

**STATE OF MAINE**  
**DEPARTMENT OF MARINE RESOURCES**  
Experimental Aquaculture Lease Application  
17 March 2008

**Great Bay Aquaculture, LLC**  
**& James West, Applicants**  
Docket #2007-10E  
(FREN PI3)

## **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

On June 25, 2007, the Department of Marine Resources (“DMR”) received an application from Great Bay Aquaculture, LLC, of Portsmouth, New Hampshire and James West of Sorrento, Maine for a three-year experimental aquaculture lease on a 1.86-acre site located in the coastal waters of the State of Maine, in Frenchman Bay, south of Preble Island in the Town of Sorrento in Hancock County, for the purpose of cultivating Atlantic cod (*Gadus morhua*) and blue sea mussels (*Mytilus edulis*) using net pen and suspended culture techniques. The application was accepted as complete on October 11, 2007. It was amended on November 26, 2007 to add Atlantic halibut (*Hippoglossus hippoglossus*) as an additional species. Although no requests for a hearing on this experimental lease application were received, DMR determined that a public hearing was warranted because the project involves raising finfish of species not currently cultivated in Maine. Consequently, after a hearing on January 14, 2008 was postponed because of bad weather, a public hearing on this application was held on February 20, 2008, in Sorrento.

### **1. THE PROCEEDINGS**

The evidentiary record before the Department regarding this lease application includes four exhibits introduced at the hearing (see exhibit list below) and the record of testimony at the hearing itself. Sworn testimony was given at the hearing by: Mark Kesselring, George Nardi, and James West on behalf of the applicants; DMR’s Aquaculture Environmental Coordinator, Jon Lewis; Shawn Mahaney of the U.S. Army Corps of Engineers; and Robert Wilpan, Sorrento selectman.

Notices and copies of the application and DMR site report were sent to numerous state and federal agencies for their review, as well as to a number of educational institutions, aquaculture and environmental organizations, the Town of Sorrento and the Sorrento Harbormaster, members of the Legislature, representatives of the press, and private individuals.

At the hearing, Messrs. Kesselring, Nardi, and West described the proposed project. Mr. Lewis presented his site report and showed a video depicting the sea bottom on the site, which was provided by the applicants as part of the baseline environmental study. Mr. Mahaney testified briefly about federal agencies’ review of the project. Responding to questions from members of the public, Mr. Wilpan briefly described arrangements for the applicants to lease a town building. Each witness was sworn and subject to questioning by the Department, the applicant, and members of the public. Several members of the

