

STATE OF MAINE

Ferda Farms LLC

DEPARTMENT OF MARINE RESOURCES

NMR LCx

Experimental Aquaculture Lease Application

Suspended Culture of Oysters and Quahogs

January 27, 2021

New Meadows River, Brunswick and Harpswell

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Ferda Farms LLC applied to the Department of Marine Resources (DMR) for a three-year experimental aquaculture lease located east of Lower Coombs Island, New Meadows River, in Brunswick and Harpswell, Maine. The proposed lease is 3.78¹ acres and is for the suspended cultivation of American oysters (*Crassostrea virginica*) and northern quahogs (*Mercenaria mercenaria*).

1. THE PROCEEDINGS

DMR accepted the application as complete on April 9, 2020. Notice of the application and the 30-day public comment period were provided to riparian landowners within 1,000 feet of the proposed site, state and federal agencies, the Towns of Brunswick and Harpswell,² and others on DMR's email list. Notice of the application and comment period was published in the May 18, 2020 edition of the *Times Record*. During the comment period, DMR did not receive any requests for a public hearing, and no hearing was held. The site report was issued on September 9, 2020. The evidentiary record regarding this lease application includes the application, DMR's site report, and the case file. The evidence from each of these sources is summarized below.³

2. DESCRIPTION OF THE PROJECT

A. Site Characteristics

On July 22, 2020 DMR visited the proposed lease site and assessed the area in consideration of the criteria governing experimental leases. The proposed lease is comprised of two tracts and occupies subtidal waters between Lower Coombs and Bombazine Islands in the New Meadows River (SR 2). As

¹ The applicant originally requested 3.86 acres. However, DMR's calculation based on the provided coordinates indicate the proposed site is 3.78 acres.

² Notice of the completed application and 30-day comment period was provided to the Town of Brunswick on May 15, 2020, whereas the Town of Harpswell was provided with notice on September 22, 2020. The difference in notice dates was due to a processing oversight, but each municipality was given a 30-day comment period as required by law.

³ These sources are cited, with page references, as CF (case file), App (Application), SR (site report).

displayed in Figure 1 below, the “West Tract” is located parallel to the shoreline of Lower Coombs Island, and the “East Tract” is located along the east side of a tidally exposed sand bar (SR 2).

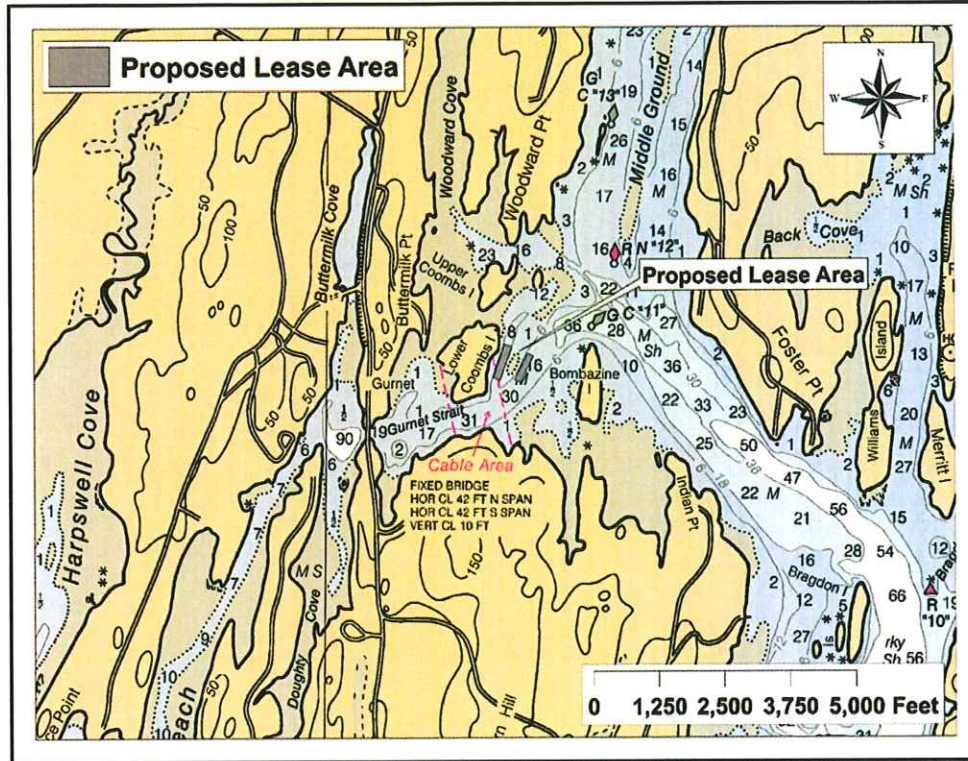


Figure 1: Location of the proposed lease area. Image from page 1 of the Site Report.

