



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
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February 26, 2021

JM Resources, LLC
Attn: Joel Manke
80 SE Waldrup Rd.
Shelton, WA 98584

RE: Water Quality Certification Order No. **19622** for Corps Reference No. **200701394**, JM Resources Oyster Bay Shellfish Farm, Thurston County, Washington

Dear Joel Manke:

On July 28, 2020, JM Resources, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the JM Resources Oyster Bay Shellfish Farm located on tidelands within Oyster Bay, near Olympia, Thurston 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 Teresa Pucylowski by e-mail at tpuc461@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 "Brenden", is written over a horizontal line.

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program

Enclosure

e-cc: Tasha Metz, Corps of Engineers
Robert M. Smith, K & L Gates, LLP
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
Teresa Pucylowski, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics # 139110

IN THE MATTER OF GRANTING A) ORDER No. 19622
WATER QUALITY) Corps Reference No. 200701394
CERTIFICATION TO) JM Resources Oyster Bay Shellfish Farm located
JM Resources, LLC) on tidelands within Oyster Bay, near Olympia,
pursuant to 33 U.S.C. 1341 (FWPCA) Thurston County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

JM Resources, LLC
Attn: Joel Manke
80 SE Waldrip Rd.
Shelton, WA 98584

On July 28, 2020, JM Resources, LLC submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the JM Resources Oyster Bay Shellfish Farm, Thurston County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 22, 2020.

JM Resources currently operates a previously authorized commercial shellfish farm of approximately 6 acres, cultivating Manila clams, Pacific oysters, and Olympia oysters on a total of 4.49 acres. The cultivated areas would be located in the intertidal portion of the tidelands between the +4.0 and +6.0 feet Mean Lower Low Water (MLLW) mark.

Clams and oysters are hand planted into the substrate. Three acres of clam cultivation is covered by predator exclusion netting (each net 15 ft x 50 ft with 0.5-inch mesh), which are secured in the substrate with metal stakes. Nets are installed in September and removed in April each year.

Clams and oysters are harvested by hand every two years. Growing beds are harrowed once every two years in order to prepare for new plantings. A 4'x4' chain harrow is pulled by boat over the cultivated areas to disrupt silt accumulation which forms over the gravel substrate. After harrowing, approximately 150 cubic yards of washed pea gravel would be discharged by boat to a depth of less than 1 inch over the 4.49-acre project area. No maintenance work is proposed for the existing dikes and berm present in the project area.

The project site is located on tidelands within Oyster Bay, on parcel numbers 92080000000, 92079800000, and 92079700000, adjacent to 5830 NW Oyster Bay Rd., near Olympia, Thurston County, Washington; Section 28, Township 19N, Range 3 West; WRIA 14, Kennedy Goldsborough Watershed.

With this Order, Ecology is granting JM Resources' request for a Section 401 Water Quality Certification for the JM Resources Oyster Bay project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request Ecology received on July 28, 2020, and the following supporting documentation:

1. E-mail letter to Ecology dated February 12, 2021, describing JM Resources' water quality monitoring plan.

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, JM Resources 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 JM Resources 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 Applicant 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 JM Resources, JM Resources Oyster Bay Shellfish 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. 19622 will remain in effect for a period of ten (10) years from the 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
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

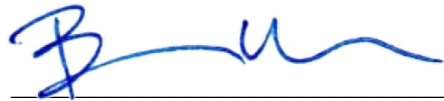
Teresa Pucylowski
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
teressa.pucylowski@ecy.wa.gov

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



Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program
Department of Ecology

February 26, 2021
Date