



# Willapa-Grays Harbor Oyster Growers Association

P.O. Box 3 Ocean Park, WA 98640

January 10, 2025

Mr. Shawn Ultican  
WA State Department of Ecology  
P.O. Box 47696  
Olympia WA 98504-7600

Dear Mr. Ultican,

Thank you for the opportunity to comment on the **Zostera Japonica Management on Commercial Clam Beds in Willapa Bay General Permit** for the control of the invasive, state-listed noxious weed *Zostera japonica* (Japanese eelgrass) on commercial clam beds in Willapa Bay, Pacific County.

The Willapa-Grays Harbor Oyster Grower Association (WGHOGA) represents the shellfish farmers in Pacific and Grays Harbor Counties in Washington State. This industry is the largest private employer in Pacific County, and a significant employer in Grays Harbor. The multi-generational businesses of WGHOGA sustainably produce oysters and clams while taking pride not only in the quality of their product but in their role as environmental stewards. In Willapa Bay alone our members farm over 9,000 acres of tidelands for the propagation of oysters and clams. Since its creation over 70 years ago, WGHOGA has faced many invasive pests to aquaculture and has been fighting to keep their once productive farms from being altered or destroyed by *Zostera japonica*, a non-native invasive species that's continued altering of tidelands is being ignored by many state and federal land managers. *Zostera japonica* continues to expand in Willapa Bay and is now providing optimal habitat to harbor a newly emerging invasive, European green crab. This is leading to further crop losses due to additional predation of clams and oysters by European green crabs and declines in open mudflat grazing opportunities for shorebirds.

WGHOGA appreciates Ecology's management of the current NPDES permit and development of a new draft permit, however, we have concerns with several changes in the revised draft permit. Some of the proposed modifications and conditions will limit WGHOGA permittees and sponsors from effectively and economically controlling *Zostera japonica* on their commercial clam beds in Willapa Bay.

We respectfully ask that Ecology reviews and adopts the revisions highlighted below in the final 2025 permit renewal.

*B. Treatment Buffers*

*When different Permittees are treating clam beds on properties that share a common border, and both parties agree, a buffer is not required on the connecting parcel boundary. Each Permittee must indicate in their annual Pre-Treatment Plan whom they are cooperating with and on which parcel(s) (Special Condition S7.A). See Appendix D, Figure 2 for an example of this situation.*

This language needs to reflect the fact that adjacent land owners may or may not both be permittees but just adjacent cooperating land owners who agree to forego a buffer between parcels. We suggest the following language:

When adjacent landowners are treating clam beds on properties that share a common border, and both parties agree, a buffer is not required on the connecting parcel boundary. The permittee must indicate in their annual Pre-Treatment Plan whom they are cooperating with and on which parcel(s) (Special Condition S7.A). See Appendix D, Figure 2 for an example of this situation.

*D. Posting Requirements*

*The Permittee must:*

- 1. Use the template provided on the permit webpage. The Permittee may add additional treatment-related information to the sign, but may not remove required information.*
- 2. Post signs that are at least 8 ½ by 11 inches in size.*
- 3. Post signs at all corners of the treatment site.*
- 4. Post signs at all public access areas on the waterbody that are within 400 feet of a treated area and at all public boat launches on the waterbody within one quarter mile of a treated area.*
- 5. Post signs at least 24 hours before treatment.*

Requiring the posting of signs 24 hours before treatment is not necessary on private property with no public access and no likelihood of anyone coming into contact with applicators or signage. Flexibility is needed when choosing nearby sites for treatments. In instances where an applicator would like to adapt to weather conditions and tidal inundation periods not having the signs placed ahead of time will result in additional down time and the loss of treatment opportunities due to not having the required sign postings in place 24 hours before treatment. We suggest the following language:

- 3. Post signs at all corners of the treatment site if the site is within 1/4 mile of a public access point.*
- 4. Post signs at all public access areas on the waterbody that are within 400 feet of a treated area and at all public boat launches on the waterbody within one quarter mile of a treated area.*
- 5. Post signs at public access points least 24 hours before treatment*

*A. Monitoring*

*The Permittee must conduct routine monitoring on all commercial clam beds treated with imazamox as follows.*

*30 days after each treatment the Permittee must measure the distance into the 10 meter buffer that *Zostera* species plants appear to be affected by treatment. (see Special Condition S4.B) See Appendix D for diagrams of how buffers must be implemented.*

*The distance affected by treatment must be measured from the inner edge of the buffer, perpendicular to the buffer edge, to the first instance of healthy *Zostera* plants. Permittees must also record any observations of *Zostera* plants that appear to have been affected by treatment past the parcel boundary.*

*For situations where no eelgrass is naturally present within the buffer area (not absent due to the effects of treatment), no measurements are required.*

