



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300  
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 4, 2021

The Honorable Ron Allen  
Jamestown S'Klallam Tribe  
1033 Old Blyn Highway  
Sequim, WA 98382

RE: Water Quality Certification Order No. **19591** for Corps Reference No. **NWS-2007-1213**;  
Jamestown S'Klallam Tribe Dungeness Bay Oyster Farm, Dungeness Spit, Sequim,  
Clallam County, Washington

Dear Chairperson Allen:

On April 10, 2020, the Jamestown S'Klallam Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Dungeness Bay Oyster Farm, Clallam County, Washington.

On behalf of the state of Washington, the Department of Ecology certifies that the work described in the Joint Aquatic Resource Permit Application (JARPA) and the public notice 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 conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Lori Kingsbury at (360) 407-6926 or by e-mail at [Lori.kingsbury@ecy.wa.gov](mailto:Lori.kingsbury@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Perry J Lund", is written over a blue circular stamp or seal.

Perry J Lund, Section Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office

Enclosure

e-cc: Pam Sanguinetti, Corps of Engineers  
Elizabeth Tobin, Jamestown S'Klallam Tribe  
Hansi Hals, Jamestown S'Klallam Tribe  
Jennifer Brown-Scott, USFWS  
Linda Storm, EPA  
Amy Jensen, EPA  
Sean Carlson, WADNR  
Loree' Randall, Ecology  
Lori Kingsbury, Ecology  
Rick Mraz, ECY, Ecology  
Rebecca Rothwell, Ecology  
ECYREFEDPERMITS@ecy.wa.gov  
Attached List

cc: Susan Chamberlin  
Fisse Davis

## Jamestown S'Klallam Tribe Dungeness Bay Oyster Farm Comments Email List

[joel@joelrogers.com](mailto:joel@joelrogers.com);  
[stewartjr\\_5@hotmail.com](mailto:stewartjr_5@hotmail.com);  
[wfeltham9@gmail.com](mailto:wfeltham9@gmail.com);  
[pavel.sova44@gmail.com](mailto:pavel.sova44@gmail.com);  
[jlearn@gmail.com](mailto:jlearn@gmail.com);  
[jennifer@landuselawwa.com](mailto:jennifer@landuselawwa.com);  
[forsmandon@msn.com](mailto:forsmandon@msn.com);  
[candance@centurylink.net](mailto:candance@centurylink.net);  
[ostwomann@gmail.com](mailto:ostwomann@gmail.com);  
[TKarnes@cadsdoors.net](mailto:TKarnes@cadsdoors.net);  
[organicallysue@olypen.com](mailto:organicallysue@olypen.com);  
[janistonington@gmail.com](mailto:janistonington@gmail.com);  
[valstone2@hotmail.com](mailto:valstone2@hotmail.com);  
[pmgeraci@gmail.com](mailto:pmgeraci@gmail.com);  
[mapexecdir@gmail.com](mailto:mapexecdir@gmail.com);  
[pamelaroberts1@gmail.com](mailto:pamelaroberts1@gmail.com);  
[windenergy@olypen.com](mailto:windenergy@olypen.com);  
[pnewland@whidbey.net](mailto:pnewland@whidbey.net);  
[wis1@comcast.net](mailto:wis1@comcast.net);  
[cacollaran@msn.com](mailto:cacollaran@msn.com);  
[leslieaickin@gmail.com](mailto:leslieaickin@gmail.com);  
[darlenes@olympus.net](mailto:darlenes@olympus.net);  
[Pamela.Sanguinetti@usace.army.mil](mailto:Pamela.Sanguinetti@usace.army.mil);  
[stanshar@hotmail.com](mailto:stanshar@hotmail.com);  
[dangc50@protonmail.com](mailto:dangc50@protonmail.com);  
[deborahharrison524@gmail.com](mailto:deborahharrison524@gmail.com);  
[kjwmarshall@gmail.com](mailto:kjwmarshall@gmail.com);  
[rancol23@yahoo.com](mailto:rancol23@yahoo.com);  
[keith@keithsframeofmind.com](mailto:keith@keithsframeofmind.com);  
[marginormandin@olypen.com](mailto:marginormandin@olypen.com);  
[bookcarla@gmail.com](mailto:bookcarla@gmail.com);  
[outdooredge@hotmail.com](mailto:outdooredge@hotmail.com);  
[parneil@me.com](mailto:parneil@me.com);  
[wick@gmail.com](mailto:wick@gmail.com);  
[billstorm64@gmail.com](mailto:billstorm64@gmail.com);  
[svselah@yahoo.com](mailto:svselah@yahoo.com);  
[walkers@olympus.net](mailto:walkers@olympus.net);  
[sarahonsacredground@gmail.com](mailto:sarahonsacredground@gmail.com);  
[natefish13@yahoo.com](mailto:natefish13@yahoo.com);  
[martin@nwi.net](mailto:martin@nwi.net);  
[bretw@wirtahospitalityworldwide.com](mailto:bretw@wirtahospitalityworldwide.com);  
[pearl.momilani.barry@gmail.com](mailto:pearl.momilani.barry@gmail.com);  
[omid1941@olypen.com](mailto:omid1941@olypen.com);  
[richard\\_champlin2003@yahoo.com](mailto:richard_champlin2003@yahoo.com);  
[llbrakke@hotmail.com](mailto:llbrakke@hotmail.com);

