



**Australian
Competition &
Consumer
Commission**

Your Ref: grd:100492
Our Ref: 42030 C2010/494
Contact Officer: John Rouw
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25 June 2010

Richard McNeil
Partner
Cowell Clarke
Level 5
63 Pirie St
ADELAIDE SA 5000

Dear Mr McNeil

**South Australian Oyster Growers Association – applications for authorisation A91229
and A91230 – interested party submissions and request for further information**

I refer to the above application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 17 May 2010.

As you are aware, the ACCC wrote to interested parties seeking submissions in relation to the application. The ACCC requested submissions be provided by 16 June 2010.

The ACCC has received public submissions from the following interested parties:

- Boylan Oysters
- Eyre Island Oysters
- JB & CJ Holmes
- Pacific Estate Oysters
- Pure Coffin Bay Oysters
- South Australian Aquaculture Council
- A party that requested that its identifying particulars be excluded from our public register.

The ACCC also received one submission that was excluded from the ACCC's public register at the request of the party providing the submission.

A copy of each of the public submissions is attached. All publicly available submissions are also posted on the ACCC internet site at www.accc.gov.au/AuthorisationsRegister

If you wish to comment on the submissions, we ask that you do so by **12 July 2010**.

To assist the ACCC in assessing the application for revocation and substitution, please also provide a response to the attached list of questions.

We ask that you provide the requested information by **12 July 2010**. Please provide supporting information, such as examples, wherever possible.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact John Rouw on (03) 9290 1402.

Yours sincerely

A handwritten signature in black ink, appearing to be 'GJ' or similar initials, written over a light grey rectangular background.

Gavin Jones
Director
Adjudication Branch

Applications A91229 and A91230 for revocation and substitution of authorisations – South Australian Oyster Growers Association

Request for further information – June 2010

Your submission states that in the period of the current authorisations, A60024 and A60025, which came into force on 25 August 2005, about \$590,000 in spat levies has been collected. I also note that the South Australian Oyster Growers Association's submission in support of its 2005 application for revocation and substitution provided details of the money raised by the levy each year up to and including the 2003-04 financial year.

1. Please advise the amount of money raised each year by the levy since the 2003-04 financial year.

Farmers are able to seek a refund of levies paid in any financial year. Where a refund is paid the farmer does not have access to research published or generated from the levy in that year. Some farmers have told the ACCC that they did not know they could seek a levy refund until the ACCC informed them of this

2. a. How are farmers made aware that they can seek a levy refund?
b. Is the levy listed as a separate item on invoices for farmers?

An alternative to farmers automatically having to pay the levy and then seeking a refund at the end of the financial year would be for farmers to be asked at the start of the financial year whether they wished to pay the levy and have access to research published or generated by the levy.

3. Please provide a view about how such an alternative approach would affect the operation of the levy system.

General questions

4. Has any party ever refused to pay the levy? If so, please provide details of each instance where spat has not been supplied because a party has refused to pay the levy.
5. What options are available to South Australian oyster farmers to obtain spat other than from the parties to the agreement?