*The number of measurements taken will depend on the size of the commercial clam bed treated. Measurements must be spaced approximately equidistant across the parcel edge.*

*Table 2: Buffer Monitoring Requirements Treatment Acreage Up to 5 Acres 5.1 to 10 Acres 10.1 to 20 Acres 20+ Acres (Number of Measurements per Parcel Edge 3, 5, 8, 10, transects)*

*Photographs must be taken at all measured locations to verify the measurement. Each photograph must be labeled by placing a card with the date, Global Positioning System (GPS) coordinates, accuracy of the GPS unit at the time of measurement, sample site and permit number within the photographed area.*

During the development of the initial permit, a buffer validation study was conducted to determine buffer needs to protect native eelgrass. The original study was designed as a worst case scenario and over the following two years, additional surveys demonstrated there was no statistical difference between eelgrass pre-treatment and post-treatment densities and for densities at both years 2 and year 3 after treatment. This study did demonstrate that the highest likelihood of off-site movement was towards the lower elevations of the tideland parcels, but regardless, a 10 meter buffer was sufficient to protect native eelgrass. Realizing that the buffer validation study was only conducted at one location near Nahcotta, on three beds, we are agreeable to additional monitoring to further demonstrate that a 10 meter buffer is sufficient to protect *Zostera marina*.

WGHOGA supports monitoring as currently described in the permit with some changes. We propose the monitoring of each continuous bed or parcels, when a bed is comprised of several parcels, the first time a treatment occurs. Monitoring would occur once during the course of the 5 year permit on each continuous bed or parcels. Monitoring would be

conducted 30 to 60 days post treatment on the lower elevation boundary only, as previous studies indicate this edge is most likely to see any offsite movement. Washington State University Extension will host and organize a training session for permittees and sponsors and will generate a standardized collection protocol for participants to aid in consistent reporting. This will validate on a bed by bed basis the effectiveness of a 10 meter buffer to protect native eelgrass.

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### *B. Pre-treatment Notifications*

*The permittee must provide the following notifications at least 10 days prior to each herbicide treatment.*

#### *1. Notify Ecology:*

- a) Use the pre-treatment notification form provided on Ecology's ZJ permit web page.*
- g) Send an electronic copy of the completed pre-treatment form to Ecology at [aquaticpesticideperm@ecy.wa.gov](mailto:aquaticpesticideperm@ecy.wa.gov), with a subject line "ZJ Pretreatment Notice – " followed by the applicable permit coverage number.*
- h) If the treatment is delayed after the original form was sent, email a revised pretreatment form to Ecology with a subject line "REVISED ZJ Pretreatment Notice – " followed by the applicable permit coverage number.*

As a permit requirement permittees are required to provide an Annual Pre-Treatment Plan by May 15<sup>th</sup> of each year even if no treatment is planned. In the Annual Pre-Treatment Plan permittees must provide Ecology with the locations of acreage planned for treatment, including GPS coordinates of each corner of the area, the size, in acres, of each area planned for treatment and maps delineating the locations of the areas planned for treatment. The addition of a pre-treatment notification form to be emailed to Ecology before treatments occur is redundant, overly burdensome and unnecessarily as Ecology has already received this information in the Annual Pre-Treatment Plan.

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### *4. Notify adjacent landowners:*

- a) Using the template on the ZJ permit web page, the permittee must provide written notice to the owner of record, other than the permittee themselves, of property parcels having a common boundary with the treated parcel(s).*
- b) In the treatment notification the treatment area must be defined either by a polygon area clearly labeled on a map of the site, or by the latitude and longitude points of the corners of that polygon area, reported in decimal degrees.*
- c) The Permittee may provide the notice by mail, email, or handbills delivered directly to the landowner(s).*
- d) The Permittee must retain a copy of the notice, the date of distribution, and a list of addresses to which the notice was delivered. Copies of these records must be retained for a period of 5 years, and provided to Ecology upon request.*

Due to the large number of upland parcel owners this notification requirement is extremely burdensome and goes above and beyond any other public notice requirement for aquatic weed management such as, for example, spartina control. This adjacent landowner notification is a higher standard than any other aquatic noxious weed permit and would be hard to adhere to. Additionally in all cases to date no treatments have occurred adjacent to neighbor parcel boundaries and in most cases the buffers have been greater than 100 feet. In lieu of an adjacent landowner notification, WGHOGA proposes to provide public notice of the treatment season window for two consecutive weeks prior to the beginning of the treatment window-by either publishing a notice in the local newspaper or on a public website.

We appreciate Ecology's continued management of the National Discharge NPES permit and hope these proposed modifications are aligned with permit needs.

Sincerely,

*David Beugli*

David Beugli  
Executive Director  
Willapa-Grays Harbor Oyster Growers Association