The proposed West Tract is comprised of 2.26 acres and the East Tract is comprised of 1.52 acres (SR 7). The shoreline of Lower Coombs Island, which is closest to the West Tract, is mostly rocky and interspersed with areas of marsh grass (SR 2). The upland is characterized by mixed forest (SR 2). During the site visit, staff observed a dock on the southern end of Lower Coombs Island (SR 2).

The shoreline of Bombazine Island, which is closest to the East Tract, also has a rocky shoreline and uplands characterized by mixed forest (SR 2). Staff observed a residential dock on the norther point of Bombazine Island (SR 2). Sebascodegan Island lies to the south of the proposed site and has a rocky shoreline with areas of marsh grass (SR 2). The uplands of the Island are characterized by residential development (SR 2). The main navigational channel of the New Meadows River is located to the northeast of the proposed site (SR 2). Gurnet Straight, a channel that connects the New Meadows River to other waters within Harspswell, is located between the southern end of Lower Coombs Island and the northern shore of Sebascodegan Island (SR 2).

During the site visit, staff measured water depths at the proposed site. Correcting to mean low water, depths at the proposed corners of the East Tract ranged from 10.6 to 21.0 feet; and 3.5 to 6.6 feet

on the West Tract (SR 7). At mean low water, corner 2 of the proposed West Tract, is ~145 feet to the northwest of the nearest point of land, which is a tidally exposed sand bar (SR 8). At mean low water, corner 5 of the East Tract is located ~170 feet to the east of the nearest point of land, which is the tidally exposed sand bar (SR 8). Figure 3 includes labeled site corners.

B. Proposed Operations

The purpose of this proposed site is to test the commercial efficacy of growing oysters and quahogs in the New Meadows River using a combination of culture techniques (App 7⁴). Oysters would be cultivated using floating mesh bags and cages. Each side of the floating mesh bags, referred to as “flip bags,”⁵ would contain a pontoon to provide for flipping, which helps prevent biofouling. The number of flip bags and cages would vary, but there would be a maximum of 4,800 flip-bags, 800 cages, or a combination of each type, not to exceed the respective maximums. Quahogs would be cultivated using a total of 4,800 bottom mesh bags and cages (App 9).

The flip bags and cages would be deployed on floating longlines on the West and East Tracts (App 29). The East Tract would contain two sections of six floating longlines per section for a total of 12 longlines, and the West Tract would contain two sections of seven floating longlines per section for a total of 14 longlines (App 29). The longlines would be oriented Southwest to Northeast on both Tracts (App 29). The bottom gear would be deployed along the substrate, beneath the floating longlines. In January and February, the floating surface gear would either be sunk to the bottom of the proposed site or moved to an upland storage facility. The bottom gear, used to cultivate quahogs, would remain on the site year-round.

In addition, a 20' x 22' raft is proposed for the West Tract (App 34). The raft would contain a washdown pump, motor, and tumbler (App 8). All mechanized equipment would be powered by solar panels (App 8). The site would be visited daily from March through December. The application indicates that some market sized shellfish would be transported to a Limited Purposed Aquaculture (LPA) license, so that product can be accessed during the winter months (App 8).⁶ At the time the application was

⁴ Note: Each page of the application contains two sets of page numbers: one set is typed, the other is handwritten. The page numbers referenced here are to those that are handwritten.

⁵ The flip bags are not described in the gear table on page 14 of the application but are included on pages 4-6 of the application.

⁶ LPAs are licenses that expire December 31st each year but may be renewed. LPAs can only be 400sqft in size. Experimental leases may be up to 4 acres in size.

submitted, the LPA had not been applied for but would be located in an area that does not ice over during the winter months (App 8).

There are four LPAs within the boundaries of the proposed West Tract, which are issued to Maxwell Burtis, a shareholder of Ferda Farms, LLC (App 43).⁷ The LPAs were originally issued in 2020 and are for the culture of American oysters and quahogs using a combination of suspended and bottom culture techniques. If the proposed lease is granted the LPAs within the boundaries of the proposed lease site would be relinquished (App 11). The closest LPAs not associated with the lease application are ~550 feet to the northeast of the proposed West Tract⁸ (SR 11). According to DMR records, those LPAs were originally issued in 2016 and are for the suspended culture of American oysters.

