

DRAKES BAY OYSTER COMPANY

17171 Sir Francis Drake Blvd., Inverness, CA 94937

California Coastal Commission
Attn: Cassidy Teufel
45 Fremont Street, Suite 2000
San Francisco, CA 94105

October 5, 2009

RE: Coastal Development Permit Application No: 2-06-003

Dear Mr. Teufel,

Enclosed please find the additional documentation requested in your June 10, 2009 letter for permit application Number 2-06-003 for development at the Drakes Bay Oyster Farm; APN 109-130-17, located in Inverness, California. The operations at the Drakes Bay Oyster Farm are pursuant to vested rights but Drakes Bay Oyster Company agrees to submit to the commission's jurisdiction under reasonable terms.

Drakes Bay Oyster Company (DBOC) has reduced the scope of development proposed for the site. The new project description is broken into four categories:

Proposed New Site Development

1. Install one 8-foot by 20-foot refrigeration unit/container at the onshore site.
2. Construct and install required ADA compliant restroom facility.
3. Construct and install split rail and solid board fencing around proposed storage area and retail facility.
4. Install outdoor display aquarium for interpretive purposes.
5. Construct and install paved walkway to the restrooms to meet ADA requirements.
6. Remove existing power pole near setting tanks.
7. Remove existing power pole near processing building.
8. Demolish and remove existing wooden pier (south pier).
9. Install electricity lines below ground.
10. Implement Vessel Transit Plan with mooring areas and access lanes clearly marked.
11. Construction and backfilling of a 12-inch by 18-inch by 80-foot long trench.

Proposed changes in CDFG lease and shellfish culture operations

12. Amend list of cultured species permitted within DFG lease area number M-438-01 to include purple-hinged rock scallops (*Crassodoma gigantean* formerly *Hinnities multirugosus*) – contingent on DFG approval.
13. Amend list of cultured species permitted within DFG lease area number M-438-01 to include Manila clams (*Venerupis philippinarum* formerly *Tapes japonica*) – contingent on DFG approval.
14. Collect wild purple hinged rock scallops for future use as broodstock with CDFG approval and CDFG Broodstock Collection Permit.
15. Development of hatchery process to spawn purple hinged rock scallops onsite and produce scallop “seed” with CDFG approval.
16. Modify boundaries of DFG lease area number M-438-01 to include oyster racks currently outside of lease area – contingent on DFG approval.

Ongoing Maintenance for Existing Operation

17. Continue to carry out regular repairs and maintenance to existing oyster racks using only CDFG, CCC and NPS approved materials.
18. Continue compliance with 1992 Harbor Seal Management Plan.
19. Continue to carry out oyster and clam culture using 24" x 24" x 3" plastic or plastic coated wire containers or trays.
20. Continue to use established boat traffic lanes through Drakes Estero eelgrass beds for use during low tide.
21. Continue to operate the picnic area.
22. Continue Pacific and European oyster culture using hanging cluster method on racks located throughout DFG lease area number M-438-01 within Drakes Estero.
23. Continue Pacific and European oyster culture using anchored bottom bags within intertidal areas throughout DFG lease area number M-438-01 within Drakes Estero
24. Continue Pacific and European oyster culture using un-anchored bottom bags within intertidal areas throughout DFG lease area number M-438-01 within Drakes Estero
25. Continue Pacific and European oyster culture using anchored floating bags within intertidal areas throughout Department of Fish and Game lease area number M-438-01 within Drakes Estero
26. Continue Manila clam culture using bottom bags within areas throughout DFG one-acre lease area number M-438-02 within Drakes Estero
27. Continue to carry out marine biotoxin monitoring and water quality sampling within the estero.
28. Continue to import Pacific oyster larvae and seed; Manila clam larvae and seed and European oyster larvae and seed, only from CDFG approved sources with current CDFG import permits.
29. Continue to operate motor driven vessels within estero to plant and harvest approved shellfish species, for water quality monitoring, marine biotoxin monitoring, or any other farm related purpose.
30. Continue to operate non-motorized barges within estero to facilitate shellfish planting and harvesting.
31. Continue to operate retail sales facility.
32. Continue to operate the only state certified and FDA approved shellfish shucking and packing facility, pursuant to the requirements of the California Department of Public Health, Food and Drug Branch; the US Food and Drug Administration and the National Shellfish Sanitation Program.
33. Continue to operate onsite wastewater and septic systems.
34. Continue to store limited quantities of hazardous substances such as paints, gasoline, chlorine, detergents, solvents and cleaning products.
35. Continue to discharge wastewater from hatchery operations, wet storage, setting systems and oyster washing into estero (heated water to remain below 20 degrees above ambient water temperature)
36. Continue to carry out interpretive services to visiting public, conduct tours of onshore facilities for school groups, local non-profit organizations, private organizations, government agencies, etc.
37. Continue to provide onsite housing for employees and their families.
38. Continue to operate indoor hatchery/seed production facility and carry out remote setting activities both indoor and outdoor.
39. Continue to implement the Hazardous Materials Business Plan.
40. Continue to operate the state certified Drakes Bay Oyster Company non-transient, non-community, public water system, pursuant to the requirements of the California

Department of Public Health, Drinking Water Unit and the National Shellfish Sanitation Program.

