



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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March 11, 2021

Lytle Seafoods  
Attn: Scott & Michael Lytle  
1 Rock View Ln  
Hoquiam, WA 98550

RE: Water Quality Certification Order No. **19641** for Corps Reference No. **202000836**,  
Lytle's Seafood Ongoing Aquaculture, Grays Harbor County, Washington

Dear Scott & Michael Lytle:

On January 28, 2021, Lytle Seafoods submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Lytle's Seafood Ongoing Aquaculture located on tidelands within North Bay Grays Harbor, near Hoquiam, Grays Harbor 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 Teressa Pucylowski by e-mail at [teressa.pucylowski@ecy.wa.gov](mailto: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

Enclosure

Lytle Seafoods  
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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](mailto:ECYREFEDPERMITS@ecy.wa.gov) – Aquatics No. 139464

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 19641</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 202000836</b>
<b>CERTIFICATION TO</b>	)	Lytle's Seafood Ongoing Aquaculture located on
Lytle Seafoods	)	tidelands within North Bay Grays Harbor, near
pursuant to 33 U.S.C. 1341 (FWPCA	)	Hoquiam, Grays Harbor County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260	)	
and Chapter 173-201A WAC	)	

Lytle Seafoods  
 Attn: Scott & Michael Lytle  
 1 Rock View Ln  
 Hoquiam, WA 98550

On January 28, 2021, Lytle Seafoods submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for Lytle's Seafood Ongoing Aquaculture, Grays Harbor County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on February 11, 2021.

This project proposes to continue ongoing aquaculture activities, specifically the cultivation of Pacific oysters, Kumomoto oysters, and Manila clams. Hand harvest of natural set cockles also occurs. This project consists of three total sites: Site 1 is 8 acres (between +1.75ft and +2.0ft MLLW); Site 2 is 36 acres (between +1.0ft and +0.5ft MLLW); and Site 3 is 318.1 acres (between +2.0ft and -1.0ft MLLW). All sites will be accessed by boat by small crews. Maintenance of sites will be minimal between planting and harvesting and will be limited to periodic gear and crop inspections. Patches of native eelgrass are found throughout the project site.

For on-bottom grow-out, Pacific oysters are scattered as cultch from boats at high tide. Kumomoto oysters are cultured intermittently in flip bags, which are mesh bags (approximately 2-ft-wide x 3-ft-long x 6-in-deep) attached to 100ft-long stainless steel ropes anchored at each end with rebar. There will be 3ft between each bag and 6ft between each row. When not in production the flip bag system is removed from site. Manila clam seed is intermittently scattered by hand and temporary predator-exclusion netting is placed over the planted clams, secured to the substrate by rebar. Temporary storage of Pacific oyster cultch seed will take place on the tidelands.

Harvest of Manila clams and Kumomoto oysters takes place by hand approximately every 2.5 years. Harvest of on-bottom Pacific oysters occurs via boat dredge harvest every 2-3 years. This method involves skimming the substrate on which the oysters rest with dredge baskets attached to dredge arms on the vessel at slow speeds. The oysters collected in the baskets are then dumped onto the deck of the vessel for transport. Dredge harvest occurs on high tide and is done intermittently year-round depending on demand and availability of mature oysters.

The project site is located on tidelands within North Bay Grays Harbor, on parcel numbers 17110385550 and 181134856700, near Hoquiam, Grays Harbor County, Washington; Section 3, Township 17 North, Range 11 West; WRIA 22, Lower Chehalis Watershed.

With this Order, Ecology is granting Lytle Seafoods' request for a Section 401 Water Quality Certification for Lytle's Seafood Ongoing Aquaculture project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on January 28, 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, Lytle Seafoods 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 Lytle Seafoods 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<sup>1</sup>. If such work, conditions, or discharges occur, immediately notify<sup>2</sup> 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<sup>3</sup> 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 and to ensure compliance with water quality requirements. 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 Lytle Seafoods, Lytle's Seafood Ongoing Aquaculture 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. **19641** will remain

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<sup>1</sup> RCW 90.48

<sup>2</sup> WAC 173-303-145

<sup>3</sup> RCW 90.56.280

valid for the duration of the associated DA permit. Lytle Seafoods should send a copy of the final DA permit to [fednotification@ecy.wa.gov](mailto: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).

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:

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