



US Army Corps
of Engineers
Seattle District

Public Notice of Application for Permit

US Army Corps of Engineers
Regulatory Branch
Post Office Box 3755
Seattle, WA 98124-3755
Telephone: 409-766-6384
ATTN: Tasha L. Metz, Ph.D.
Project Manager

Public Notice Date: January 28, 2021
Expiration Date: February 12, 2021

Reference No.: NWS-2007-1394-AQ
Name: JM Resources, LLC Oyster
Bay Shellfish Farm

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) and the Washington Department of Ecology (Ecology) have received an application to perform work in waters of the U.S. as described below and shown on the enclosed drawings dated November 4, 2020.

The Corps will review the work in accordance with Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Ecology will review the work pursuant to Section 401 of the CWA, with applicable provisions of State water pollution control laws and the Coastal Zone Management Act.

The Corps will also review the work in accordance with Section 14 of the Rivers and Harbors Act of 1899, as codified at 33 U.S.C. Section 408 (Section 408), for work that may alter a Corps civil works project. An alteration is defined as any action that builds upon, alters, improves, moves, occupies or otherwise affects the usefulness, or the structural or ecological integrity of a Corps federally authorized project.

APPLICANT: JM Resources, LLC
Attention: Joel Manke
80 SE Waldrip
Shelton, WA 98584
Phone: 360-426-5536
Email: joel@mankelumber.com

AGENT: K&L Gates LLP
Attention: Robert Smith
925 4th Avenue, Suite 2900
Seattle, WA 98104
Phone: 206-370-5743
Fax: 206-370-6271
Email: Robert.smith@klgates.com

LOCATION: The proposed activity is located in Oyster Bay (Totten Inlet) near Olympia, Thurston County, Washington. Township: 19N; Range: 3W; Section: 6

Latitude and Longitude of Cultivation Area Corners:

47.11054, -123.0610

47.11068, -123.0602

47.10967, -123.0598

47.10929, -123.0616

47.10818, -123.0653

WORK: Continue previously authorized commercial shellfish aquaculture operation for Manila clams (*Venerupis philippinarum*), Pacific oysters (*Crassostrea gigas*), and Olympia oysters (*Oytrea lurida*) on tidelands (Parcel #: 92080000000, 92079800000, 92079700000) in Oyster Bay at Olympia, Thurston County, Washington. The total proposed cultivation area would be 4.49 acres for Manila clams, Pacific oysters, and Olympia oysters. 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.

The clams and oysters would be planted into the substrate by hand. The 3.1 acres of clams would be covered with predator exclusion nets (each, 15 feet by 50 feet with 0.5-inch mesh) secured in place using metal stakes. Nets would be installed in September and removed in April, each year.

The clams and oysters would be harvested by hand every two years. The growing beds would be harrowed once every two years to prepare for new plantings. After harrowing, approximately 150 cubic yards of washed pea gravel would be discharged 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.

PURPOSE: The purpose of the project is commercial shellfish production for human consumption.

ADDITIONAL INFORMATION:

Copies of this public notice which have been mailed or otherwise physically distributed feature project drawings in black and white. The electronic version features those drawings in color, which we think more accurately communicates the scope of project impacts. To access the electronic version of this public notice, go to the Seattle District's web page at <http://www.nws.usace.army.mil/> and under the heading Open Public Comment Periods select Regulatory Public Notices. Recently-issued public notices are listed in chronological order of the date of issuance. Select and view the listing for this project.

The location of the high tide line and mean high water shown on the project drawings have not yet been verified by the U.S. Army Corps of Engineers (Corps). If the Corps determines the boundaries of the waters are substantially inaccurate a new public notice may be published.

The Corps is proposing an authorization period of 10 years for these aquaculture operations.

MITIGATION: No mitigation is proposed.

