



Board of Directors

February 9, 2017

Bridger Mitchell, Ph.D.
President

Fish and Game Commission
1416 Ninth Street, Room 1320

Ken Drexler, Esq.
Vice-President

Sacramento, CA 95814

Via Hand Delivery (at meeting) and Electronic mail: fgc@fgc.ca.gov

Terence Carroll
Treasurer

Re: EAC Comments re. Commission Agenda Item #27 (*Consent Item*)

David Weinsoff, Esq.
Secretary

Receive application from Robert Brodsky, San Andreas Shellfish, for lease of State water bottoms for aquaculture in Tomales Bay

David Wimpfheimer
Director

Dear Commissioners:

Jerry Meral, Ph.D.
Director

My name is Ashley Eagle-Gibbs, and I am the Conservation Director at the Environmental Action Committee of West Marin (EAC), an environmental advocacy group, which focuses on environmental issues in Tomales Bay and the greater West Marin. Tomales Bay is listed as a wetland of international importance, is part of the Greater Farallones National Marine Sanctuary, and is recognized for protection by the California Enclosed Bays and Estuaries Policy. The unique Bay is home to many species, including harbor seals, eelgrass, and sea birds.

Daniel Dietrich
Director

Cynthia Lloyd, Ph.D.
Director

Staff and Consultants

I am here to present comments on Consent Item #27. It is EAC's position that this item should be pulled from the consent calendar; because the San Andreas Shellfish application is incomplete, ambiguous, nearly illegible in parts, and contains several inconsistencies.

Morgan Patton
Executive Director

Ashley Eagle-Gibbs, Esq.
Conservation Director

Fish and Game Code Section 15403 contains the application requirements for a state water bottom lease: the application must include a description of the organisms to be grown, a map showing the area to be leased and all ownership and boundary lines, the techniques to be used, and an acreage estimate.

Jessica Reynolds Taylor
Membership Director

Catherine Caufield
Tomales Dunes Consultant

The description of organisms to be grown presented in the San Andreas Shellfish application is inconsistent, as different organisms are listed in Exhibit A and Form A.

Exhibit B (Map) to Application is missing information and is unclear.

While the applicant provided a map as Exhibit B to his application, this map lacks ownership and boundary lines and is extremely difficult to decipher.

Overall, the area to be leased is unclear and rather amorphous, but it appears that the area would be extremely difficult to define geographically, due to its non-uniform shape. If the area cannot be easily geographically defined, it would be very challenging for the Fish and Wildlife Department to enforce the lease terms.

The map presented is unclear and problematic for the following additional reasons. The “nearest public access route of proposed access” (on page 1 of Exhibit B) is impassable much of the year, as it is a seasonal and tide dependent channel. The applicant has proposed aquaculture in the direct main channel, which runs from Lawson’s Landing to Tomales Bay. Blocking this main vessel navigation route will prevent hundreds of boaters each weekend from Bay access. Tomales Bay contains few functional serviceable deep-water channels, so blocking one of these few passageways is illogical.

The applicant also contends that he consulted with “the appropriate departments and authorities” to depict the available area “after avoiding environmental concerns such as seal haul outs and eelgrass.” While EAC agrees that these areas should be avoided, the map does not clearly identify where these areas are or how they will be avoided. Eelgrass areas are listed on page 1 of Exhibit B, but the map color-coding is extremely hard to distinguish. The seal haul outs are not mapped. Without identification of these critical habitat areas, how can the Fish and Wildlife Department make a determination that the areas have been avoided?

The Proposed Lease Location is Highly Problematic.

The proposed lease location is highly problematic for several additional reasons, which I will only briefly mention today. This area of Tomales Bay is highly dynamic, has not yet seen aquaculture, is sub tidal, and is subject to shoaling and depth changes. Furthermore, this location raises public access issues, as the proposed leasing area is a popular local clamming area.

In addition, as I mentioned this morning, it is EAC’s position that BMPs should be formalized prior to the designation of any new leases on Tomales Bay. Tomales Bay already suffers from legacy marine debris issues, and the current aquaculture escrow system is extremely limited.

Summary

In sum, it is in the public’s interest to pull this item from the consent calendar and request that the applicant re-submit a revised clear and complete application for future consideration as a non-consent item. The future application should be provided to the public with sufficient notice. The application before the Commission today was posted only one day prior to the Commission’s late comment deadline.

If this application moves forward, EAC will present additional public comments on the many environmental concerns raised by this potential lease location. Thank you for your consideration of our comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ashley Eagle-Gibbs', written in a cursive style.

Ashley Eagle-Gibbs
Conservation Director

cc (via electronic mail):

Susan Ashcraft, Marine Advisor, Fish and Game Commission
Kirsten Ramey, Marine Aquaculture Coordinator, Department of Fish & Wildlife