3. STATUTORY CRITERIA & FINDINGS OF FACT

Approval of experimental aquaculture leases is governed by 12 M.R.S.A. §6072-A. This statute provides that a lease may be granted by the Commissioner of DMR upon determining that the project will not unreasonably interfere with the ingress and egress of riparian owners; with navigation; with fishing or other water related uses of the area, taking into consideration other aquaculture uses in the area; with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna; or with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments. The Commissioner must also determine that the applicant has demonstrated that there is an available source of organisms to be cultured on the lease site.

A. Navigation

The proposed West Tract is located between the eastern shore of Lower Coombs Island and a sand bar, while the proposed East Tract is located between the sand bar and Bombazine Island (SR 9). At the nearest point, the marked navigation channel in the New Meadows River is located ~1,250 feet from the proposed lease site (SR 9). Commercial and recreational vessels utilize the main navigational channel and vessel traffic in this area would likely be heaviest during the summer months (SR 9). Given the distance between the proposed site and the main navigational channel, it is unlikely that vessel traffic within the main channel would be unreasonably impacted by the proposed site if it were to be granted (SR 9).

There is a secondary channel located between Bombazine and Lower Coombs Islands (SR 9). The secondary channel leads from the main navigation channel to Gurnet Strait, which connects the New

⁷ The LPA acronyms are MBUR520, 620, 720, and 820.

⁸ The LPA acronyms are PGRA116, 216, and 316

Meadows River with Long Reach and other waters within Harpswell (SR 9). The entirety of the East Tract is within the secondary channel (SR 10). According to the Harpswell Harbormaster, the Gurnet Strait is the single connection between the New Meadows River and Harpswell, except for exposed waters beyond Cundy Point (SR 10).⁹ Figure 2, included below, shows the approximate location of the secondary channel in relationship to Long Reach, Gurnet Strait, and Lower Coombs, Bombazine, and Sebascodegan Islands.

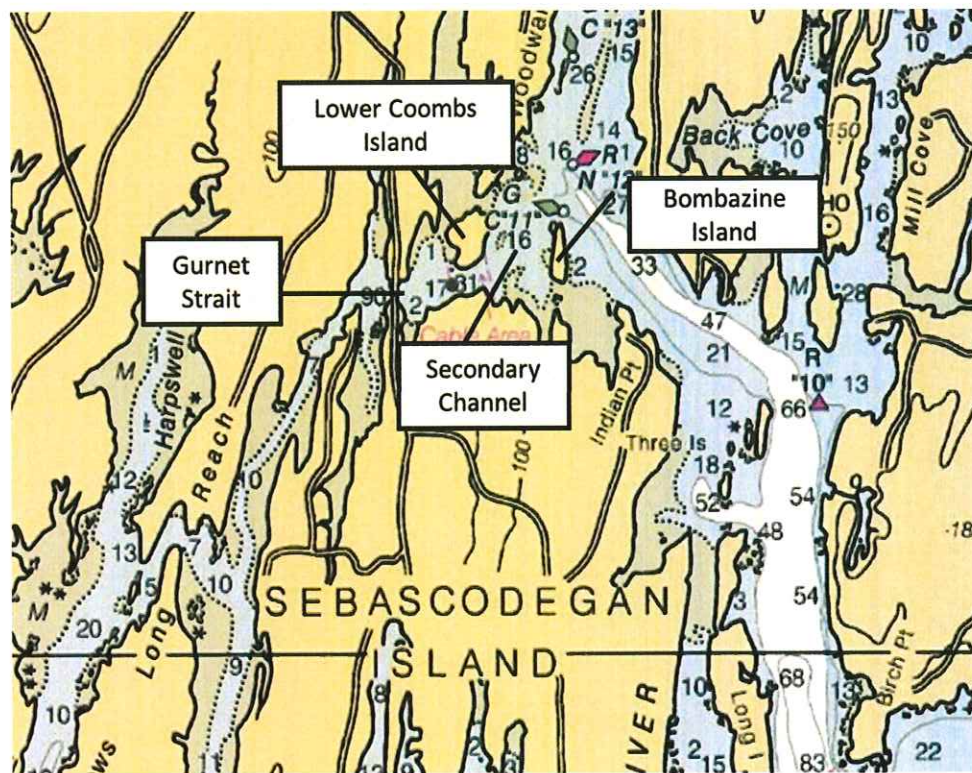


Figure 2: Location of certain geographical features in the area surrounding and near the proposed site. Image made by DMR staff using a NOAA chart.

