

CALIFORNIA OCEAN PROTECTION COUNCIL

Staff Recommendation
November 29, 2010

AQUACULTURE PROGRAMMATIC ENVIRONMENTAL IMPACT REPORT

File No.: 06-063-01
Project Manager: Valerie Termini McCormick

RECOMMENDED ACTION: Authorization to disburse up to an additional \$100,000 to ICF International to complete an Aquaculture Programmatic Environmental Impact Report

LOCATION: Statewide

STRATEGIC PLAN OBJECTIVE: Governance and Ocean and Coastal Ecosystems

EXHIBITS

Exhibit 1: Ocean Protection Council [Staff Recommendation for the Marine Aquaculture Programmatic Environmental Impact Report](#) (File No. 06-063-01, June 8, 2006)

RESOLUTION AND FINDINGS:

Staff recommends that the Ocean Protection Council adopt the following resolution pursuant to Sections 35500 *et seq.* of the Public Resources Code:

“The Ocean Protection Council hereby approves the disbursement of an additional amount not to exceed \$100,000 to ICF International (ICF) to complete an Aquaculture Programmatic Environmental Impact Report.”

This authorization is subject to the condition that prior to disbursement of funds, ICF shall submit for the review and approval of the Secretary to the Council:

1. A work plan, including schedule and budget.

Staff further recommends that the Council adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the Council hereby finds that:

1. The proposed project is consistent with Chapter 4 of Division 26.5 of the Public Resources Code, the Ocean Protection Act.
2. The proposed project is consistent with the Ocean Protection Council's grant program funding guidelines.

PROJECT SUMMARY:

Staff is recommending that the Ocean Protection Council (OPC) authorize disbursement of up to \$100,000 to ICF¹ to support the completion of an Aquaculture Programmatic Environmental Impact Report (PEIR).

In 2006, the California legislature approved Senate Bill 201 (SB 201), the Sustainable Oceans Act, establishing criteria for future marine aquaculture and mandating that a PEIR be completed by the Department of Fish and Game (DFG). As DFG lacked the funds to develop the PEIR on its own, OPC stepped in to assist. In June 2006, the OPC authorized disbursement of \$300,000 to develop the PEIR (see Exhibit 1), and in December 2009, the Council's Secretary authorized disbursement of an additional \$45,000 for its completion. Although DFG originally intended for the PEIR to be completed in approximately one year, it became apparent that much more time was needed to address the complex issues surrounding aquaculture and the completion schedule was extended. Factors contributing to the delay included the need to set aquaculture program goals, the difficulty in addressing the uncertainties and differing viewpoints in managing the future of aquaculture, and the complexity of defining the project scope and developing alternatives. In addition, unforeseen staff turnover at both DFG and ICF resulted in the project going through numerous changes that pushed deadlines back further.

Taking the time to address these issues and needs will result in a more robust and defensible PEIR. In January 2010, DFG retained a new Aquaculture Coordinator and has developed a new budget and timeline for completing the project. Additional funds are now needed for the additional time ICF is taking to develop a thorough, thoughtful document. The funds will be used to allow for additional review for DFG, add in time for a scientific peer review of the document and allow for ample time for public comment on the PEIR. The extended timeframe will allow for integration of relevant comments into the PEIR, which will result in a richer, scientifically credible and more defensible document.

PROJECT DESCRIPTION:

The need for and general description of the project remains consistent with the description in the June 8, 2006 staff recommendation (Exhibit 1). In early 2009, ICF prepared an administrative version of the Draft PEIR for review by DFG and the Aquaculture Development Committee (ADC). The ADC is a group of various governmental and non-governmental entities providing comments on drafts of the PEIR, including; members of the aquaculture industry, the National Oceanic and Atmospheric Administration, the California Coastal Commission, the Department of Food and Agriculture, University of California Davis extensions and University of California San Diego Sea Grant, the Monterey Bay Aquarium and the Ocean Conservancy. During the spring, ICF responded to the extensive comments received by the ADC and DFG and subsequently prepared and revised draft versions of the PEIR.

The immediate next steps, as requested by DFG, are to produce a new version of the document for DFG internal review. Following receipt of comments by ICF on the most recent draft version, DFG has requested a final look at the document prior to issuing the public version of the

¹ In January 2009 Jones and Stokes adopted the new name of its parent company, ICF International.

Draft PEIR. Also built into this timeline is an external scientific review that will be conducted by the California Ocean Science Trust (OST) to thoroughly vet the science behind the PEIR. The public review period is expected to begin early 2011 and will last 45 days. DFG anticipates that the PEIR will be certified by fall 2011.

PROJECT CONTRACTOR:

To help meet the requirements of SB 201, the OPC agreed to fund the development of the PEIR, and in 2006 selected ICF in consultation with DFG. ICF has prepared numerous programmatic environmental impact reports and has an extensive history of developing quality products. This PEIR requires knowledge of the California Environmental Quality Act (CEQA), particularly, programmatic CEQA documents, and knowledge of marine aquaculture practices in California and worldwide.

PROJECT HISTORY:

The PEIR project was originally approved by the council in 2006 (see Exhibit 1).

