burcar, Section Manager

Northwest Region Office

Shorelands and Environmental Assistance Program