During the site visit, the closest observed mooring was ~166 feet from the proposed East Tract and ~253 feet from the proposed West Tract (SR 9). Beyond the closest observed moorings, is a mooring field that extends to an area near the Gurnet Strait Bridge (SR 9). See Figure 3, which depicts the location of the observed moorings and mooring field.

If the proposed lease were granted, there would be ~280-feet of navigable area in the secondary channel (SR 10). The site report indicates that the secondary channel is likely frequented by mariners that are traveling to Long Reach and the Gurnet Strait mooring field, particularly during the summer months

⁹ See page 10 of the site report, which reads: "Paul Plummer, the Harbormaster for the Town of Harpswell, stated that the Gurnet Strait is the only connection between the New Meadows River and Harpswell other than the exposed waters beyond Cundy Point."

(SR 10). During the site visit, DMR staff observed some kayakers in the secondary channel, to the south of the proposed site, near the Sebascodogan shoreline (SR 10). The application indicates that kayaking tours occur during the summer months and that kayakers stop to view the LPAs in the area (App 10). The Harbormaster indicated that mostly smaller recreational vessels transit the area to access Long Reach and Gurnet Strait, but there are navigable waters throughout Long Reach at mean low water (SR 10).

The site report indicates that the size and type of vessels capable of navigating Long Reach would likely be able to transit the remaining ~280 width of the secondary channel if the proposal were granted (SR 10). However, the proposed lease site, if granted could create a constriction that limits vessel traffic within the secondary channel to the east of the proposed East Tract. Specifically, if several vessels simultaneously transited the area, a possibility that seems likely given the number of moorings, ~280 feet may not be suitable as several vessels attempt to maneuver in the area. The site report also indicates that the constriction may create an obstacle for larger vessels or vessels operating under sail that are trying to reach the mooring field (SR 10).

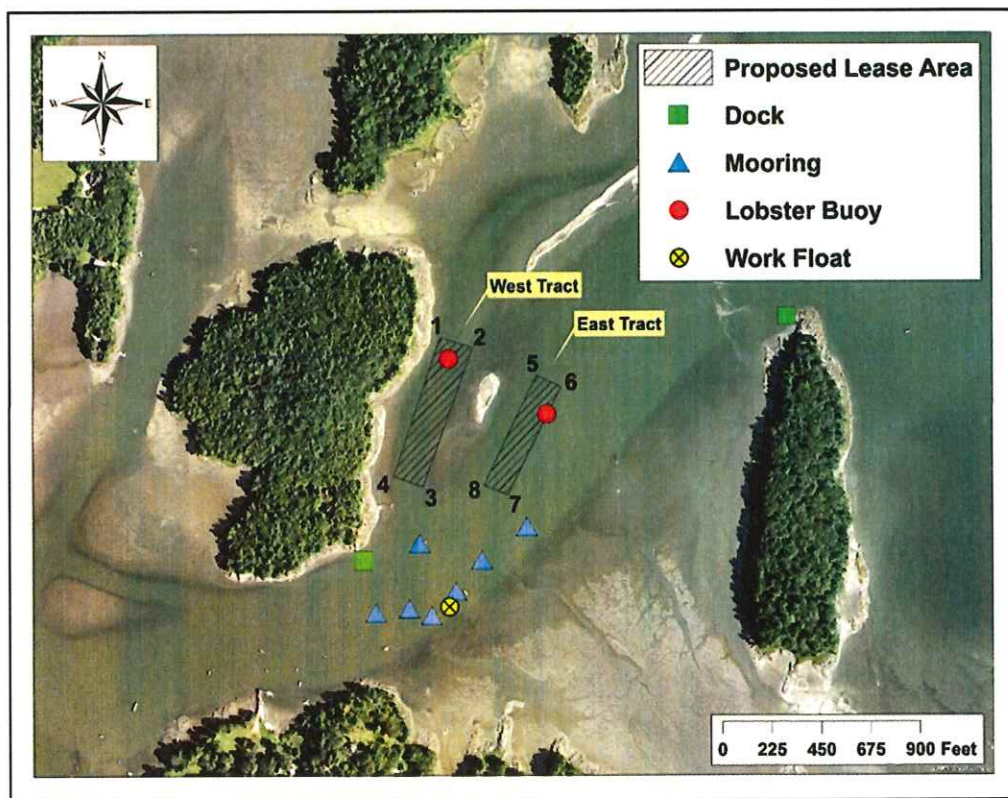


Figure 3: Image of the proposed lease site in relationship to observed docks, moorings, lobster buoys, and work floats. Image from page 8 of the Site Report.