PROJECT FINANCING

Ocean Protection Council

June 8, 2006 authorization	\$300,000
December 2009 augmentation (delegated)	45,000
Current authorization	<u>100,000</u>
Total Project Cost	\$445,000

The anticipated source of funds will be the fiscal year 2008/2009 appropriation from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). Proposition 84 authorizes the use of these funds for purposes consistent with Section 35650 of the Public Resources Code, establishing the California Ocean Protection Trust Fund (Pub. Res. Code § 75060(g)). Under Section 35650(b), Ocean Protection Trust Fund monies may be expended for projects authorized by the OPC that are identified as appropriate Trust Fund purposes. The project is consistent with the Trust Fund purposes as discussed in the following section.

This project is also appropriate for prioritization under the selection criteria set forth in Section 75060(g), which provides in part that the Council will give priority to projects that will help the state develop scientific data needed to adaptively manage the state's marine resources. The proposed project will set measures that will protect the state's wild capture fisheries and marine habitats from environmental threats, including water pollution, invasive species, diseases impacting native populations, and net pens affecting existing habitat.

CONSISTENCY WITH THE CALIFORNIA OCEAN PROTECTION ACT:

This project is consistent with the Ocean Protection Act (Public Resources Code Sections 35500 *et seq.*) because it is consistent with trust fund-allowable projects as identified in Public Resources Code Section 35650 (b)(2):

(A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species: The PEIR will identify potential environmental impacts of California marine aquaculture operations, and discuss thresholds of significance and mitigation strategies for aquaculture development.

(C) Foster sustainable fisheries: The PEIR will allow aquaculture development to occur in a manner than does not harm natural fish populations or the surrounding ocean environment.

(D) Improve coastal water quality: The PEIR will set strict guidelines that help to protect coastal and offshore environments from improper development of coastal aquaculture facilities.

(F) Improve management, conservation, and protection of coastal waters and ocean ecosystems: The PEIR will streamline the management and permitting of new aquaculture facilities while holding all operations to the same standards and ensuring that environmental impacts are minimized.

A certified PEIR for marine aquaculture can serve as the first tier of CEQA review for proposed aquaculture operations, and will promote greater consistency of review by CEQA lead agencies by setting standards in advance. The PEIR can also serve as a guidance document for potential project sponsors in alerting them to the potential environmental impacts and the need to avoid or mitigate those impacts. The PEIR may also serve as an educational tool for interested parties that may have concerns about commercial marine aquaculture development.

CONSISTENCY WITH THE OPC'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Goal A (Governance) Objective 2a (Interagency Collaboration): “Inventory laws and identify gaps or overlaps between jurisdictions affecting priority ocean issues.” The development of a PEIR will provide the Fish and Game Commission a robust basis for future decisions using sound science and a thorough analysis of the environmental issues surrounding aquaculture. In addition, the final PEIR will provide much needed information for the industry to have a clear idea of what issues need to be resolved before applying for aquaculture permits off the coast of California.

Goal E (Ocean and Coastal Ecosystems) Objective 5a (Encourage Sustainable Economic Activity): “Encourage and support new and innovative activities that can be conducted in a sustainable manner along or off the California coast.” If an aquaculture project is found to be a sustainable enterprise, the activity could generate jobs, help protect wild sources of fisheries, and would be operating under some of the most environmentally strict regulations in the world. This model could serve as the basis for other states to adopt similar approaches to developing aquaculture projects in a sustainable manner.

CONSISTENCY WITH THE OPC'S GRANT PROGRAM FUNDING GUIDELINES:

The proposed project is consistent with the OPC's Grant Program Funding Guidelines adopted November 20 2008, in the following respects:

Required Criteria

1. **Directly relate to the ocean, coast, associated estuaries, or coastal-draining watersheds:** This project consists of developing an environmental assessment for offshore aquaculture facilities.
2. **Support of the public:** As in 2006, this project will continue to inform a broad range of constituencies.
3. **Greater-than-local interest:** This project will develop a PEIR that will govern aquaculture statewide, and may serve as a model for the federal government in creating regulations and guidelines for future offshore commercial aquaculture development.

Additional Criteria

5. **Improvements to management approaches or techniques:** A certified Aquaculture PEIR will provide a robust, transparent analysis of environmental regulations to serve as the basis for the first tier of a CEQA review for each aquaculture permit requested. This document will inform the Fish and Game Commission, DFG, and the aquaculture industry as to what criteria need to be met in order to develop an aquaculture facility off the coast of California.
6. **Resolution of more than one issue:** Benefits resulting from preparation of the PEIR include the opportunity for a more comprehensive consideration of impacts and alternatives than is practical in review of individual applications; broader consideration of cumulative impacts, avoiding the need for continual reconsideration of recurring policy issues; and increased efficiency through the application of developed data to subsequent reviews.
8. **Timeliness or Urgency:** Without additional funds, the PEIR will not be completed.
9. **Coordination:** DFG, the Fish and Game Commission, and an aquaculture review committee consisting of academic institutions, NGOs, and members of the aquaculture industry must work together to develop a PEIR.

CONSISTENCY WITH THE OPC'S PROGRAM PRIORITIES FOR 2009 THROUGH 2010:

Agency Coordination and Ocean Management Activities

This project will help DFG and the Fish and Game Commission develop rigorous, transparent regulations for aquaculture development off the coast of California. The PEIR will also serve as the first tier in CEQA review.

COMPLIANCE WITH CEQA:

The proposed project is categorically exempt from review under CEQA pursuant to 14 Cal. Code of Regulations Section 15306 because the project involves only data collection, research and resource evaluation activities that will not result in a serious or major disturbance to an environmental resource. Staff will file a Notice of Exemption upon approval by the OPC.