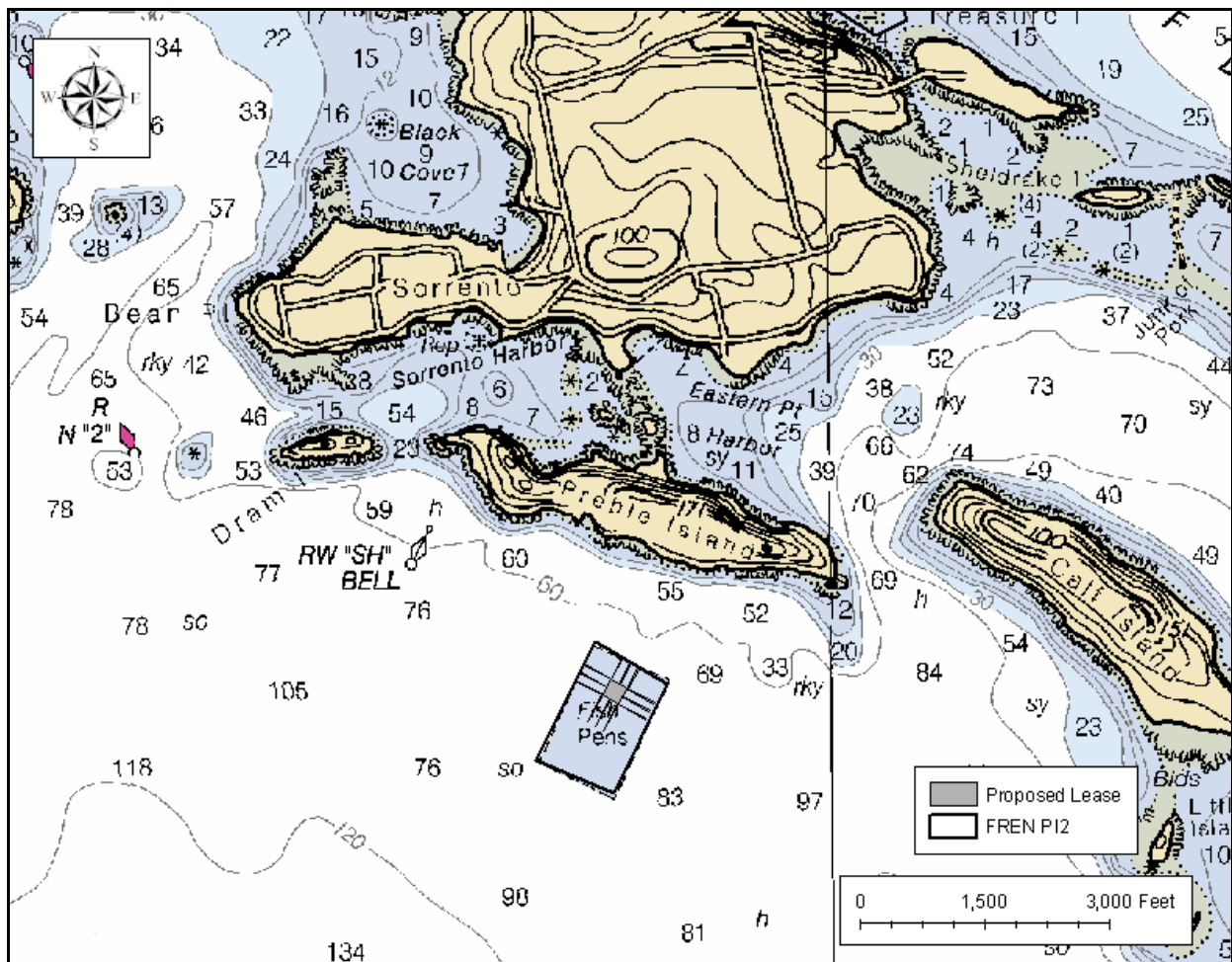
public asked questions of the witnesses. The hearing was recorded by DMR. The Hearings Officer was Diantha Robinson. The evidence in this case is summarized below.<sup>1</sup>

### **List of Exhibits**

1. Case file, #2007-10E
2. Application, signed and dated June 20, 2007
3. DMR Site report, dated December 4, 2007
4. Power Point presentation (paper copy), dated February 20, 2008

## **2. DESCRIPTION OF THE PROJECT**

DMR Site Report, Figure 1: Experimental Lease Application #2007-10E, NOAA Chart #13318



<sup>1</sup> [NOTE: The reference (Smith/Jones) means testimony of Smith, being questioned by Jones.]

## **Proposed Operations**

Great Bay Aquaculture is an 11-year-old finfish farming company that has produced Atlantic cod for the past five years. James West is a fourth-generation fisherman from Sorrento with 27 years of fishing experience; he holds a 35.66-acre aquaculture lease, FREN PI2, south of Preble Island in Frenchman Bay on which he has engaged in the suspended culture of mussels (Exhibit 2, p. 3). Great Bay and Mr. West propose to locate four fish pens within the boundaries of Mr. West's mussel lease to "demonstrate the commercial and economic viability of cod farming as a profitable and sustainable alternate species for culture within the waters of the state" (Exhibit 2, p. 4).

According to the application, this project builds upon another project by Great Bay and the University of Maine's Center for Cooperative Aquaculture Research ("CCAR"), wherein juvenile cod are spawned from wild native stocks at Great Bay's hatchery in Portsmouth, N.H. and raised at CCAR from a size of 2-3 grams to a size of 50-100 grams. This project will attempt to grow out those fish to market size in the marine environment of Frenchman Bay, in order to "demonstrate the economics of the complete cycle of cod culture" and to serve as a "demonstration cod farm and training platform" for aquaculturists in conjunction with the University of Maine Cooperative Extension and others. Finally, the applicants intend to investigate "synergies and opportunities for economic and environmental benefits" arising from the simultaneous culture of mussels on and/or around the finfish site (Exhibit 2, p. 4).

## **Mussel Culture and Debris**

Testimony at the hearing disclosed that any significant mussel culture will be whatever is conducted by Mr. West on his larger lease; if additional grant funding is secured, Great Bay will undertake studies of nutrient loading at the site, which would suggest locations on the site where mussels might thrive. Otherwise, mussel culture connected directly with the finfish operation on the experimental site will consist of harvesting wild spat and/or market-size mussels from lines, pens, and other structures (Nardi/Robinson). Mr. West will be responsible for any mussel-raising on the remainder of his site; he hopes that the activity at the finfish site will deter predators, including eiders, from attacking mussels he might culture. Mr. West also testified that the finfish site is currently marked and that he could not recall what markings the Coast Guard had required for his own lease site (West/Robinson).