Repairs

41. Repair existing wooden oyster washing pier with similar materials.
42. Replace existing 12' X 60' floating dock at the end of the oyster washing dock.
43. Replace oyster washing / conveyor / sediment retention system.
44. Replace existing seawater intake system with two four-inch high-density-polyethylene pipes extending 1050-feet into the estero from shore and terminating in a 16 square foot screened intake structure.
45. Repairs to stringing shed.
46. Repairs to hatchery building.
47. Repairs to processing building.
48. Repairs to retail sales building.

After the Fact Development

49. Installation of one 8-foot by 40-foot storage container.
50. Removal and replacement of a porch at worker residence.
51. Installation of split rail fence along the edge of parking area.
52. Installation of asphalt pavement surrounding the processing facility.
53. Installation of a temporary construction trailer.
54. Installation of a temporary 8-foot by 40-foot container for oyster shucking and packing.
55. Use of five outdoor seed setting tanks and associated water intake, discharge and circulation infrastructure.

Seed Setting Tanks:

The five existing seed setting tanks were previously covered by a non-permitted open structure with no floor. CCC -03-CD-12 required that the open building be removed. To comply with the order, DBOC removed the cover structure, but did not remove the tanks. The tanks are currently in basically the same location. The setting tanks have been integral to the oyster operation for at least three decades and are still used almost continuously. For the business to continue, the tanks had to remain in operation. There was no reason to move the five tanks to a different location so DBOC did not substantially move the tanks. DBOC repaired or replaced some of the piping at the tanks and buried the bottom 2 feet of the light weight fiberglass tanks so that the wind would not blow them away. The underground pipe location is shown on the project drawings.

The seawater for the setting tanks is delivered by a 2" Schedule 40 PVC plastic pipe that is connected to the seawater intake and pump system. Each tank has the capacity of around 4500 gallons. During the setting season, each tank is used for oyster larvae setting approximately every two weeks. The tanks are filled once, heated to approximately 75 to 80 degrees Fahrenheit, and held at that temperature for approximately 4 days. On the 4th day, the heaters are turned off, allowing the water in the tanks to cool. On about the 5th day, raw seawater is pumped into the tanks at a rate of approximately 3 gallons per minute. At the end of the cycle, around 7 days, the fully cooled seawater is allowed to discharge from the tanks.

Proposed Boat Ramp Improvements:

No boat ramp exists at the DBOC facility and there are no plans to build a boat ramp.

Septic System:

At one time, DBOC was concerned that an existing gravity sewer pipeline, located in the existing parking area, did not have adequate slope to function properly. There has been no problem with the operation of this pipeline. Quarterly monitoring and annual on-site inspections are conducted by Marin County Environmental Health Services and a registered Sanitarian. The septic systems operated by DBOC are operating correctly and no repairs are required.

Existing Asphalt Pavement:

Most of the existing asphalt paving was an overlay of pre-existing asphalt paving. This paving was installed as required by the California Department of Public Health, Food and Drug Branch, to protect human health while transporting oysters between the walk-in refrigeration and the 8 X 40 shucking and packing facility. The NPS specified where the 8 X 40 processing container would be located and approved the requisite asphalt paving at a meeting on-site when the demand was given by the Health Department. At the time, DBOC was unaware of any requirement to obtain a CDP for this work. No one, including the several NPS officials present at the joint regulatory agency meeting, mentioned anything about a CDP requirement for the work.

The asphalt paving consists of 2" compacted thickness, ½" aggregate asphalt. In a small section, to conform to ADA regulations, up to 10" of class 2 aggregate base rock was used between the original surface and the new surface to reduce the slope of the top surface.

DBOC will remove existing (and pre-existing) paved surfaces as shown on project drawings. A portion of the parking area has been paved with asphalt since before DBOC began operations in 2005. None of the parking area will be paved with asphalt. It will be an oyster shell surface to match the existing, surrounding parking lot surfaces. Only work areas requiring impervious, hard surfaces will be paved. The final asphalt area to remain on site, as shown on plans, is less overall paved surface area than was covered in asphalt when DBOC took over operations in January, 2005.

Asphalt removal will be performed by saw cutting the existing asphalt at locations shown on the construction drawings. The pavement will be removed from site by a licensed carrier and will be delivered to an asphalt and concrete recycling facility.

South Pier Removal:

The South Pier was historically used by the oyster farm to load cultch bags from the setting tanks onto barges. The Pier was damaged by storms and would need repairs prior to continuing its traditional use. DBOC will remove the South Pier and limit the oyster farm to only one pier. The south pier will be demolished by hand and removed from site. All debris from the pier demolition will be transported to an approved landfill.

We understand that the CDFG issues need to be resolved as soon as possible. It is my understanding that these issues may be included on the November Fish and Game Commission meeting agenda. Hopefully, all of the outstanding issues will be resolved at that meeting.

Please feel free to give me a call if you need any additional information.

Thank you,

Kevin Lunny
Drakes Bay Oyster Company