[rsvp.rik@gmail.com](mailto:rsvp.rik@gmail.com);  
[tshistar@gmail.com](mailto:tshistar@gmail.com);  
[redwoodoma@gmail.com](mailto:redwoodoma@gmail.com);  
[fodnwr@gmail.com](mailto:fodnwr@gmail.com);  
[cgermain1@hotmail.com](mailto:cgermain1@hotmail.com);  
[धारwood@refugeassociation.org](mailto:धारwood@refugeassociation.org);  
[nancyhannah75@gmail.com](mailto:nancyhannah75@gmail.com);  
[marilyn.showalter@gmail.com](mailto:marilyn.showalter@gmail.com);  
[lon\\_dickerson@yahoo.com](mailto:lon_dickerson@yahoo.com);  
[iruch@peer.org](mailto:iruch@peer.org);  
[maryellensmith75@gmail.com](mailto:maryellensmith75@gmail.com);  
[margaret.milne.marshall@gmail.com](mailto:margaret.milne.marshall@gmail.com);  
[jensen.amy@epa.gov](mailto:jensen.amy@epa.gov);  
[monksend@fidalgo.net](mailto:monksend@fidalgo.net);  
[anneref@yahoo.com](mailto:anneref@yahoo.com);  
[martinefelts@gmail.com](mailto:martinefelts@gmail.com);  
[sesavage76@gmail.com](mailto:sesavage76@gmail.com);  
[tanevaho@hotmail.com](mailto:tanevaho@hotmail.com);  
[jestuary@hotmail.com](mailto:jestuary@hotmail.com);  
[frostflower2000@yahoo.com](mailto:frostflower2000@yahoo.com);  
[kath.townsend@gmail.com](mailto:kath.townsend@gmail.com);  
[ostmannheather@hotmail.com](mailto:ostmannheather@hotmail.com);  
[jillhein@comcast.net](mailto:jillhein@comcast.net);  
[mstrev30@gmail.com](mailto:mstrev30@gmail.com);  
[kacontheroad@hotmail.com](mailto:kacontheroad@hotmail.com);  
[jeannekreider@gmail.com](mailto:jeannekreider@gmail.com);  
[phreaner@aol.com](mailto:phreaner@aol.com);  
[deborahharrison524@gmail.com](mailto:deborahharrison524@gmail.com);  
[sellerby1@comcast.net](mailto:sellerby1@comcast.net);  
[katduff@olypen.com](mailto:katduff@olypen.com);  
[nana@hctc.com](mailto:nana@hctc.com);  
[suec71@gmail.com](mailto:suec71@gmail.com);  
[westsoundconservation@gmail.com](mailto:westsoundconservation@gmail.com);  
[diannasarto@gmail.com](mailto:diannasarto@gmail.com);  
[janetmarx\\_76@msn.com](mailto:janetmarx_76@msn.com);  
[geostratton@gmail.com](mailto:geostratton@gmail.com);  
[sknead@gmail.com](mailto:sknead@gmail.com);  
[kacontheroad@hotmail.com](mailto:kacontheroad@hotmail.com);  
[diannasarto@gmail.com](mailto:diannasarto@gmail.com);  
[swampdog0001@gmail.com](mailto:swampdog0001@gmail.com);  
[lyons.fmly@gmail.com](mailto:lyons.fmly@gmail.com);  
[mspark26@gmail.com](mailto:mspark26@gmail.com);  
[larjdyng@olypen.com](mailto:larjdyng@olypen.com);  
[geostratton@gmail.com](mailto:geostratton@gmail.com);  
[raelene@seanet.com](mailto:raelene@seanet.com);

