STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
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March 18, 2021

Wiegardt and Sons, Inc.
Attn: Ken Wiegardt
PO Box 309
Ocean Park, WA 98640

RE: Water Quality Certification Order No. **19732** for Corps Reference No. **201200691**, Wiegardt Shellfish Katzer Farm, Pacific County, Washington.

Dear Ken Wiegardt:

On June 26, 2020, Wiegardt and Sons Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Shellfish Katzer Farm, located on tidelands within Willapa Bay near Ocean Park, 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 Marco Pinchot by e-mail at marco.pinchot@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

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

Enclosure

e-cc: Jade Metzler, 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
Marco Pinchot, Ecology
ECYREFEDPERMITS@ecy.wa.gov – Aquatics No. 139004

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Wiegardt and Sons, Inc pursuant to 33 U.S.C. 1341 (FWPCA § 401), RCW 90.48.120, RCW 90.48.260 and Chapter 173-201A WAC	))))))	**ORDER No. 19732** **Corps Reference No. 201200691** Wiegardt Shellfish Katzer Farm located on tidelands within Willapa Bay near Ocean Park, Pacific County, Washington

Wiegardt and Sons, Inc.
Attn: Ken Wiegardt
PO Box 309
Ocean Park, WA 98640

On June 26, 2020, Wiegardt and Sons Inc. submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Wiegardt Shellfish Katzer Farm, Pacific County, Washington. The Department of Ecology (Ecology) issued a public notice for the project on October 22, 2020.

This project proposes to continue to cultivate 165 acres of Pacific Oyster on bottom culture. On bottom oysters are produced through both natural recruitment and hatchery-produced seed. For natural recruitment, the bed will be lightly frosted with clean oyster shell that has been aged for a minimum of 90 days. Frosting will occur when there is oyster larvae present in the water column and mature oysters have been previously removed from the bed. Frosting typically happens in July/August. Frosting with oyster shell will occur every 3 to 5 years. Hatchery-produced seed is planted after the mature oysters have been removed. Oysters are harvested every 2 to 5 years depending on oyster density and growth. Harvest is done by dredging (up to 30 acres per year) and by hand harvest at low tide.

The project site is located on tidelands within Willapa Bay on WA DNR Leases: 20-013270; 20-A009998; and 20-A12807, near Ocean Park, Pacific County, Washington; Section 18, 25, 30, and 31, Township 12N, Range 10W and 11W; WRIA 24, Willapa Watershed.

With this Order, Ecology is granting Wiegardt and Sons Inc.'s request for a Section 401 Water Quality Certification for the Wiegardt Shellfish Katzer Farm project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments Ecology received on June 26, 2020, and the following supporting documentation:

1. E-mail letter to Ecology dated February 12, 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 01EWFW00-2016-F-0121, National Marine Fisheries Service (NMFS) Reference Number WCR-2014-1502). This email also includes a description of Wiegardt and Sons Inc.'s 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, Wiegardt and Sons 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 Wiegardt and Sons 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 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 Wiegardt and Sons Inc., Wiegardt Shellfish Katzer Farm 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. **19732** will remain valid for the duration of the associated permit. Wiegardt and Sons 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).

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 **Pollution Control Hearings Board** 1111 Israel Road SW, Suite 301 Tumwater, WA 98501	**Department of Ecology** Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 **Pollution Control Hearings Board** PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

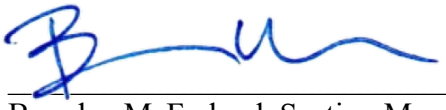
Marco Pinchot
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
marco.pinchot@ecy.wa.gov

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



March 18, 2021
Date

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