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May 1, 2020

Nicole Fairley
Water Resource Control Engineer
San Francisco Bay Regional Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
Via Electronic Delivery: nicole.fairley@waterboards.ca.gov

Re: Application for Section 401 Water Quality Certification for Hog Island
Oyster Company Tomales Bay Shellfish Farm

Dear Ms. Fairley,

The Environmental Action Committee of West Marin (EAC) is based in Point Reyes Station and has been working to protect the unique lands, waters, and biodiversity of West Marin since 1971. Since our inception, we have been committed to the health of West Marin's estuaries, bays, and watersheds including our strong focus on Tomales Bay.

We submit these brief comments regarding Hog Island Oyster Company Tomales Bay Shellfish Farm (Hog Island)'s application for Section 401 Water Quality Certification. We support the requirement of a Section 401 Water Quality Certification permit for fill and excavation within the waters of the state under the Clean Water Act. Hog Island's need for a permit is consistent with the recommendation by the California Coastal Commission staff in their February 2019 coastal development permit (2019 CDP) that Hog Island seek approvals with other agencies including the San Francisco Bay Regional Water Quality Control Board¹, as well as being consistent with the Army Corps of Engineers' requirement that a 401 Water Quality Certification be obtained, if required². We understand that other shellfish operators throughout the state have also been required to obtain 401 Water Quality Certifications.

From our review of the application, it is unclear whether the analysis includes permitting for Hog Island's full expansion under their 2019 CDP. For instance, the analysis in attachment 6 by WRA regarding eelgrass and gear survey does not include lease M-430-15, although this lease is referenced in the application itself. Perhaps, this is not relevant to the 401 Water Quality Certification application review, but we do note this apparent inconsistency, which is perhaps located elsewhere.

¹ See Attachment 3 to Hog Island's 401 Water Quality Certification application, California Coastal Commission, Staff Report F14a-d, January 24, 2019, page 30.

² See Attachment 4 to Hog Island's 401 Water Quality Certification application, Army Corps of Engineers, Letter to Mr. Finger, December 10, 2019, page 6.

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In closing, thank you for moving forward to review Hog Island's permit application to ensure their compliance with the Clean Water Act requirements and for your consideration of our comments. Please add us to your mailing list for items related to Tomales Bay.

We also thank Hog Island for their cooperation with the relevant agencies to obtain any relevant permits.

Respectfully,



Morgan Patton
Executive Director



Ashley Eagle-Gibbs
Conservation Director

cc: John Finger, Hog Island Oyster Company
Terry Sawyer, Hog Island Oyster Company