The proposed West Tract is ~40 feet from the tidally exposed eastern shoreline of Lower Coombs Island (SR 9). The proposed West Tract is also 665 feet in length and is parallel with a significant portion

of the eastern shoreline of Lower Coombs Island (App 29, see Figure 3). If the proposed lease were granted, only small, hand-powered, or shallow draft vessels would be able to navigate within the narrow space between the eastern shoreline of Lower Coombs Island and the proposed site (SR 9). This would also restrict the type of vessel that could land on the eastern shoreline to small, hand-powered, or shallow draft vessels (SR 9). Based on aerial imagery (see Figure 3) and NOAA charts, both the eastern and southern shorelines of Lower Coombs Island do not have extensive intertidal mud flats (SR 9). Therefore, at lower tidal stages, it is likely that the eastern and southern shorelines of Lower Coombs Island are the most conducive to shore landing at lower tidal stages (SR 9). Lower Coombs Island is also subject to an easement held by the Brunswick-Topsham Land Trust (SR 10). The easement allows vessels to land on the shoreline of Lower Coombs Island, except for an area near a residence (SR 10). If the proposed lease is granted, recreational navigation to Lower Coombs Island may be impacted (SR 10).

As previously noted, there are three LPAs, not associated with the lease application, located ~550 feet to the northeast of the West Tract. These LPAs are west of the shoal water and a tidally exposed sandbar that extends from Iron Island (SR 11). If the lease is granted and during lower tidal stages, the LPA holder may only be able to access these LPAs by transiting through the proposed West Tract (SR 11). In addition, ~6 lobster (*Homarus americanus*) trap buoys were observed in the vicinity of the proposed site and there were 2 buoys inside the proposed lease boundaries (SR 10).

Discussion:

In evaluating the potential affects a proposal may have on navigation the Commissioner considers the following as specified in Chapter 2.37(1)(A)(2) of DMR's regulations:

The Commissioner shall examine whether any lease activities requiring surface and or subsurface structures would interfere with commercial or recreational navigation around the lease area. The Commissioner shall consider the current uses and different degrees of use of the navigational channels in the area in determining the impact of the lease operation.

In this instance, the applicant is proposing to deploy both surface and bottom culture gear. The main navigational channel is more than ~1,250 feet from the proposed lease site and given this distance it is unlikely to interfere with commercial or recreational navigation within the main channel. However, there is a secondary channel that leads from the main navigation channel to Gurnet Strait, which connects the New Meadows with Long Reach and other waters within Harpswell. The secondary channel also contains a mooring field.

The proposed East Tract is located entirely within the secondary channel. If the proposal were granted, there would be ~280 feet of navigable area remaining within the channel. Given the presence of a mooring field and the fact that the secondary channel serves as an access point to Gurnet Strait, vessel traffic in the area is likely frequent, especially during summer months. The application and site report describe kayaking in the area and the Harbormaster noted that recreational vessels utilize the area as well. Based on observed lobster buoys near the proposed lease site, and existing LPA sites it is also reasonable to assume that some commercial vessels navigate in the area as well.

Although there would be ~280 feet of navigable area in the secondary channel, if the proposal were granted, it would create a constriction. As multiple vessels tried to enter or leave the secondary channel maneuverability would be hindered. The constriction could create an obstacle for larger vessels or vessels operating under sail that are trying to reach the mooring field. These scenarios seem likely given that the secondary channel is a navigational way to Gurnet Strait and there is a mooring field.

The West Tract is located ~40 feet from the tidally exposed eastern shoreline of Lower Coombs Island. The Brunswick-Topsham Land Trust holds an easement on the Island, which allows vessels to land on most of the shoreline (except near a residence). It is likely that landing, at lower tidal stage, is limited to the eastern and southern shorelines of Lower Coombs Island, due to tidally exposed mudflats around other areas of the Island. The West Tract is 665 feet in length and runs parallel with the eastern shoreline, so it would reduce access to a long stretch of the eastern shoreline. If the proposal is granted, recreational access to Lower Coombs Island may be hindered.

There are also LPAs in the area, which are not held by any individuals associated with the application. If the proposal is granted, the holder of those LPAs may need to traverse through the West Tract, at certain tidal stages, to access their license sites. The applicant is not proposing to limit or exclude navigation through any of the proposed lease Tracts and the application indicates that the channels between each of the longlines would provide kayakers with space to maneuver (App 10). According to the application there is 20 feet of space between the suspended longlines (App 30).

