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Agenda Item Th11a

August 2, 2019

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

Re: Support Agenda Item Th11a
Permit Amendment Application No. 1-93-73-A1
(Charles Friend Oyster Company)

Dear Coastal Commissioners:

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.

EAC submits the following comments generally supportive of the California Coastal Commission (Commission) staff recommendation regarding Agenda Item Th11a, Permit No. 1-93-73-A1 (Charles Friend Oyster Company) (CFOC) for after-the-fact approval to remove oyster cultivation equipment within a leased area of state tidelands in Tomales Bay. The scope of this Coastal Development Permit (CDP) amendment is narrowly limited to an after-the-fact authorization for the removal of cultivation equipment, as well as the addition of certain conditions to ensure its clean up and avoid future issues.

EAC is supportive of the Commission staff's oversight and efforts to bring aquaculture operators like CFOC into Coastal Act compliance. While EAC understands that after-the-fact permits are necessary under certain circumstances to bring operations into regulatory compliance, we would like to make it clear that we are generally not supportive of after-the-fact permitting and removal. We place an importance on timely permit compliance.

Issuance of after-the-fact permit amendments has the potential to set a standard for operators to install and/or remove unpermitted cultivation techniques without initially seeking appropriate permits. It is important that operational and removal activities are conducted pursuant to applicable permits to avoid potential harm to sensitive eco-system habitats including eelgrass and other marine resources.

With that in mind, we appreciate the diligent efforts that have been made by CFOC and the Commission staff to bring CFOC's operations into continued permit compliance. In particular, we note that the sub-lessee responsible for the unauthorized cultivation is no longer operating on this lease. In addition, the CDP amendment also provides for additional Commission oversight, including CFOC's required submittal of annual reports. We also encourage annual agency site visits, as there is a continuing need for oversight and accurate site assessments in the sensitive Tomales Bay environment.

We also acknowledge and appreciate the extensive efforts made by CFOC to clean up additional legacy and other marine debris on this lease, which appear to mitigate the damage caused by the unpermitted development.

We are supportive of special condition 2 in CDP 1-93-73 protecting eelgrass: "Protection of Eelgrass: The applicant shall not cut or disturb any eelgrass growing on the bay bottom during the installation or use of the proposed shellfish cultivation apparatus."¹

EAC is fully supportive of Commission staff's recommendation to include additional Special Conditions 4 through 7 as part of CFOC's CDP amendment including Special Condition 5 (prohibiting loose cultivation bags), 6 (requiring annual reporting), and 7 (marine debris reduction and management). As a minor suggested revision to the Staff Report, conditions 8 and 9 do not appear to be present.²

In particular, we are supportive of special condition 7.B. to require gear marking. EAC also recognizes the importance of marine debris reduction through patrolling, staff training, debris clean ups, annual reporting, and recommendations for best management practices.

We thank CFOC for their diligent efforts to come into compliance with the Coastal Act on lease No. M-430-04. EAC recommends the Commission's approval of CDP amendment application 1-93-73-A1, as conditioned. Thank you for your dedication to the protection of our priceless coastal resources and for this opportunity to comment.

¹ California Coastal Commission, Staff Report: Permit Amendment Re. No. 1-93-73-A1, July 24, 2019, Exhibit 1.

² Nine conditions are mentioned on page 4, but only 7 conditions are present.

EAC Comments re. Agenda Item Th11a

Respectfully,

A handwritten signature in black ink, appearing to read 'MP', with a long horizontal flourish extending to the right.

Morgan Patton
Executive Director

A handwritten signature in black ink, appearing to read 'AEagle-Gibbs', with a long horizontal flourish extending to the right.

Ashley Eagle-Gibbs
Conservation Director

cc: Cassidy Teufel, California Coastal Commission
Heidi Gregory, Tomales Bay Oyster Company