

## STAFF SUMMARY FOR FEBRUARY 10-11, 2016

**7. AQUACULTURE LEASE TEMPLATE****Today's Item****Information** **Action** 

Originally scheduled to receive and approve addition to aquaculture lease template for state water bottom leases related to best management practices. Since legal review is still underway, this item now provides an update.

**Summary of Previous/Future Actions (N/A)****Background**

FGC has the authority to lease state water bottoms to any person for the purpose of conducting aquaculture in marine waters of the state under terms agreed upon between FGC and the lessee pursuant to Sections 15400 and 15405, Fish and Game Code. In 2011, FGC approved a new state water bottom lease template that provides a consistent set of lease terms and conditions, with a provision for special conditions to be established specific to an individual lease area.

Since that time, there has been an increase in public attention focused on shellfish aquaculture practices and stewardship, particularly related to marine debris associated with aquaculture leases within bays and estuaries. FGC has received several public requests to hold aquaculture lease holders accountable for debris associated with their operations. In response, DFW and FGC staff hosted a public meeting in Aug 2015 to provide an opportunity for dialogue between stakeholders, regulatory agencies, and shellfish growers. One of the key topics of discussion focused on best management practices (BMPs) for shellfish aquaculture.

Shellfish aquaculture BMPs are a set of procedures that can be voluntary or mandatory, to address areas where attention should be focused to sustain acceptable production levels in concert with promoting sound environmental practices that avoid impact to marine environment. BMP categories may cover site use, "good neighbor" policies, environmental stewardship, monitoring and record-keeping, etc. Several growers with current leases in California have expressed a willingness to formalize BMPs that are beneficial and compatible with their lease operations.

FGC and DFW staff have discussed options for FGC consideration. Two references provide examples: Requirement of BMPs for marine finfish aquaculture leases (Fish and Game Code Section 15400(4)), and the requirement of kelp harvest plans for kelp bed leases using mechanical harvest (sections 165 and 165.5, Title 14, CCR). Both cases require the lessee or harvester to develop BMPs or plans for each lease site to be approved by FGC, and identify the categories that shall be included in the plans. Similarly, in the case of shellfish lease areas, the best practices for any grower would appropriately be tailored to site-specific circumstances, methods, and environmental considerations.

Staff recommends, and is in the process of working with legal counsel from both DFW and FGC to determine the best mechanism for, establishing a requirement that each lessee develop BMPs for each lease area for FGC review and approval. Potential mechanisms

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include a new lease condition in lease template or a new regulation to apply to all current and future lease holders). Staff anticipates resolution on the approach in the near future.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Delay action on this item until staff has identified a recommended approach to establishing a requirement for lease-specific BMPs.

**DFW:** Supports new requirement in concept, and commits to work with FGC staff on further development.

**Exhibits (N/A)****Motion/Direction (N/A)**