Although the applicant would not exclude navigation within the site and has provided 20 feet of space between surface longlines, vessels other than kayaks traverse the area. In addition, some mariners may be reluctant to navigate into an area that contains suspended longlines and gear. Furthermore, it seems unlikely that other types of vessels, including those operating under sail, would be able to navigate through the lease area without damaging their vessel and the proposed suspended aquaculture gear.

Given the evidence, if the proposal were granted as applied for, the suspended gear would unreasonably interfere with navigation in the area by limiting transit to both Gurnet Strait and the nearby

mooring field, and restricting access to Lower Coombs Island. Furthermore, the suspended longlines and cultivation gear would be deployed from spring through most of winter. This means that surface gear would be present throughout the summer months when vessel traffic is likely to be most frequent.

The applicant has also proposed using bottom culture gear, whereby mesh bags would be secured to submerged longlines that rest along the bottom of each tract year-round (App 6, App 14). In addition, the oyster cages may be deployed on the bottom of each tract during the winter months (App 5). During the site visit, DMR staff took depth measurements on both tracts, which were corrected to mean low water in the site report. Mean low water depths at the proposed corners of the East Tract ranged from ~10.6 to 21.0 feet and ~3.5 to 6.6 at the proposed corners of the West Tract. The height of the proposed bottom cages is ~1.6 feet and the height of the proposed bags is 3 inches. Therefore, at mean low water, there would be ~9 to 19.4 feet of water covering the bottom cages (tallest piece of equipment) on the East Tract and 1.9 to 5 feet on the West Tract.

In consideration of mean low water depths, there would still be enough water between the top of the cages and the surface of the water for depth appropriate vessels to navigate through the respective tracts. The deployment of only bottom gear would ameliorate the adverse effects the proposed suspended operations would have on navigation in the area. Therefore, based on the evidence, if the lease is granted, it will only authorize the deployment of proposed bottom culture gear. If the proposal is granted, a condition will be added to the lease specifying that only bottom culture gear may be deployed on the site.

Therefore, based on the deployment of bottom culture gear only, the aquaculture activities proposed for this site will not unreasonably interfere with navigation.

B. Riparian Access

During the site visit, staff observed one residential building and dock along the adjacent shoreline of Lower Coombs Island (SR 9). The proposed site is ~403 feet from the observed dock and ~40 feet from the eastern shoreline of Lower Coombs Island, at nearest points. The site report indicates that it is unlikely the proposed lease would impede access to the dock (SR 9). For the reasons described in Section 3.A of this decision, the proposal, if granted, would be for bottom culture only so it is unlikely that the proposal would hinder access to the eastern shoreline of Lower Coombs Island.

Staff also observed several docks long the northern shoreline of Sebascodegan Island (SR 9). The closest dock was 1,050 feet to the southwest of the proposed West Tract (SR 9). Given this distance, it is unlikely that the proposal would affect access to the docks along the northern shoreline of Sebascodegan

Island. Access to observed moorings are described and contemplated in section 3.A of this decision. DMR did not receive any comments concerning riparian ingress and egress.

Therefore, the aquaculture activities for this site, as described in section 3.A of this decision, will not unreasonably interfere with the ingress and egress of any riparian owner.

C. Fishing & Other Uses

Fishing. During the site visit, ~6 lobster (*Homarus americanus*) trap buoys were observed in the vicinity of the proposed site and there were 2 buoys inside the proposed lease boundaries (SR 10). Staff also noted that there was moderate lobstering fishing activity in and around Gurnet Strait, which is located to the southwest of the proposed lease site (SR 10). The site report indicates that lobster fishing may occur closer to the proposed site, or to a greater extent during other times of year (SR 10). However, it did not appear that lobster activity within the area was concentrated near the proposed site (SR 10).

Multiple schools of menhaden (*Brevoortia tyrannus*) were also observed near the proposed East Tract (SR 10). DMR did not receive any feedback on the proposal regarding whether seining for menhaden may occur in the area. The proposed surface gear would preclude seining within the proposed lease boundaries (SR 10). However, for the reasons described in section 3.A of this decision, if the lease is granted, it would be for bottom culture gear only.

DMR staff did not observe any recreational fishing within the area (SR 10). However, striped bass (*Morone saxatilis*) fishing is common within the New Meadows River (SR 10). The site report indicates that the proposed gear has the potential to make hook and line fishing more difficult for fishermen that choose to operate within the site since gear entanglement may occur (SR 10). However, if the lease is granted, the site would be for bottom culture only. Furthermore, the applicant is not requesting that recreational fishing be prohibited within the boundaries of the lease site.

