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Glenn Normandeau
Executive Director
NH Fish and Game Department
11 Hazen Dr.
Concord, NH 03301

Re: NH Marine Aquaculture License Application Submitted by New England Superior Oyster LLC

Dear Director Normandeau:

I am a lawyer licensed to practice in Maine. My practice consists exclusively of the litigation of environmental and contamination-related claims in a variety of jurisdictions around the country. I also have a PhD in Natural Resource and Environmental Studies from the University of New Hampshire. I am affiliated faculty in the Department of Natural Resources and the Environment and have taught Natural Resources Law and Policy and other courses related to the governance of human activities that impact the environment. I have been actively involved in monitoring and restoration activities in the Piscataqua region for over 15 years and have served on the Piscataqua Regional Estuary Partnership ("PREP") Social Science Advisory Committee since at least 2013. My wife, Helen, and I currently reside in Brunswick, Maine, but from approximately November of 2000 until November 2016 we resided on Bayview Rd in Dover overlooking Royalls (or "Royals") Cove, the Scammel Bridge, and beyond to Little Bay. We are very familiar with the site proposed by New England Superior Oyster for its 1.3 acre oyster culture and "finishing" operation. We have boated, fished, and kayaked extensively in the area. I am submitting these comments in support of the New England Superior Oyster, LLC, Marine Aquaculture License Application.

I have reviewed the application submitted by New England Superior Oyster, LLC as well as the objections found in an on-line petition promoted by "BRV, Cricklewood on the Bellamy, & Friends of the Bellamy River." The application is straight-forward and proposes the establishment of a 1.3 acre site for the placement of bottom culture cages and "Rack and Bag and Cage Culture" wire mesh systems on the bottom in an area tucked immediately north of the Scammel Bridge and offshore from the Bellamy River

Wildlife Preserve. The location is tidal with a very muddy bottom. Anyone ultimately looking at the project will see yellow marker buoys at the corners and midpoints of the boundaries of the site. Bottom culture cages would be exposed for approximately one hour before and after mean low tide.

The purpose of this project, to grow and "finish" oysters, is consistent with the overall goals of those agencies charged with the monitoring and restoration of the Great Bay estuary. Few would dispute the notion that the public good would be best served by a

healthy and resilient Great Bay ecosystem. The critical role that bivalves play in the historic resilience of the ecosystem of the Great Bay is well-documented. The monitoring and data compiled by a variety of researchers, published every five years by the Piscataqua Regional Estuary Partnership (“PREP”) in its *State of the Estuaries* reports, has described the continuing demise of the Great Bay/Little Bay estuary. While certainly the environmental harm done to the Great Bay has resulted from a variety of stressors, researchers agree that the decrease in oyster and clam populations over the last 25 years has deprived the Great Bay of a critical natural tool for the filtration of contaminants, sediments and bits of plant and algal material from the water. PREP’s 2018 *State of Our Estuaries Report* notes that the number of adult oysters decreased from over 25 million in 1993 to 1.2 million in 2000. Oyster populations, the lungs of the Great Bay, continue to decline. The most recent PREP data shows that oyster populations declined from their 2011 levels and represent only 28% of the PREP oyster recovery goal. The point: The health and resilience of the Great Bay requires more bivalves filtering the water so that bad stuff is removed and sunlight can again reach eel grass at greater depths.

The project proposed by New England Superior Oyster LLC advances the PREP goals and objectives. If it is allowed to go forward it will provide a valuable service filtering Bellamy River water before it enters the Great Bay. The Bellamy River water quality is sadly contaminated with runoff from development, storm water run-off, and upstream contamination sources. The bivalves nurtured by New England Superior Oyster LLC will play an important role in the filtration of Bellamy River water contaminated by the run-off from historic industrial sites in combination with burgeoning development. The threats to the Great Bay ecosystem are not posed by projects like the one proposed in this application. The environmental problems are, sadly, generally presented by continual development and expanded impervious surfaces that permit storm water to run untreated into waters like the Bellamy River.

In sum, the Director must decide whether to approve the application of New England Superior Oyster LLC. The applicants in this matter have certainly satisfied the technical and environmental application requirements posed by Fis 807.07. A key question for the Director is the application would:

adversely impact the state's aquatic or marine resources or would impose unacceptable disease, ecological, environmental, health, safety or welfare risks to persons, the environment, aquatic or marine species as required by RSA 211:62-e.

As discussed above, the application submitted in this case presents a positive ecological benefit to the ecology of the Great Bay. No contaminants are used in this operation. Contaminants, in fact, are removed from the water column. Objections posed by opponents are, objectively, vague and conclusory. Despite the fact that the location for this venture does not front on any residential area, for instance, opponents complain that the project is somehow close enough to impact the “quality of life” of those who live behind buffers of forest and foliage and who may on occasion be annoyed to see the boundary posts through the trees.

Complaints that recreation and navigation are negatively impacted are, from the point of view of someone who has kayaked and taken a 26’ Boston Whaler into the area, silly. Years of fishing in that area has disclosed that there is no significant structure (of interest to a striped bass fisher) that would be encompassed by the project. Anyone familiar with the area and pilots a boat stays in the channel – some 200’ away from the site. Further,

from my experience, folks who want to kayak in that area will not be impacted by this operation because kayaks are typically put in at the Cedar Point end of Scammel Bridge. The site is quite simply a very, very good place to cultivate oysters and not a good place for much of anything else related to humans. Further, and more importantly, this project will benefit the ecosystem of the area – with little if any practical cost to humans.

In conclusion let me say that as a lawyer and a scientist I feel that I am able to look at issues in terms of ecosystem sustainability and resilience. My legal activities and academic research focus on the need for institutions and governance to guide human behavior toward the fostering of human dignity and ecosystem resilience. I am sincerely concerned that if this application be denied it will set a precedent that will work against efforts to restore the water quality and ecosystem resilience of the Great Bay estuary. If this oyster project is denied there will be likely be no chance for any privately funded oyster production project to survive objection despite the obvious ecosystem benefits. Small but meaningful projects that hold promise for the good of residents in the watershed should not be deterred without compelling concerns. This is an opportunity to provide a common sense and environmentally sustainable example and demonstrate that aquaculture, recreation, and navigation can be harmonized.

Thank you for your attention and please let me know if you have any questions or concerns.

Sincerely,

John R Coon, PhD