



Heal the Bay  
west  
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environmental  
action  
committee



June 30, 2022

Wildlife Aquaculture Program  
California Department of Fish and Wildlife  
P.O. Box 944209  
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*Via Electronic Mail: [aquaculturePrgm@wildlife.ca.gov](mailto:aquaculturePrgm@wildlife.ca.gov)*

Fish and Game Commission Marine Resources Committee  
California Fish and Game Commission  
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*Via Electronic Mail: [fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)*

Re. FGC MRC Agenda Item 4 (*Aquaculture leasing in California – public interest determination*);  
Criteria for FGC's finding "in the public interest" for considering new aquaculture leases

Dear Mr. Lovell, Department staff, and Commissioners,

Thank you for the opportunity to provide feedback on the draft criteria for “the public interest” finding that is mandated by Fish and Game Code Sections 15400 and 15404 regarding state water bottom leases for aquaculture. We, the undersigned organizations, have extensive experience in marine and aquaculture policy in the state of California. We have been supportive of the development of public interest aquaculture criteria before accepting any new leases.

We are grateful to see a fairly robust draft list that captures California's coasts and oceans' complex and sometimes conflicting functions. In addition to providing a marked-up version of the draft criteria circulated by Mr. Lovell, we have included some general comments and requests for clarification below.

### **Clarify that Criteria Do Not Apply to Finfish**

As an initial point, our understanding is that these proposed criteria do not apply to finfish aquaculture, which is not currently permitted in state waters without the completion of a programmatic planning process. Therefore, we have not fully addressed concerns related to finfish mariculture in our review of the public interest criteria. We request that the criteria explicitly state that it does not apply to finfish, which is currently prohibited. Of course, if finfish are later included in the criteria, we would have additional suggestions at that time.

### **Distribution**

Regarding public participation, these criteria should be made publicly available and distributed widely to stakeholders of all types including environmental NGO groups. For instance, the draft criteria should be posted in the meeting documents for the July Marine Resources Committee meeting, circulated broadly to all stakeholders, and made available on the aquaculturematters website.

### **Constraints and Considerations**

We would appreciate more clarity on how the presence of Constraints and Considerations will impact the decision to issue a lease. For example, where the lease is in a Constraint area, will the lease not move forward? Furthermore, while the Considerations list is robust, we are concerned that Considerations may be given a lower weighting individually, and a lease may still move forward in the presence of Considerations. Many of these Considerations are very important and are also mandated by regulations. We have two recommendations to ensure that Considerations are appropriately weighted.

First, view Considerations as prohibitions in most cases, requiring written exceptions for good cause and public benefit. Second, establish a mechanism for viewing Considerations collectively. It is critical to value and quantify the direct, indirect, and cumulative impacts of lease activities and Considerations. When viewed individually, it may not make sense to bar a lease application based on a Consideration. However, when the various Considerations are reviewed together, the lease may have a severe impact on coastal communities, economies, and ecosystems. Therefore, it may not meet the public interest criteria.

As a specific comment which is also included in the enclosed redline, the first two bulleted Considerations listed might be more appropriate as Constraints.

### **Best Management Practices**

We strongly agree that lease activities should be consistent with established best management practices. Our concern, however, is that the aquaculture industry does not have clearly defined best management practices despite many of our organizations advocating for this process to take place. While we understand that the Department of Fish and Wildlife (Department) and the Fish and Game Commission have many competing priorities, we feel that it is imperative that work is resumed on the best management practices rulemaking process. Until then, one interim solution to the lack of established best management practices is to ensure that the newly issued leases are consistent with past coastal development permit conditions issued for similar leases.

**Assess Workload and Staffing Needs**

We encourage the Department to continue to assess the workload required to issue leases and monitor lease compliance and enforcement to ensure they have adequate capacity to expand this workload. We are concerned that the issuance of new leases will add to the workload of already saturated staff.

**Conclusion**

We look forward to the July Marine Resources Committee meeting and continued engagement opportunities on this topic including a workshop. Thank you for the consideration of our comments.

Sincerely,

Ashley Eagle-Gibbs, Legal and Policy Director  
Environmental Action Committee of West Marin

Chance Cutrano, Director of Programs  
Resource Renewal Institute

Barak Kamelgard, Staff Attorney  
Los Angeles Waterkeeper

Emily Parker, Coast and Marine Scientist  
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Benjamin Pitterle, Science and Policy Director  
Santa Barbara Channelkeeper

cc: Susan Ashcraft, Senior Environmental Scientist and Marine Advisor, California Fish and Game Commission  
Sara Briley, Environmental Scientist, California Department of Fish and Wildlife  
Randy Lovell, State Aquaculture Coordinator, California Department of Fish and Wildlife  
Kirsten Ramey, Senior Environmental Scientist Supervisor, California Department of Fish and Wildlife  
Craig Shuman, Marine Region Manager, California Department of Fish and Wildlife

**Enclosure:** Redlined aquaculture public interest criteria draft