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 19591</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2007-1213</b>
<b>CERTIFICATION TO</b>	)	Dungeness Bay Oyster Farm within Dungeness
Jamestown S’Klallam Tribe	)	Bay, near Sequim, Clallam County, Washington
pursuant to 33 U.S.C. 1341 (FWPCA	)	
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Jamestown S’Klallam Tribe  
Attention: The Honorable Ron Allen  
1033 Old Blyn Highway  
Sequim, WA 98382

On April 10, 2020, the Jamestown S’Klallam Tribe submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Dungeness Bay Oyster Farm, Clallam County, Washington. The U.S. Army Corps of Engineers (Corps) issued a joint public notice erratum on April 30, 2020.

The proposed work is to cultivate 34 acres of Pacific oysters using two on-bottom methods: mesh bag culture and loose culture. Up to five (5) acres will use on-bottom bag culture, and the remaining acreage will use on-bottom loose culture methods. The contiguous 5-acre area for on-bottom bag culture would be located near the northeastern boundary of a 50-acre lease parcel, in proximity to the boat access sites.

On-bottom bag culture will grow oysters in 2 ft. x 3 ft. x 3 in. mesh bags. The bags are secured to a line, and the line is anchored to the substrate using 3 ft. x 3 in. screw anchors or metal posts. Oysters typically grow out for approximately 14-15 months in the bags, and are then spread out onto the beach after reaching a larger size.

The loose beach method entails spreading the oysters directly onto the substrate. Harvest is done by hand by collecting and placing the oysters into oyster harvest bags. The bags are then lifted onto a marine vessel. Loose culture cultivation would occur between the +3-foot and -2-foot tidal elevations (MLLW).

Work is proposed to avoid native eelgrass by establishing a minimum 25-foot buffer setback for all cultivation activities. Access to the project site would be by vessel. There are two boat access areas that have been located to avoid eelgrass; all work from vessels would occur within the leased area.

The project site is located within Dungeness Bay on tidelands along the Dungeness Spit, near Sequim, Clallam County, Washington; NE Quarter, Section 23; Township 31 North; Range 4 West; WRIA 18, Elwha-Dungeness Watershed.

With this Order, Ecology is granting the Jamestown S’Klallam Tribe’s request for a Section 401 Water Quality Certification for the Dungeness Bay Oyster Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request Ecology received on April 10, 2020, and the following supporting documentation contained in an e-mail letter from the Jamestown S’Klallam Tribe to Ecology dated January 26, 2021:

1. Regarding water quality monitoring; and,
2. Compliance with the programmatic consultation for shellfish farming activities in Washington State inland marine waters between the Seattle District Corps of Engineers and the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, including all applicable limits on discharges and survey and/or monitoring requirements:
  - a. Programmatic Biological Assessment, Shellfish Activities in Washington State Inland Marine Waters, U.S. Army Corps of Engineers Regulatory Program, October 2015;
  - b. Programmatic Biological Opinion, National Marine Fisheries Service, September 2016. Programmatic Biological Opinion for Shellfish Activities in Washington State Marine Waters, U.S. Fish and Wildlife Service, August 2016.

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, the Jamestown S’Klallam Tribe 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 the Jamestown S’Klallam Tribe 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 the Jamestown S’Klallam Tribe from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

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 actual spills to water only.

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 to the Jamestown S’Klallam Tribe Dungeness Bay Oyster Farm project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a permit for this project. Order No. 19591 will remain in effect for a period of five (5) years from the date of issuance of the Corps Permit.

## YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. 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 both of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

## ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

## CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Kingsbury  
Department of Ecology  
Southwest Regional Office  
PO Box 47775  
Olympia, WA 98504-7775  
[lori.kingsbury@ecy.wa.gov](mailto:lori.kingsbury@ecy.wa.gov)

## MORE INFORMATION

- **Pollution Control Hearings Board Website**  
<http://www.eluho.wa.gov/Board/PCHB>
- **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



Perry J Lund, Section Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office  
Department of Ecology

February 4, 2021

Date