



US Army Corps
of Engineers
Seattle District



Joint Public Notice

Application for a Department of the Army Permit and a Washington Department of Ecology Water Quality Certification and/or Coastal Zone Management Consistency Concurrence

US Army Corps of Engineers

Regulatory Branch
Post Office Box 3755
Seattle, WA 98124-3755
Telephone: (504) 862-2041
ATTN: Ben Sherman,
Project Manager

WA Department of Ecology

SEA Program
Post Office Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-6076
ATTN: SEA Program,
Federal Permit Coordinator

Public Notice Date: January 27, 2021

Expiration Date: February 26, 2021

Reference No.: NWS-2007-1411-AQ

**Name: National Fish & Oyster Co.
Inc.**

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 January 12, 2021.

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: National Fish & Oyster Co. Inc.

Attention: Catherine Gylys
5028 Meridian Rd NE
Olympia, WA 98516
Phone: 360-491-5550
Email: cat@nationaloyster.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 Nisqually Reach near Olympia, Thurston County, Washington.
Township: 19N; Range: 1E; Section: 30

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Latitude and Longitude of Cultivation Area Corners:

47.117017, -122.737409

47.113593, -122.718829

47.108878, -122.723776

47.102521, -122.731240

47.105591, -122.737793

WORK: The applicant proposed to continue previously authorized and modification commercial shellfish aquaculture operation Manila Clams (*Venerupis philippinarum*), Pacific oysters (*Crassostrea gigas*), Kumamoto Oysters (*Crassostrea sikamea*), Belon Oysters (*Ostrea edulis*), and Geoduck Clams (*Panopea generosa*) on tidelands (Parcel #: 920008030000) in Nisqually Reach at Olympia, Thurston County, Washington. The total proposed cultivation area would be 222.2 acres which consist of 2.9 acres for on-bottom cultch and flip bag oysters cultivation, 6.1 acres of on bottom Manila clams cultivation including frosting, 12.5 acres of nurse bed and on-bottom oyster cultivation, 186.7 acres of on-bottom cultch oyster cultivation, 10 acres of geoduck cultivation, 4 acres of longline oyster cultivation. The cultivated areas would be located in the intertidal portion of the tidelands between the -4.5 and +4.5 feet Mean Lower Low Water (MLLW) mark. The expansion for shellfish farm would include only expanding an additional 6.5 acres of on-bottom cultch oyster cultivation area and 3.1 acres of the manila clam cultivation area including frosting, and 2 acres of geoduck cultivation.

In the nursery bed, oyster seed is placed in seed cages made of metal and plastic with Vexar openings. The seed sits in the nursery bed for approximately one year before being transported to the on bottom cultch oyster culture areas, where they are planted to grow out to harvestable size. The seed cages currently occupy approximately half an acre. Within the on-bottom oyster cultch cultivation area; oysters are planted spread out oyster shells (cultch) on the substrate bottom and left to grow until harvested in approximately three years. Oysters are harvested by hand at low tide. Oysters will be mechanical harvested on approximately 20 acres each. This involves dropping a dredge basket down at medium tide and dragging it along the oyster bed. The oysters tumble into the basket, then are raised up and collected in tubs on the boat deck. In addition, the applicant will continue cultivating 1.5 acres of flip bag culture. This involves stocking the bags with oysters, the bags then are clipped directly onto the line. Bags are maintained and observed each month or quarterly. These bags are harvested by hand. The applicant proposed to continue cultivating approximately four acres of oysters on longlines. Planting will occur by placing the seeded long-line on notched PVC stakes that are arranged in rows on the mudflats. Long-lines are planted by crews at tides low enough to allow for walking on the planting bed. Longlines are inspected monthly, with virtually no other activity occurring until harvest. Oysters are harvested every 3 to 4 years by cutting lines into manageable single clusters and placing oysters into harvest baskets or tubs.

Applicant proposes to continue cultivation and maintenance of 6.1 acres of Manila clam cultivation area. Clam beds are maintained by a light frosting, by hand, of approximately 50 to 100 cubic yards per year of gravel that is washed twice by the supplier. Gravel is obtained from retail locations in the South Sound area. Clam seed is scattered on the tidelands by hand and is then covered with clam nets, which are affixed to the tidal bed with rebar. Clam nets are removed after approximately two to three years when clams are harvested. Clams are harvested by hand which can involve using a rake.

