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July 17, 2005

Ms. Kimberly Damon-Randall

National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

Re: Docket Number: 050509124-5124-01

The East Coast Shellfish Growers Association (ECSGA) hereby provides comments on the petition to list the American oyster, *Crassostrea virginica*, as threatened or endangered under the provisions of the Endangered Species Act (ESA).

The ECSGA is an industry association representing hundreds of small and medium-sized businesses that grow and sell shellfish. Our membership covers the Atlantic coast from Florida to Maine. Our operating procedures mandate that we act on a consensus basis, and in response to the ESA petition our Board, with a member in each of the Atlantic states voted unanimously to oppose the petition.

We were, of course, extremely surprised that the National Oceanic and Atmospheric Administration (NOAA) didn't reject the petition as frivolous, and instead accepted it triggering the status review process and an eventual decision by the Secretary of Commerce on its merit. The crux of ESA as we understand it is that in order to be listed a species population must have reached a threatened or endangered level according to a reasonable person looking at the information. Our rough estimate of the population size of the American oyster is in the 10 to 15 billion range based solely on the most current NOAA reported landings for the species converted to individuals with a conservative estimate of growth rate and mortality. We fail to see how this can be seen reasonably as constituting a population either threatened or endangered.

Of course we are aware that in some areas there are considerably fewer oysters than that found historically. This is true for virtually every fish and shellfish species that is commercially harvested. And although over-fishing has been an important element in population changes in many areas for oysters as well as other commercial species, over-fishing is not currently limiting the recovery of oyster populations since the fishery is aggressively being managed by all of the states. The oyster diseases, MSX and Dermo are important factors currently affecting oysters. However, there are active research programs, most funded by NOAA, already addressing these diseases and suggesting strategies for a more rapid restoration of oyster populations, especially in the Chesapeake. In our opinion, these diseases have been exacerbated by general environmental degradation from human activities in the watersheds where they occur. We fail to see how an ESA listing will be able to improve on the work already underway to restore oyster populations in areas where these diseases occur.

We are principally an organization of oyster farmers. Our in-the-water crops consist of hundreds of millions of oysters that are out there performing estuarine "services" such as nitrogen removal and providing habitat. In areas where disease is important, our growers have learned to still be successful farmers. And, of course, the oysters we grow spawn at least once or twice before they are harvested, potentially adding to wild stocks. It is our fear that an ESA listing of the oyster will interfere with our operations, and effectively diminish our ability to contribute to wild oyster populations.

The ECSGA recognizes that the ESA process is based both of science and on politics. Our members have been forced by the ESA petition to expend considerable time and money to address and refute the petition, even in this early stage. We view with dire trepidation the economic effect that a listing would have on our businesses as a new layer of unnecessary bureaucracy is added to our industry that is already among the most regulated.

Sincerely yours,

Edwin W. Rhodes
Executive Director