Mr. West testified that he has had difficulties raising mussels on the site; eider ducks ate most of the mussels, and a storm destroyed his mussel raft. He retrieved raft debris that washed ashore on Preble Island, but the baseline video Mr. Lewis showed depicted a substantial amount of debris (structures, flotation, and dropper ropes) on the bottom under both Mr. West's lease site and the applicants' proposed site.

As a leaseholder, Mr. West is required to comply with DMR Rule 2.75, Minimum Lease Maintenance Standards.<sup>2</sup> The debris is clearly “errant gear” within the meaning of the rule; its presence on the bottom is potentially harmful to anyone using the waters above. According to Mr. West and Mr. Kesselring, a barge is needed to retrieve this debris; they agreed that this will be done in the process of setting moorings for the fish pens, so that only one barge trip will be required. Mr. Kesselring testified that Great Bay is amenable to a condition on the lease requiring the company to get authorization from DMR to set the moorings once DMR is satisfied that the debris has been removed (Kesselring/Robinson).

### Finfish Culture

The applicants intend to stock the site in the spring of 2008 with 100,000 cod juveniles in two pens (Exhibit 2, p. 11). The remaining two pens will be deployed in the fall of 2008 to contain cod thinned and graded from original pens as they grow (Exhibit 4, p. 6). Stocking densities in the pens are far below those used for salmon (Kesselring/Robinson). The project will focus primarily on cod, but in the event sufficient stocks of cod are not available, halibut will be substituted (Kesselring, testimony). CCAR is also developing halibut aquaculture and will supply halibut juveniles for this project if needed; their net pen culture will be very similar to those of the cod. Halibut have primarily been cultured on land, although they are grown in net pens in Scotland, Canada, and Norway “with some success”. This project will allow for research in conjunction with the University of Maine to “assess [halibut’s] potential as a marine aquaculture species for Maine”, as well as to test different cage designs specifically adapted to halibut (Exhibit 2, p. 23).

Four 70-meter circular plastic cages will be deployed on the site, secured in a two-by-two mooring grid. Mr. Kesselring testified that this type of equipment is used at sites that are even more exposed than this one, and he expects the gear to hold up. One spherical “Aquapod” cage will likely be used; it is designed for use in exposed locations (Kesselring/Perrin). Cages, nets, and mooring equipment will meet or exceed the standards of the Maine Aquaculture Association’s “Code of Containment”, according to the application (Exhibit 2, p. 5).

The fish will be fed between one and five times daily, depending on their size, the water temperature, and weather conditions. Feeding and site work will be conducted during daylight hours only. Feeding will be done by hand initially; a blower will be used as the amount of feed to be delivered increases. Underwater cameras will be used to monitor feeding activity “and minimize loss of uneaten feed” (Exhibit 2, p. 5); part of the research project involves determining how best to site the cameras or

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<sup>2</sup> **2.75 Minimum Lease Maintenance Standards**

1. Each lessee shall mark the lease in a manner prescribed by the Commissioner in the lease.
2. Each lessee shall maintain his aquaculture lease in such a manner as to avoid the creation of a public or private nuisance and to avoid substantial injury to marine organisms.
3. Each lessee is obligated for the routine collection and proper disposal of all errant gear, errant equipment, or errant solid waste from the lease site.

other monitoring equipment, given the way in which cod feed. Mr. Nardi testified that feeding practices can be adjusted on the spot by personnel in accordance with the information displayed by the monitoring cameras (Nardi/Robinson). A diver will inspect the cages at least once a week to remove dead fish, inspect nets, and generally observe the fish. A company veterinarian will oversee fish health and biosecurity issues.

The applicants do not anticipate using artificial lighting at the site, but if it is used for photo-manipulation of the fish, the lighting will be subsurface and not visible from land or across the water (Kesselring/Robinson).

Cod will be harvested at different weights, 3-lb. fish for the live market, and 6-lb. fish for the fresh slaughter market. Harvest will begin with the smaller fish, likely in the spring of 2009; these will constitute about 30% of the total stock. Harvest times as described in the application will be delayed by about six months, as the entire project schedule has been set back (Kesselring/Robinson).

Fish will be harvested by hand and transported to either Winter Harbor or Bar Harbor for transport and/or further processing (Exhibit 2, p. 6). If harvest amounts are large enough, a pump may be used to harvest the fish. It would be deployed at the site, 1200 ft. from the nearest land, which is uninhabited; Great Bay will be aware of the need to muffle the pump to reduce noise (Kesselring/Robinson).