Applicant proposes to continue cultivation of 10.0 acres of geoduck cultivation area. The geoduck cultivation area will occur in two separate areas, which are between +2.5 ft. to +3 ft. MLLW, and -2 ft. to 4.5 ft. MLLW. Geoduck Seed will be obtained from a certified hatchery and will be planted 4" wide by 10" long PVC tubes that are placed in the substrate. PVC tubes are spaced at approximately one tube per square foot in the planting area. Only 3" to 5" of the tubes are exposed above the substrate. Tubes are labeled with the applicant contact information. PVC tubes are placed using stomping during low tides. After the tubes are placed, juvenile geoducks seed are placed inside the PVC tubes. PVC Tubes are covered with a mesh cap and secured with UV-resistant rubber bands. PVC tubes

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are installed between spring and fall. All material is stored in an upland staging area. Netting will be installed over the tubes to prevent dislocation during severe weather and provide extra protection against predators. The nets are made of nylon material with a 0.5" mesh size. Nets are placed over the entire planted area. Area netting is secured with rebar stakes placed vertically into the substrate as well as rebar stakes laid horizontally along the netting to ensure that netting does not become dislodged. Tubes are removed approximately 10 months after nets. Harvesting occurs between 7 and 8 years after planting. Harvesting will occur using a power water jet nozzle that loosens the substrate around each geoduck. Harvesting will occur using both beach and diving crews.

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

ADDITIONAL INFORMATION:

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.

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EVALUATION – CORPS: 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 Corps 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.

The described discharge will be evaluated for compliance with guidelines promulgated by the Environmental Protection Agency under authority of Section 404(b)(1) of the CWA. These guidelines require an alternatives analysis for any proposed discharge of dredged or fill material into waters of the United States.

SOURCE OF FILL MATERIAL: The applicant has not yet identified the source of the fill material. Should a permit be issued, the Corps will evaluate the fill material source prior to the start of construction.

EVALUATION – ECOLOGY: Ecology is soliciting comments from the public; Federal, Native American Nations or tribal governments, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Ecology will be considering all comments to determine whether to certify or deny certification for the proposed project.

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. 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 whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration.

CORPS COMMENTS: All e-mail comments should be sent to benjamin.c.sherman@usace.army.mil. Conventional mail comments should be sent to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, Washington 98124-3755. 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.

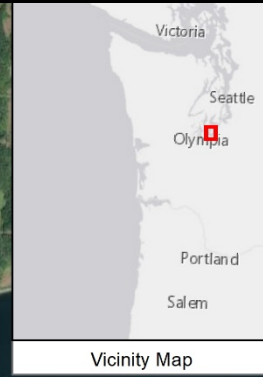
ECOLOGY COMMENTS: Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA and/or Coastal Zone Management consistency concurrence, may do so by emailing comments to: ecyrefedpermits@ecy.wa.gov.

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To ensure proper consideration of all comments, responders must include the following name and reference number in the text of their comments: National Fish & Oyster Co. Inc.; NWS-2007-01411-AQ

Encl: Plans in 4 sheets

**National Fish & Oyster Co., Inc. –
Nisqually Farm Project Vicinity**



CORPS REFERENCE:

APPLICANT:
Catherine Gylys

SITE ADDRESS:
5028 Meridian Rd NE
Olympia, WA 98516

In: Nisqually Reach
County: Thurston
State: WA

PARCEL IDs/Owners:
2190321500/ Gylys, Catherine & Buldis, Nick
92000803000/ Gylys, Catherine & Buldis, Nick

