



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
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March 11, 2021

Willapa Fish & Oyster Co.
Attn: Eric Petit
P.O. Box 542
South Bend, WA 98586

RE: Water Quality Certification Order No. **19706** for Corps Reference No. **202001061**,
Willapa Fish & Oyster Ongoing Aquaculture Consolidated, Pacific County, Washington

Dear Eric Petit:

On February 5, 2021, Willapa Fish & Oyster submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Willapa Fish & Oyster Ongoing Aquaculture Consolidated located on tidelands within Willapa Bay, near Bay Center, Pacific 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 teressa.pucylowski@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

Willapa Fish & Oyster Co.
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Enclosure

e-cc: Marion Gall, Corps of Engineers
Loree' Randall, Ecology
Laura Hendricks, Coalition to Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Teresa Pucylowski, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 139824

IN THE MATTER OF GRANTING A)	ORDER No. 19706
WATER QUALITY)	Corps Reference No. 202001061
CERTIFICATION TO)	Willapa Fish & Oyster Ongoing Aquaculture
Willapa Fish & Oyster Co.)	Consolidated located on tidelands within Willapa
pursuant to 33 U.S.C. 1341 (FWPCA)	Bay, near Bay Center, Pacific County,
§ 401), RCW 90.48.120, RCW 90.48.260)	Washington
and Chapter 173-201A WAC)	

Willapa Fish & Oyster Co.
Attn: Eric Petit
P.O. Box 542
South Bend, WA 98586

On February 5, 2021, Willapa Fish & Oyster submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Willapa Fish & Oyster Ongoing Aquaculture Consolidated, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on February 11, 2021

This project will continue to cultivate 139 acres of Pacific oysters within the intertidal zone between the -0.5ft to +1.0ft Mean Lower Low Water (MLLW) tidal elevations. Oysters will be grown using on-bottom methods, with no additional materials, or on longlines. Patches of native eelgrass are found throughout the project site. All access to the site will be by boat.

On-bottom oysters will be hand-planted either directly onto the substrate as single-seed oysters or scattered from a boat deck at high tide as cultch. Harvest occurs approximately every 2-3 years and takes place either by hand at low tide (into tubs that are retrieved from a boat at high tide) or by mechanical dredge harvest at high tide. The dredge method involves skimming the substrate on which the oysters rest with dredge baskets attached to dredge arms on the vessel at slow speeds. Once they reach maturity, oysters may also be transplanted to “fattening beds” to ready them for harvest.

Oysters are also seeded onto longlines ranging from 150 to 350-ft in length, with each row spaced 4-ft apart. Each longline is secured to multiple 1-ft high pipes spaced 3-ft apart over a total of 25 acres. Longline oysters are harvested after 2-3 years, and are collected by hand. Oysters are harvested at low tide and placed into tubs, which are recovered by boat at high tide the same day. Care is taken to remove all lines from the site and from the oysters, and the lines are disposed of in an upland waste facility.

The project site is located on tidelands within Willapa Bay, on parcel number 79001000186, near Bay Center, Pacific County, Washington; Township 14 North, Range 10 West; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Willapa Fish & Oyster’s request for a Section 401 Water Quality Certification for the Willapa Fish & Oyster Ongoing Aquaculture Consolidated project,

provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on February 5, 2021.

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, Willapa Fish & Oyster 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 Willapa Fish & Oyster 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 prohibited¹. If such work, conditions, or discharges occur, immediately notify² 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 Division³ at 1-800-258-5990, for actual spills to water only. This condition is necessary to prevent oil and hazardous materials spills from causing environmental damage. The sooner a spill is reported, the quicker it can be addressed, resulting in less harm.

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 Willapa Fish & Oyster, Willapa Fish & Oyster Ongoing Aquaculture Consolidated project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues an individual Department of the Army (DA) permit for this project. Order No. **19706** will remain valid for the duration of the associated permit. Willapa Fish & Oyster should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

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).

¹ RCW 90.48

² Chapter 173-303-145

³ RCW 90.56.280

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:

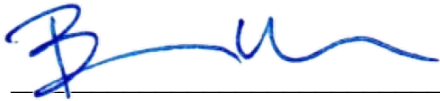
Teressa Pucylowski
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
teressa.pucylowski@ecy.wa.gov

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

March 11, 2021
Date