

**CALIFORNIA STATE LANDS COMMISSION**

100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202



*Established in 1938*

October 5, 2020

JENNIFER LUCCHESI, *Executive Officer*  
(916) 574-1800 Fax (916) 574-1810  
California Relay Service TDD Phone 1-800-735-2929  
from Voice Phone 1-800-735-2922

**Contact Phone: (916) 574-1890**

10/5/2020

File Ref: SCH # 2017032068

Humboldt Bay Harbor District  
Attn: Adam Wagschal, Deputy Director  
601 Startare Drive  
Eureka, CA 95501

Governor's Office of Planning & Research

**Oct 05 2020**

**STATE CLEARINGHOUSE**

VIA ELECTRONIC MAIL ONLY ([awagschal@humboldtby.org](mailto:awagschal@humboldtby.org))

**Subject: Draft Environmental Impact Report (EIR) for the Humboldt Bay  
Mariculture Intertidal Pre-Permitting Project and Yeung Oyster Farm  
(Project), Humboldt County**

Dear Mr. Wagschal:

The California State Lands Commission (Commission) staff has reviewed the subject Draft EIR for the Project being prepared by the Humboldt Bay Harbor, Recreation and Conservation District (District). The District is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission is a trustee agency for projects that could directly or indirectly affect sovereign land and their accompanying Public Trust resources or uses. Commission staff appreciates previously addressed comments from the March 4, 2019, comment letter and requests that the District continue to consult with us on finalizing the EIR as required by CEQA section 21153, subdivision (a), and the State CEQA Guidelines section 15086, subdivision (a)(2).

### **Commission Jurisdiction and Public Trust Lands**

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

Since 1851, the California Legislature has periodically transferred portions of the State's prime waterfront lands to local governmental entities for management purposes. These statutory tide and submerged land grants are held in trust for statewide Public Trust purposes. The proposed Project appears to affect lands with different jurisdictional components as explained in Commission's March 4, 2019, comment letter.

### **Environmental Review**

Even though many of the comments from the March 4, 2019, comment letter have already been addressed in the Draft EIR, please address the following remaining comments to ensure that impacts to State sovereign land are adequately analyzed in the Final EIR:

1. **Storm Events**. Commission staff requests that the Final EIR include a thorough discussion of storm events in the context of climate change and how the Project will minimize or avoid impacts to the environment during and after storm events. Storm events are likely to increase in intensity and frequency due to climate change. Storm events can cause significant damage to the Humboldt Bay area, particularly when combined with rising sea levels and extreme high tide events, such as King Tides. In 2003, for example, a storm surge co-occurred with an extreme high tide event and overtopped the earthen dike at Mad River Slough (in another part of Humboldt Bay), flooding nearly 600 acres of adjacent agricultural lands (Humboldt Bay Shoreline Inventory, Mapping and Sea-Level Rise Vulnerability Assessment, 2013, page 7). Stronger storms will increase marine debris from the dislodgement of intertidal and submerged infrastructure and equipment. Marine debris is a hazard to public safety, public access, navigation, and recreation. Staff requests that detailed discussions and appropriate mitigation measures be proposed for robust equipment monitoring, repair, and a recovery program to ensure derelict gear and equipment is not left in the Humboldt Bay, and is promptly cleaned up and removed.

Therefore, Commission staff requests the District include the following analysis in the Final EIR:

- How the proposed Project would be "resilient" in its designs to ensure function, safety, and protection of the environment over the expected life of the structures when storm events occur.
  - How storm events combined with turbidity rates would interact with aquaculture nutrients and effluents, what impacts this would have on water quality, and what measures are proposed to minimize or avoid the spread of nutrients and effluents that constitute contaminants.
  - How water quality, navigation, and public safety could potentially be impacted by marine debris and contaminants that may spread outside the lease areas from storm events.
2. **Maps with Public Access Routes**. Commission staff requests that maps showing public access routes on the Project site be posted at local kayak and boat

launching sites, or other known sites for all public recreation. These signs should be clear and highly visible to help inform all sectors of the public, and to inform wildlife refuge managers and local jurisdictions.

3. Environmental Justice. Commission staff requests that the District analyze possible impacts to environmental justice that could be created from this Project to ensure that the benefits and burdens are equitably distributed. The Project site is scored by the CalEnviroScreen 3.0 (<https://oehha.maps.arcgis.com/apps/webappviewer/index.html?id=4560cfbce7c745c299b2d0cbb07044f5>) to be 51 percent to 60 percent and is colored “yellow” on the map. Because the Project site and its surroundings are at least yellow (not green), there may already be disadvantaged communities in the area suffering from historic environmental injustices. Please review the Commission’s Environmental Justice Policy (<https://www.slc.ca.gov/envirojustice/>) to ensure this Project is mindful of environmental justice issues in this area and associated with this Project and explore ways this Project can help reduce existing environmental and social injustices for the people living in this area.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a trustee agency, the Commission requests that you consult with us on this Project and keep us advised of changes to the Project description and all other important developments. Please send additional information on the Project to the Commission staff listed below for the Final EIR.

Please send links of future Project-related documents including the Final EIR, Mitigation Monitoring and Reporting Program, Notice of Determination, CEQA Findings and, if applicable, and Statement of Overriding Considerations when they become available to [afifa.awan@slc.ca.gov](mailto:afifa.awan@slc.ca.gov). Please also refer questions concerning environmental review to Afifa Awan, Senior Environmental Scientist, at [afifa.awan@slc.ca.gov](mailto:afifa.awan@slc.ca.gov) or (916) 574-1891. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Jamie Garrett, Staff Attorney, at [jamie.garrett@slc.ca.gov](mailto:jamie.garrett@slc.ca.gov) or (916) 574-0398. For questions concerning Commission leasing jurisdiction, please contact Reid Boggiano, Public Land Management Specialist, at [reid.boggiano@slc.ca.gov](mailto:reid.boggiano@slc.ca.gov) or (916) 574-0450.

Sincerely,



Eric Gillies, Acting Chief  
Division of Environmental Planning  
and Management

cc: Office of Planning and Research  
A. Awan, Commission  
R. Boggiano, Commission  
M. Farnum, Commission