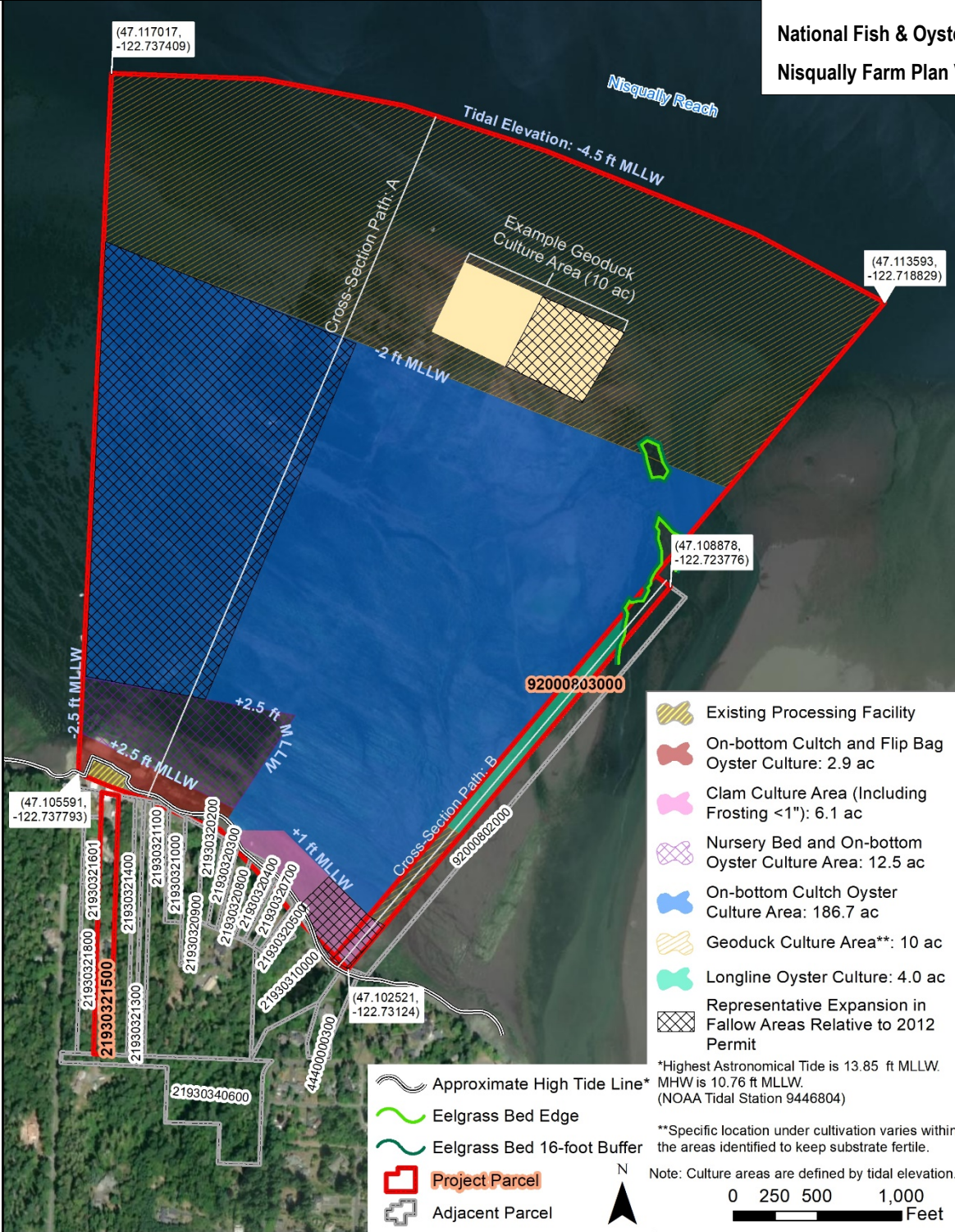
ADJACENT PROPERTY OWNERS (West to East):
See Attachment C

PROPOSED PROJECT:
National Fish & Oyster Co., Inc.
Nisqually Farm

Sheet 1 of 4
Date: January 12, 2021

Tidal Datum: MLLW
Scale: 1:62,500
Coordinate System: UTM Zone 10

National Fish & Oyster Co., Inc.
Nisqually Farm Plan View



CORPS REFERENCE:

APPLICANT:
Catherine Gylys

SITE ADDRESS:
5028 Meridian Rd NE
Olympia, WA 98516

In: Nisqually Reach
County: Thurston
State: WA

PARCEL IDs/Owners:
2190321500/ Gylys, Catherine & Buldis, Nick
92000803000/ Gylys, Catherine & Buldis, Nick