Exclusivity. The applicant is requesting that dragging: “for any bottom species be excluded from the lease site. We do not see this being a problem since there are no bottom species” (App 12). The applicant also asked that commercial fishing and lobstering be limited to the channels between the floating longlines, not between cages or gear (App 12). The applicant requested that recreational diving be prohibited within the boundaries of the proposed site (App 12).

Based on the record, there is no evidence to suggest that bottom dragging occurs on the proposed lease site. The application does not list bottom dragging as a fishing activity and it notes that there are no bottom species. Therefore, if this proposal is granted, there will be no conditions specific to bottom

dragging. The requested limitation on the deployment of commercial fishing gear within certain areas of the lease site was based, in part, on the authorization of surface aquaculture gear. The record indicates that lobster fishing does occur in the area. If the proposal is granted it would be for bottom culture gear only.

However, there would still be gear on the bottom of the site, so the deployment of other commercial fishing gear could result in entanglement or other issues. Therefore, if the lease is granted it will be conditioned to prohibit commercial fishing without prior authorization from the lease holder. If the lease is granted, commercial fishing may be able to occur within the boundaries of the lease site at the discretion of the lease holder. The same condition would be applied to diving, so that it is prohibited without prior authorization from the lease holder.

Other aquaculture uses. When the site report was published on September 9, 2020, there were three leases and 26 LPA licenses within a mile of the proposed lease site (SR 11). The closest lease to the proposed site was over 2,800 feet to the northeast (SR 11).¹⁰ As previously noted, the closest LPAs not associated with the applicant are ~550 feet to the northeast of the proposed West Tract. Due to shoal waters and a tidally exposed sand bar, the license holder may only be able to access the LPAs by traveling through the proposed West Tract during lower tidal stages (SR 11). DMR did not receive any comments about the lease proposal from the LPA holder. If the lease is granted, navigation through the site would be permitted and there would be no surface gear. In consideration of these factors, it is unlikely that the proposed lease would unreasonably interfere with other aquaculture uses of the area.

Other water-related uses. During the review period, DMR did not receive any comments detailing other water-related uses that are not already contemplated in other sections of this decision. Based on the absence of public comments, it is reasonable to conclude that there are no concerns regarding the effects the proposed lease may have on other water-related uses of the area.

Therefore, considering other aquaculture uses of the area, the aquaculture activities for this site, as described in section 3.A of this decision, will not unreasonably interfere with fishing or other water related uses of the area.

D. Flora & Fauna

Based on historical eelgrass (*Zostera marina*) data collected in 2018, the closest eelgrass beds were approximately a half mile from the proposed site (SR 12). According to the application, no aquatic

¹⁰ Lease acronym NMR WPx, which is authorized for the suspended and bottom culture of shellfish.

vegetation (i.e. eelgrass) was observed in the boundaries of the proposed site or in the surrounding area during test dives conducted in August 2019 (App 14).

During the site visit, staff observed double-crested cormorants (*Phalacrocorax auritus*) on Maxwell Burtis' LPA gear, two great blue herons (*Ardea herodias*), and a harbor seal (*Phoca vitulina*) that was hunting a school of menhaden (SR 13). Data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW) indicate that part of the proposed lease is located within Tidal Wading Bird and Waterfowl Habitat (SR 13). The entirety of the proposed site is within great blue heron habitat, which is designated as a Species of Special Concern in Maine (SR 13). The 660-foot protective buffers surrounding two bald eagle (*Haliaeetus leucocephalus*) nests are ~230 feet to the west of the proposed West Tract and 600 feet to the east of the East Tract (SR 13). In Maine, bald eagles are recognized as a Species of Special Concern and are protected by the federal Bald and Golden Eagle Protection Act (SR 13).

DMR sent a copy of the application to MDIFW for their review and comment. MDIFW indicated that:

A portion of the proposed experimental aquaculture intersects with Tidal Waterfowl and Wading Bird Habitat. If total exclusion nets will be used to deter and exclude predatory sea ducks from the facility, we recommend a maximum mesh size of 6 inches with 3mm twine or larger for excluding eiders, and a maximum mesh size of 4 inches with twine of 3mm or larger for excluding scoters.¹¹

However, the applicant is not proposing to use any exclusion nets or other predator controls. In follow-up correspondence, MDIFW indicated that the proposed aquaculture activities did not raise concerns about the great blue heron colony that is present within the area (SR 14). Based on the evidence, it is reasonable to conclude that the proposed lease will not have an unreasonable impact on the ecological function of the area.

