



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
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March 16, 2021

Northwest Shellfish Company, Inc.
Attn: Linda Schaffel
6812 Munson Rd SW
Olympia, WA 98512

RE: Water Quality Certification Order No. **19765** for Corps Reference No. **201900450**,
Northwest Shellfish Hjelm Lease, Thurston County, Washington

Dear Linda Schaffel:

On August 6, 2020, Northwest Shellfish Company, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Northwest Shellfish Hjelm Lease located on tidelands within Eld Inlet, 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 Loree' Randall by e-mail at loree.randall@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

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e-cc: Benjamin Sherman, Corps of Engineers
Laura Hendricks, Coalition To Protect Puget Sound Habitat
Amy van Saun, Center for Food Safety
Loree' Randall, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 137419

IN THE MATTER OF GRANTING A)	ORDER No. 19765
WATER QUALITY)	Corps Reference No. 201900450
CERTIFICATION TO)	Hjelm Lease located on tidelands within Eld
Northwest Shellfish Company, Inc.)	Inlet, near Olympia, Thurston County,
pursuant to 33 U.S.C. 1341 (FWPCA)	Washington
§ 401), RCW 90.48.120, RCW 90.48.260)	
and Chapter 173-201A WAC)	

Northwest Shellfish Company, Inc.
Attn: Linda Schaffel
6812 Munson Rd SW
Olympia, WA 98512

On August 6, 2020, Northwest Shellfish Company, Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Northwest Shellfish Hjelm Lease, Thurston County, Washington. The U.S. Army Corps of Engineers (Corps) issued a joint public notice on August 20, 2020.

Northwest Shellfish Company proposes to plant juvenile geoducks in the substrate by hand between the subtidal property boundary (-4.5 ft) and +5 ft MLLW. Four-inch diameter PVC tubes (approximately 10.75 inch length) will be manually placed in the substrate at a depth of about 7 inches and a density of one tube per square foot. About three geoduck "seed," are then placed in each tube and the individual tube is netted for protection from predators. The nets are held in place by a rubber band. After approximately 12-24 months, the tubes and nets are removed. The tubes are then reused during the next rotation. Northwest Shellfish will frequently patrol the site and adjacent beach to help ensure no related materials such as nets, tubes, or rubber bands escape the project site. Harvest will be hydraulically using a high volume, low pressure water hose. Individual geoducks are manually removed from the beach and packed for transportation. Entry to the farm may be from uplands or by boat. Harvest may be during low tide or by divers. Following harvest, the area will be replanted with geoducks for another cycle.

The project site is located on tidelands within Eld Inlet, on parcel number 42900001400, adjacent to 5603 Countryside Beach Drive NW, near Olympia, Thurston County, Washington; Section 21, Township 19 North, Range 02 West.

With this Order, Ecology is granting Northwest Shellfish Company, Inc.'s request for a Section 401 Water Quality Certification for the Hjelm Lease project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on August 6, 2020, and the following supporting documentation:

1. E-mail letter to Ecology dated February 1, 2021, regarding the project's compliance with the conservation measures associated with the "Programmatic Biological Opinions for Shellfish Activities in Washington State Inland Marine Waters" (U.S. Fish and Wildlife Service (USFWS) Reference Number 01EWF00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This also includes a description of Northwest Shellfish Company, Inc. 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, Northwest Shellfish Company, Inc. 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 Northwest Shellfish Company, Inc. 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 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 Northwest Shellfish Company, Inc., Hjelm Lease 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. **19765** will remain valid for the duration of the associated DA permit. Northwest Shellfish Company, Inc. 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 WAC 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:

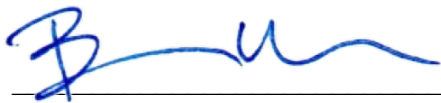
Loree' Randall
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
loree.randall@ecy.wa.gov

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 16, 2021
Date