ADJACENT PROPERTY OWNERS (West to East):
See Attachment C

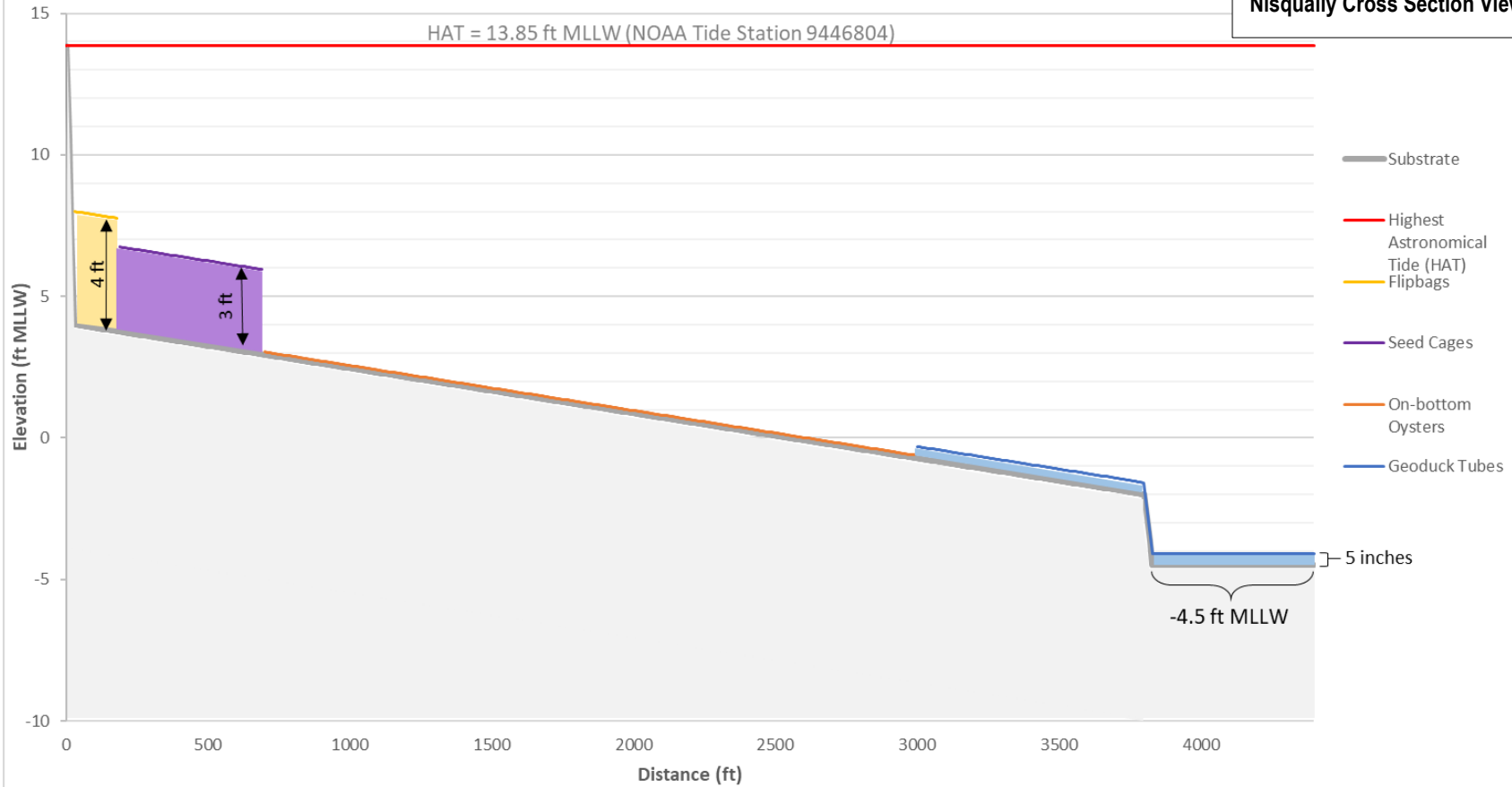
PROPOSED PROJECT:
National Fish & Oyster Co., Inc.
Nisqually Farm

Sheet 2 of 4
Date: January 19, 2021

Tidal Datum: MLLW
Scale: 1:8,000
Coordinate System: UTM Zone 10

Cross-Section A

National Fish & Oyster Co., Inc.
Nisqually Cross Section View



CORPS REFERENCE:
[Click and type]

APPLICANT:
Catherine Gylys

SITE ADDRESS:
5028 Meridian Rd NE
Olympia, WA 98516

In: Nisqually Reach
County: Thurston
State: WA

PARCEL IDs/Owners:
2190321500/ Gylys, Catherine & Buldis, Nick
92000803000/ Gylys, Catherine & Buldis, Nick

