



November 16, 2020

Ventura Port District Board of Commissioners
1603 Anchors Way Drive
Ventura, CA 93001
Sent to jrauch@venturaharbor.com

Re: Preliminary Operations Plan for the Proposed Ventura Shellfish Enterprise Project

Dear Commissioners:

Thank you for the opportunity to comment on the Preliminary Operations Plan for the proposed Ventura Shellfish Enterprise Project. As explained in our July 13, 2020, and October 1, 2020 letters, the undersigned groups are concerned about the proposed siting of this Project in federal waters. Collectively, our organizations have extensive knowledge of marine resources off the California coast and experience navigating the various laws and policies associated with coastal and marine development. We remain convinced that state environmental, safety, and health regulations and public processes are more robust and protective than their federal counterparts. Additionally, LAFCo rules prohibit the District from pursuing a project in federal waters. For these reasons, we urge you to refrain from submitting the Preliminary Operations Plan to the Army Corps of Engineers and California Coastal Commission.

Instead, we urge the District to work with the relevant state agencies to explore a proposal in state waters. The California Coastal Commission is working on a Guidance for

aquaculture projects in state waters that will be completed by the end of the year.¹ The California Department of Fish and Wildlife is tasked with preparing a programmatic Environmental Impact Report for aquaculture in state waters,² and is completing an Aquaculture Information Report. The California Ocean Protection Council identified promoting sustainable aquaculture as a primary objective in its 2020-2025 Strategic Plan, with a goal of developing a statewide aquaculture action plan focused on marine algae and shellfish by 2023.³ These efforts involve coordination with various state agencies to produce a comprehensive process for reviewing proposed projects and ensure adequate attention to environmental, health, and safety concerns.

In contrast, the federal review process is mired in controversy and potential legal obstacles.⁴ Several federal laws and regulations are weaker than state requirements, e.g., the National Environmental Policy Act lacks the substantive mandate to avoid or minimize environmental effects that the California Environmental Quality Act requires. In addition, the Coastal Commissions consistency review under the federal Coastal Zone Management Act lacks the permitting authority, environmental review, oversight, and enforcement that apply to issuance of coastal development permits.

Finally, state LAFCo requirements do not allow the District to operate in federal waters.⁵ Accordingly, we urge the Commission to refrain from submitting the Preliminary Operations Plan to the Army Corps of Engineers and Coastal Commission, and to instead direct your staff to consider a proposal in state waters.

Thank you for consideration of our comments.

Sincerely,

Linda Krop, Chief Counsel
Environmental Defense Center

Susan Jordan, Executive Director
California Coastal Protection Network

Hallie Templeton, Senior Oceans Campaigner
Friends of the Earth

Mati Waiya, Executive Director
Wishtoyo Chumash Foundation

Michael Stocker
Director, Ocean Conservation Research
President, Seven Circles Foundation

Morgan Patton, Executive Director
Environmental Action Committee of West
Marin

¹ See California Coastal Commission CDP Application Guidance: Aquaculture and Marine Restoration, Draft, July 2020; available at <https://documents.coastal.ca.gov/assets/cdp/Draft-CDP-Application-Guidance-Aquaculture-and-Marine-Restoration.pdf>.

² Fish & Game Code section 15008 (SB 201, 2006).

³ California Ocean Protection Council, *Strategic Plan to Protect California's Coast and Ocean 2020-2025*, p. 27.

⁴ See, for example, *Gulf Fishermen's Ass'n v. Nat'l Marine Fisheries Serv.*, 968 F.3d 454 (5th Cir. 2020), *as revised* (Aug. 4, 2020).

⁵ Staff report by Kai Luoma, Ventura County LAFCo, to LAFCo Commissioners (October 16, 2019).

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