



Board of Directors

Agenda Item W13a

Bridger Mitchell, Ph.D.
President

May 3, 2018

Ken Drexler, Esq.
Vice-President

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219
Via Electronic Mail: EORFC@coastal.ca.gov

Terence Carroll
Treasurer

Re: Support Agenda Item W13a
Permit No. 9-18-0002-A1 (Marin Oyster Company, Inc.)

David Weinsoff, Esq.
Secretary

Dear Coastal Commissioners:

David Wimpfheimer
Director

The Environmental Action Committee of West Marin (EAC) was established in 1971 and its mission is to protect and sustain the unique lands, waters, and biodiversity of West Marin. EAC has a long history of advocating for the protection of Tomales Bay and for required best management practices for aquaculture cultivation. In the face of changing climate conditions, marine and legacy debris, and other environmental threats, we must be especially protective of sensitive habitats like Tomales Bay.

Jerry Meral, Ph.D.
Director

Daniel Dietrich
Director

Cynthia Lloyd, Ph.D.
Director

EAC submits the following comments generally supportive of the California Coastal Commission (Commission) staff recommendation regarding Agenda Item W13a, Permit No. 9-18-0002-A1 (Marin Oyster Company, Inc.) (MOC) for after-the-fact permit approvals.

Staff and Consultants

Morgan Patton
Executive Director

EAC understands that violations of the Coastal Act exist on MOC's lease areas due to the unpermitted construction of 1,200 linear feet of structures to support 200 plastic baskets, the proposed placement of 62 basket lines, and the continued use of bottom and floating bag longline equipment that was installed by the previous operator of the aquaculture facility. Violations were issued by the Commission,

Ashley Eagle-Gibbs, Esq.
Conservation Director

Jessica Reynolds Taylor
Membership Director

Catherine Caufield
Tomales Dunes Consultant

prompting this request by MOC to seek an amended Coastal Development Permit (CDP)¹.

EAC is supportive of the Commission staff's efforts to review existing permits and bring aquaculture operators into Coastal Act compliance. Unpermitted and thus unreviewed operations have the potential to cause adverse environmental impacts to the marine resources and wildlife of Tomales Bay. Issuance of after-the-fact permit amendments may potentially set a standard for operators to install new cultivation techniques without initially seeking appropriate permits. This could be avoided by the Commission staff's continued efforts to review permit compliance and require permit amendments on a consistent basis as needed.

While EAC understands that after-the-fact permits are at times necessary in order to bring operations into regulatory compliance, EAC encourages continued timely efforts by the Commission and other applicable agencies, including the Fish and Game Commission and the Fish and Wildlife Department, to monitor and review all existing leases to ensure all operations are in compliance with existing permits, eliminating the need for after-the-fact permitting.

EAC is hopeful that the Commission's recent actions to issue violations to several aquaculture operators for unpermitted projects will set a new standard to improve protection of marine resources in Tomales Bay.

Fortunately in the case of MOC, there is a "strong record of careful maintenance and marine debris prevention²" and the implementation of Special Conditions 9 through 14 proposed by Commission staff would ensure:

the project would be carried out in a manner in which marine resources are maintained, species of special biological significance are given special protection, the biological productivity of coastal waters is sustained, and healthy populations of all species of marine organisms will be maintained³.

Special Conditions 9 through 15 are comprehensive and include measures to ensure long-term compliance, mapping of locations and configurations, the creation of vessel access routes, standards and reports to reduce marine debris, and protections to reduce wildlife impacts.

EAC is fully supportive of Commission staff's recommendation to include best management practices and Special Conditions 9 through 15 as part of MOC's CDP. EAC is supportive of all Special Conditions 9 through 15 and is particularly concerned with the protection of eelgrass habitat and the avoidance of wildlife disturbances. EAC also recognizes the importance of marine debris reduction through patrolling, comprehensive gear marking, staff training, debris clean ups, annual reporting, the placement of gear in already disturbed areas, and recommendations for best management practices. The annual reports, and other compliance documentation, submitted by MOC should also be made publicly available to aid in monitoring.⁴

¹ See California Coastal Commission, Staff Report Permit Amendment W13a, April 26, 2018, page 2

² See *id.* at page 20

³ See *id.* at page 21

⁴ See *id.* at page 6

EAC Letter to CCC re. Agenda Item W13a
May 3, 2018

As a minor suggested revision, on page 11 of the Commission's Staff Report under the California Department of Fish and Wildlife heading, we believe the sentence should maybe state "Commission staff reached out and solicited input from the Fish and Wildlife Department staff..."⁵

EAC thanks MOC for their past diligence, efforts to come into compliance with the Coastal Act, and work to "proactively develop and document more accurate clean-up cost estimates and augment the funds in the escrow accounts..."⁶

In conclusion, EAC supports the Commission's approval of CDP amendment application 9-18-0002-A1, as conditioned. Thank you for your dedication to the protection of our priceless coastal resources and for this opportunity to comment.

Respectfully,



Morgan Patton
Executive Director



Ashley Eagle-Gibbs
Conservation Director

cc: Cassidy Teufel, California Coastal Commission

⁵ See *id.* at 11

⁶ See *id.* at 21.