ENDANGERED SPECIES: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat. After receipt of comments from this public notice, the U.S. Army Corps of Engineers will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or

proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The proposed action would impact EFH in the project area. If the U.S. Army Corps of Engineers (Corps) determines that the proposed action may adversely affect EFH for federally managed fisheries in Washington waters, the Corps will initiate EFH consultation with the NMFS. The Corps' final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

CULTURAL RESOURCES:

The work has previously been permitted by the Corps and reviewed for Section 106. A search of the Washington Information System for Architectural and Archaeological Records Data online database showed no previously recorded historic properties in the permit area. The nature, scope, and magnitude of the work to be permitted is such that there is little likelihood that a historic property exists or may be affected, given: 1) it involves permitting of an existing shell fish operation; 2) harvesting is taking place in areas that have already been commercially harvested for the same species of shellfish in the past; and 3) no new ground disturbance is authorized. We are requesting your comments and would like to know if you have any knowledge or concerns regarding historic properties, including sites of religious and cultural significance that would be potentially affected by the permitted activity.

After receipt of comments from this public notice, the Corps will evaluate potential impacts and consult with the State Historic Preservation Officer and Native American Tribes in accordance with Section 106 of the National Historic Preservation Act, as appropriate.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public; Native American Nations or tribal governments; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether authorizing the work would not be contrary to the public interest. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to tasha.l.metz@usace.army.mil.

NWS-2007-1394-AQ, JM Resources, LLC. (Oyster Bay Shellfish Farm)

Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 3755, Seattle, Washington, 98124-3755. Either conventional mail or e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number:

JM Resources, LLC. Oyster Bay Shellfish Farm; NWS-2007-01394-AQ

Encl: Figures (2 pages)

Oyster Bay Project

Legend

- Roads - Major (Large Scale)
 - <all other values>
 - 15 ACCESS; US 101
 - ACCESS; US 101 SB OFF RAMP
 - 15; US 101
- Roads (Small Scale)
 - 15; US 101
- Railroads
 - County Border
 - Olympia Municipal
 - Airport
 - Water Bodies (River - Small Scale)
 - Water Bodies (Other)
 - Parks
 - Cities
- Capital Forest
- County Background
- Roads - Major
 - <all other values>
 - 15 ACCESS; US 101
 - ACCESS; US 101 SB OFF RAMP
 - 15; US 101
- Roads
 - Railroads
 - County Border
 - Olympia Municipal
 - Airport
 - Water Bodies (River - Small Scale)
 - Water Bodies (Other)
 - Parks
 - Cities

Scale 1: 42,951



Map Created Using GeoData Public Website

Published: 6/19/2020

Note:

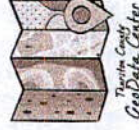
NWS-2007-1394-AQ

JM Resources, LLC

(Oyster Bay Shellfish Farm)

