



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: (206) 764-6848  
ATTN: Halie Endicott,  
Project Manager

Public Notice Date: May 20, 2022

Expiration Date: June 4, 2022

Reference No.: NWS-2009-1354-AQ  
Name: Long Island Oyster Co. (Lease  
23 Port of Peninsula)

---

Interested parties are hereby notified that an application has been received for a Department of the Army permit in accordance with Section 10 of the Rivers and Harbors Act of 1899, for certain work described below and shown on the enclosed drawings dated December 20, 2021. The Corps will also review the work in accordance with Section 404 of the Clean Water Act (CWA).

The Washington Department of Ecology issued a section 401 Water Quality Certification on October 19, 2021, and a Coastal Zone Management Consistency Determination on January 12, 2022.

APPLICANT: James Kemmer  
Long Island Oyster Company  
450 Chinook Valley Road  
Chinook, WA 98614

AGENT: Marlene Meaders  
Confluence Environmental Company  
146 N Canal Street  
Seattle, WA 98103

LOCATION: A 1.4-acre cultivation area in Willapa Bay near Nahcotta, Pacific County, Washington, within parcel #12112723042. Cultivation occurs at approximately tidal elevation +1.0 above mean lower low water.

WORK: Long Island Oyster Company proposes to continue production of Pacific oyster (*Crassostrea gigas*) and Manila clam (*Venerupis philippinarum*). Additionally, secondary crops from natural set occur across the cultivated area. The site is accessed utilizing existing piers and boat ramps in Willapa Bay.

Oysters are grown directly on the beach substrate. Prior to planting, shellfish beds are prepared by removing debris by hand. Seeding occurs using oyster cultch (setting out and securing bags of washed, aged oyster shell to collect natural set on-site), and using hatchery-sourced oyster seed.

Harvest is typically by hand during low tide. During hand harvest, workers use hand tools or hand-pick oysters and place them into various sized containers placed on the bed. Larger containers may be equipped with ropes and buoys that can be lifted with a boom crane onto the deck of a barge at high tide.

Smaller containers are placed or dumped on decks of scows for retrieval at high tide or are carried off the beach at low tide.

Mechanical (dredge) harvest occurs by use of a harvest bag that is lowered from a barge or boat by boom crane or hydraulic winch at high tide and pulled along the bottom to scoop up or 'dredge' the oysters. The dredge bags have a leading edge (blade) consisting of a steel frame with teeth and a steel mesh collection bag attached to the frame. As the dredge bags are towed across the substrate, the oysters are loosened and guided into the bags. The bag is then hoisted onto the boat deck, emptied, and then redeployed. Two dredge bags may be towed simultaneously off each side of the boat. Dredge equipment can typically be adjusted so that the correct depth is dredged as tide levels change. Harrowing may occur between the two successive dredge events in order to increase recovery of oysters.

Hatchery-grown clams are seeded by hand directly onto the beach substrate. Natural spawning and setting of clams will also occur.

Beds are lightly coated with clean frosting every two years. Gravel is distributed evenly across the bed from a barge or skiff to a depth of less than 0.5 inches when the tide is high enough to float a barge. Several thin layers of material may be placed over a period of days. To place a single 0.5-inch layer requires about 70 cubic yards of washed gravel or shell per acre. An individual site is not graveled more frequently than once every two years.

Hand harvesters dig clams during low tides using a clam rake. Shovels or other hand operated tools may be also used. Market-sized clams are selectively harvested, place in buckets, bagged, tagged, and removed. Undersized clams are returned to beds for future harvests. Since a given clam bed may contain multiple year classes of clams, it may be harvested on a regular schedule to harvest individual year classes of clams.

**PURPOSE:** The project purpose is to continue shellfish aquaculture on an existing farm to sell for human consumption.

**ADDITIONAL INFORMATION:** The applicant requested a permit for a period of 10 years. 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.

**MITIGATION:** The applicant has not proposed compensatory mitigation.

**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). After receipt of comments from this public notice, the U.S. Army Corps of Engineers will evaluate the potential impacts to EFH.

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 Corps has reviewed the latest published version of the National Register of Historic Places, Washington Information System for Architectural and Archaeological Records Data and other sources of information. A historic properties investigation has been conducted within the permit area. No historic properties determined eligible for or listed on the National Register of Historic Places were found to exist within the permit area. The Corps invites responses to this public notice from Native American Tribes or tribal governments; Federal, State, and local agencies; historical and archeological societies; and other parties likely to have knowledge of or concerns regarding historic properties and sites of religious and cultural significance at or near the project area. 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

NWS-2009-1354 (Long Island Oyster Company)

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 Halie.N.Endicott@usace.army.mil. Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, 4735 E. Marginal Way S, Bldg 1202, Seattle, Washington, 98134-2388. 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:

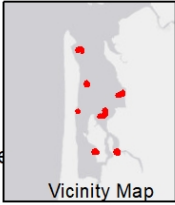
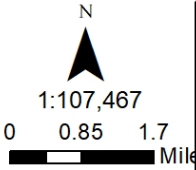
Long Island Oyster Company, NWS-2009-1354-AQ

Encl: Figures (2 pages)



- Project Parcel
- Eelgrass/SAV (2015)

**Applicant:** Long Island Oyster Company  
**Coordinate System:** WA State Plane S (ft)



**Corps Reference:** NWS-2009-01354  
 (as previously permitted)

**Applicant:** James L. Kemmer  
**Parcel IDs:** 12112723042 (Lease #23)

**Proposed Project:** Long Island Oyster Company NWS-2009-01354

**Site Address:**  
 Willapa Bay (no street address)  
 Nahcotta, Washington 98637

**Parcel Owner:** Port of Peninsula

**Date:** December 20, 2021

**In:** Willapa Bay, Pacific County, Washington

Sheet 1 of 2

**Tidal Datum:** 0 feet MLLW  
**Coordinate System:** WA State Plan South (feet)



Corps Reference: NWS-2009-01354  
(as previously permitted)

Applicant: James L. Kemmer  
Parcel IDs: 12112723042 (Lease #23)

Proposed Project: Long Island Oyster Company NWS-2009-01354

Site Address:  
Willapa Bay (no street address)  
Nahcotta, Washington 98637

Parcel Owner: Port of Peninsula

Date: December 20, 2021  
Tidal Datum: 0 feet MLLW  
Coordinate System: WA State Plan South (feet)

In: Willapa Bay, Pacific County, Washington

Sheet 2 of 2