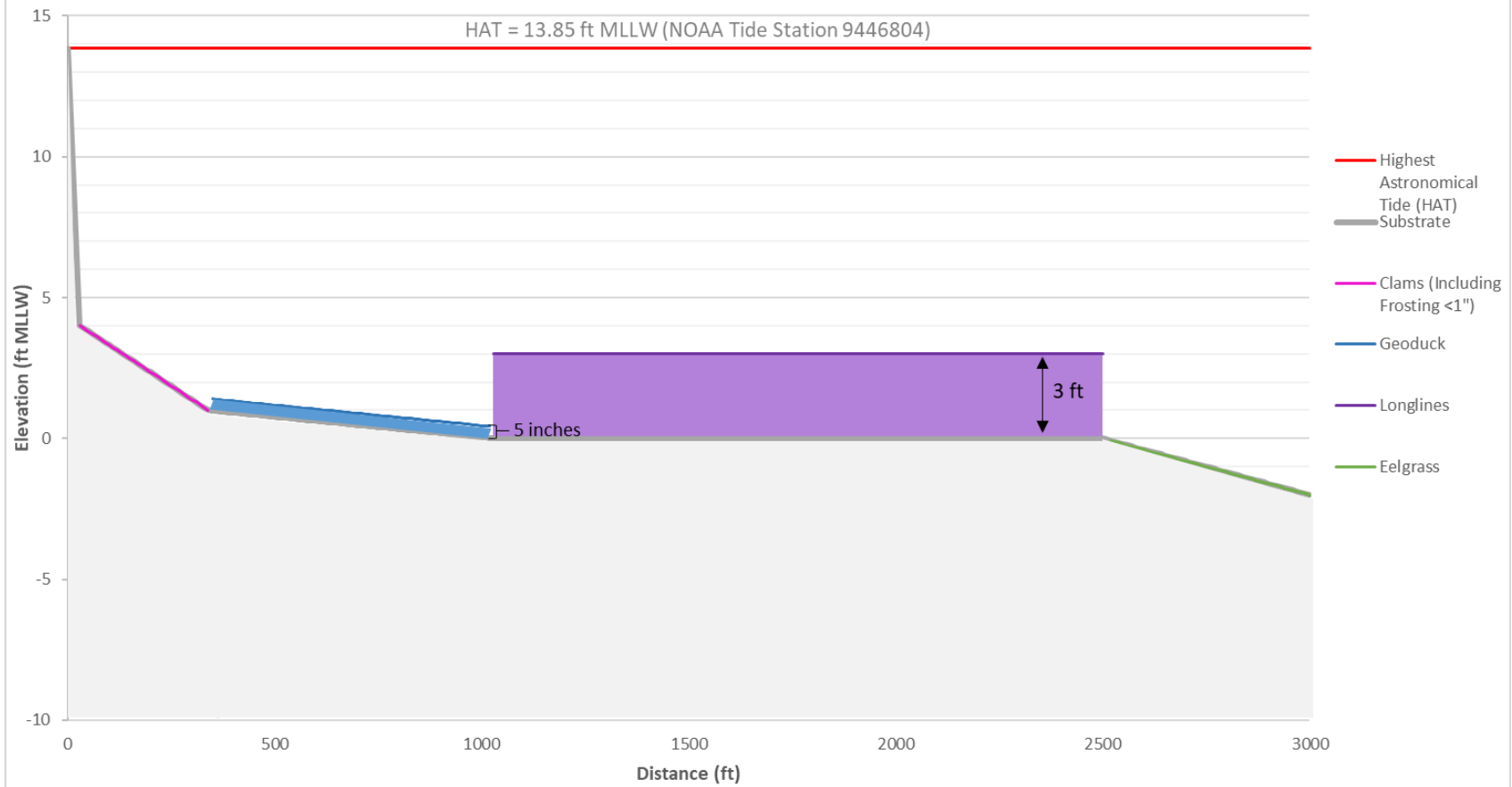
ADJACENT PROPERTY OWNERS (West to East):
See Attachment C

PROPOSED PROJECT:
National Fish & Oyster Co., Inc.
Nisqually Farm

Sheet 3 of 4
Date: January 12, 2021

Tidal Datum: ft MLLW
Scale: NA
Coordinate System: NA

Cross-Section B



CORPS REFERENCE:
[Click and type]
APPLICANT:
Catherine Gylys

PARCEL IDs/Owners:
2190321500/ Gylys, Catherine & Buldis, Nick
92000803000/ Gylys, Catherine & Buldis, Nick

PROPOSED PROJECT:
National Fish & Oyster Co., Inc.
Nisqually Farm

SITE ADDRESS:
5028 Meridian Rd NE
Olympia, WA 98516

In: Nisqually Reach
County: Thurston
State: WA

ADJACENT PROPERTY OWNERS (West to East):
See Attachment C

Sheet 4 of 4
Date: January 12, 2021

Tidal Datum: ft MLLW
Scale: NA
Coordinate System: NA