11/4/2020

Sheet 1 of 2



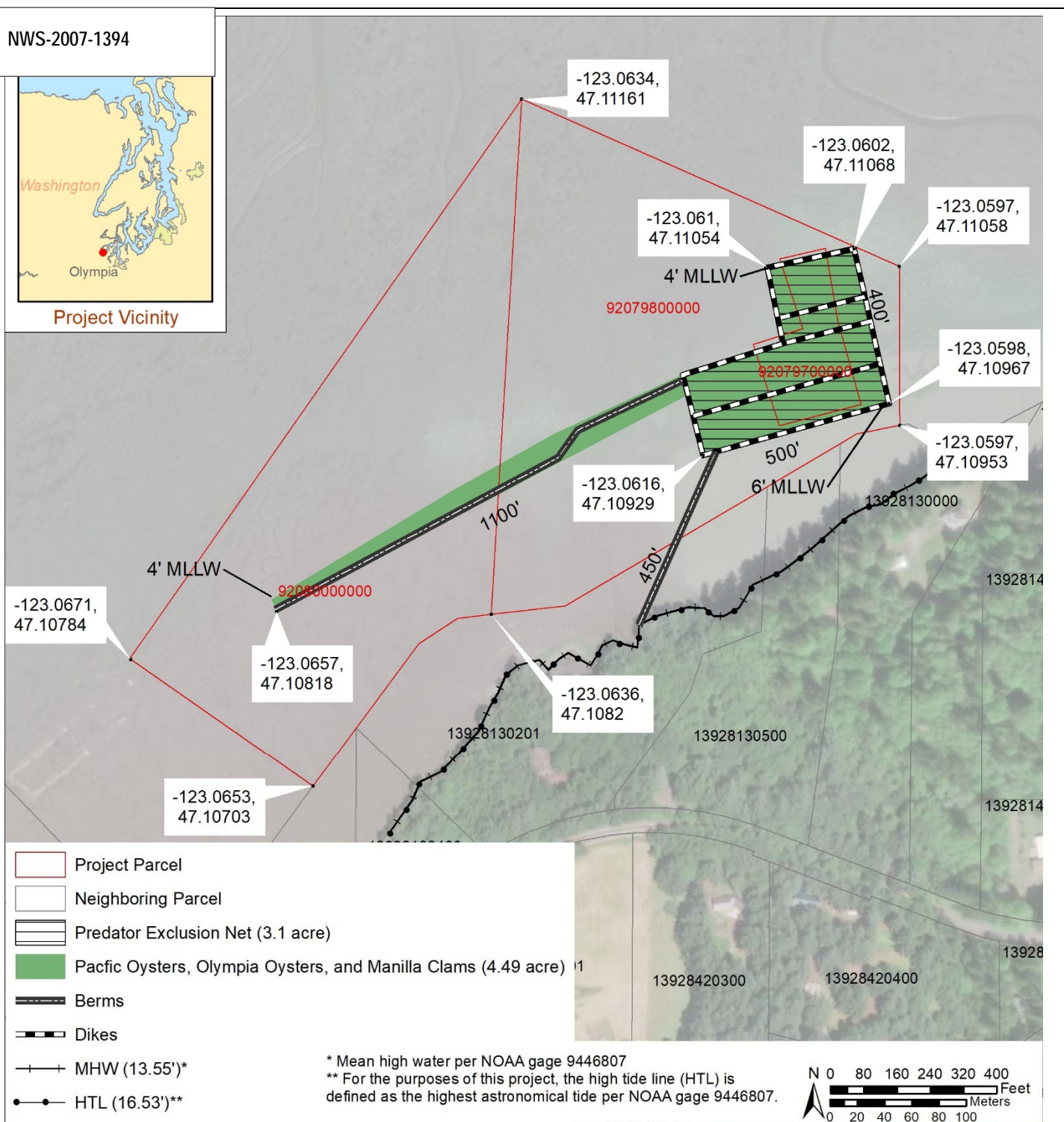
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NWS-2007-1394

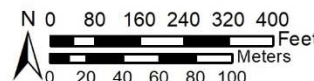


Project Vicinity



* Mean high water per NOAA gage 9446807

** For the purposes of this project, the high tide line (HTL) is defined as the highest astronomical tide per NOAA gage 9446807.



CORPS REFERENCE:
NWS-2007-1394
APPLICANT:
JM Resources

SITE ADDRESS:
5830 Oyster Bay Rd NW
Olympia, WA

In: Oakland Bay
Near: Shelton
County: Mason County
State: WA

PARCEL IDs/Owners:
9208000000 / JM RESOURCES, 80 SE Waldrip Rd, Shelton, WA
92079800000 / JM RESOURCES, 80 SE Waldrip Rd, Shelton, WA
92079700000 / JM RESOURCES, 80 SE Waldrip Rd, Shelton, WA

ADJACENT PROPERTY OWNERS (West to East):
13928310500 / CLIFFORD MULBERG, 1800 43rd Ave E, apt 105, Seattle, WA
13928130400 / CLIFFORD MULBERG, 1800 43rd Ave E, apt 105, Seattle, WA
13928130201 / JAMES AN DJENNIE THROCKMORTON, 261 SE Craig Rd, Shelton, WA
13928130500 / RICHARD AND ROBIN BOYSEN LIVING TRUST, 5138 Strawberry Rd, Anchorage, AK
13928130000 / JANA MCLAIN, 5606 Oyster Bay Rd NW, Olympia, WA

PROPOSED PROJECT:
Oyster Bay

Sheet 2 of 2
Date: 11/04/2020

Tidal Datum: ft MLLW
Scale: 4,000
Coordinate System: WA State
Plane North