Therefore, the aquaculture activities will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.

E. Public Use & Enjoyment

Per the site report, "there are no beaches, docking facilities, or conserved lands owned by federal, state, or municipal government within 1,000 feet of the proposed lease site" (SR 14).

Therefore, this site will not unreasonably interfere with public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by federal, state, or municipal governments.

¹¹ CF: Email from R. Settele to C. Burke on June 24, 2020.

F. Source of Organisms

The applicant intends to source American/eastern oyster (*Crassostrea virginica*) seed from Muscongus Bay Aquaculture and Mook Sea Farm (App 5). Quahogs (*Mercenaria mercenaria*) would be sourced from Muscongus Bay Aquaculture (App 5). These sources of stock are approved by DMR (SR 12).

Therefore, the applicant has demonstrated that there is available source of stock to be cultured for the lease site.

4. CONCLUSIONS OF LAW

Based on the above findings, and modifications to the proposed operations described in section 3.A of this decision, I conclude that:

1. The aquaculture activities will not unreasonably interfere with the ingress and egress of any riparian owner.
2. The aquaculture activities for this site will not unreasonably interfere with navigation.
3. The aquaculture activities for this site will not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in the area.
4. The aquaculture activities for this site will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.
5. The aquaculture activities for this site will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments.
6. The applicant has demonstrated that there is an available source of stock to be cultured for the lease site.

Accordingly, the evidence in the record supports the conclusion that the aquaculture activities meet the requirements for the granting of an aquaculture lease set forth in 12 M.R.S.A. §6072-A.

5. DECISION

Based on the foregoing, the Commissioner grants the requested experimental lease of 3.78 acres to Ferda Farms LLC, for three years, the term of the lease to begin within twelve months of the date of this decision, on a date chosen by the lessee¹²; however, no aquaculture rights shall accrue in the lease

¹² DMR Rule 2.64 (14) provides:

area until the lease is fully executed.

This lease is granted to the lessee for the cultivation of American/eastern oyster (*Crassostrea virginica*) and northern quahogs (*Mercenaria mercenaria*) using bottom gear only. The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. Since this is an experimental lease with more than 400 sq. ft. of structures and no discharge, a bond or escrow account is required. The lessee shall post a bond or establish an escrow account pursuant to DMR Rule 2.64 (12)(B) in the amount of \$5,000.00, conditioned upon performance of the obligations contained in the aquaculture lease documents and all applicable statutes and regulations.

6. CONDITIONS TO BE IMPOSED ON LEASE

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 MSRA §6072-A (15).¹³ Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purpose of the lease. The conditions incorporated into the lease are:

1. Commercial fishing is prohibited within the boundaries of the lease site, except with prior authorization from the lease holder.
2. Scuba diving is prohibited within the boundaries of the lease site, except with prior authorization from the lease holder.
3. Only bottom culture gear can be deployed on the lease site.

7. REVOCATION OF EXPERIMENTAL LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072-A (22) and DMR Rule Chapter 2.64 (13) that no substantial research has been conducted on the site within the preceding year, that research has been conducted in a manner injurious to the

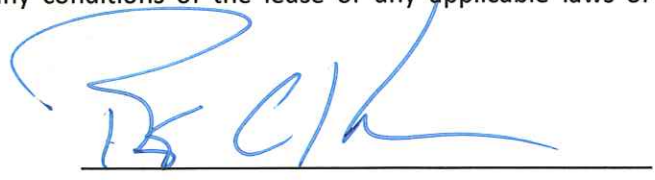
“The term of the lease shall begin within 12 months of the Commissioner’s decision, on a date chosen by the applicant. No aquaculture rights shall accrue in the lease area until the lease term begins and the lease is signed.”

¹³ 12 MRSA §6072-A (15) provides that:

“The commissioner may establish conditions that govern the use of the leased area and limitations on the aquaculture activities. These conditions must encourage the greatest multiple, compatible uses of the leased area, but must also address the ability of the lease site and surrounding area to support ecologically significant flora and fauna and preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose. The commissioner may grant the lease on a conditional basis until the lessee has acquired all the necessary federal, state and local permits.”

environment or to marine organisms, or that any conditions of the lease or any applicable laws or regulations have been violated.

Dated: 1/07/21



Patrick C. Keliher, Commissioner
Department of Marine Resources