Mr. Nardi testified that if the lease is granted, the company will create a manual of best management practices to govern site operations, including a response plan. No noisemakers will be used at the site. Predator nets will be used for the standard cages, but the Aquapod cage is designed to be predator-proof. The company will study other predator deterrents, as well.

Great Bay will abide by any restrictions on use of the town dock (Kesselring, testimony). Their usage will be very minor in the first year or two, with two or three people in a 20-ft. skiff going out each day and transporting relatively small amounts of feed. In the later stages of the experiment, transportation needs will increase, and a 40-ft. lobster boat will be used (Exhibit 4, p. 12). For loading and transport of larger items and more feed, the company will use dock facilities at Winter Harbor, Bar Harbor, or the Hancock County Airport (West/Robinson). Mr. West testified that Sorrento Lobster & Fish Co. has given permission to use their pier in Sorrento to transport feed and equipment to the site, although this dock is not useable at low tide. Mr. West also testified that he has a mooring in the harbor and owns waterfront property in Sorrento which Great Bay can use as a staging area for the project, although there is currently no wharf there (West/Robinson). Mr. Kesselring acknowledged that access issues are a component of the experiment and that the company will work with the town to resolve any problems (Kesselring, testimony).

Great Bay has obtained a NPDES permit for this project from the Maine Department of Environmental Protection which will require water quality monitoring in summer and annual video of the area underneath the fish pens (Kesselring/Lewis). Shawn Mahaney testified on behalf of the U. S. Army Corps of Engineers that his agency has reviewed the project with the U. S. Environmental Protection

Agency, the National Marine Fisheries Service, and the U. S. Fish and Wildlife Service, and none of these agencies has any objection to the project.

### **Site Characteristics**

The proposed site is located in northeastern Frenchman Bay, south of Preble Island. As shown in the application, it is a small square inside the larger rectangle that is Mr. West's lease site, with three strips perpendicular to each side to contain the moorings and mooring lines. This unusual configuration is necessary in order to keep the experimental lease site below the two-acre maximum allowed for an experimental lease (Exhibit 2, pp. 14, 15). As noted in the site report, the area of Mr. West's lease was previously a salmon aquaculture lease site, and it is depicted on NOAA Chart 13318 as a shaded rectangle labeled "fish pens" (Exhibit 3, p. 2).

According to the site report, minimum water depth at the site is at least 65 feet, which allows adequate clearance between the bottom of the fish pens and the sea floor. The site is exposed, particularly to southerly winds, which could make operations difficult during stormy weather; it is not expected to ice over in winter (Exhibit 3, p. 2). The water in the vicinity of the site is classified by DMR as open/approved for the harvest of shellfish. Monitoring by DMR for Paralytic Shellfish poisoning (PSP) showed no toxic blooms in this area of Frenchman Bay north of the Bar Harbor Bar since 2005 (Exhibit 3, p. 5).

Currents in the area run north-south, depending on the stage of tide; the site report concludes that current velocity is low, as indicated by the deposition of "extraordinarily fine sediments". Were the lease to be granted, the site report advises that "the operators of the farm would need to pay strict attention to feeding practices as dispersion from currents under the farm would likely be negligible" (Exhibit 3, p. 2). According to the application, the accretion on the sea floor of fish feces and uneaten (and un-medicated) feed will be the primary source of any potential environmental impact from the project. The applicants rely on the "limited biomass of this project and the current velocity at this location" to prevent harmful accumulations of organic matter. In addition, if mussels are grown on the site, they may consume excess nutrients produced by the fish (Exhibit 2, p. 7).

### **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 if s/he determines that the project will not unreasonably interfere with the ingress and egress of riparian owners; with navigation; with fishing or other uses of the area, taking into consideration and number and density of aquaculture leases in an 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 for the lease site.

#### **A. Riparian Access**

The nearest point of land to the site is Preble Island, over 1200 ft. distant. “Riparian landowner” is defined in 12 MRSA §6072 and 6072-A to mean those shorefront property owners located within 1,000 feet of the lease site. Thus, there are no riparian owners within that distance of this site.

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.

#### **B. Navigation**

There are no moorings in the area of the lease site and no designated navigational channels within 1,000 feet (Exhibit 2, p. 9; Exhibit 3, p. 4). The Sorrento Harbormaster, Louis Sutherland, confirmed this and informed DMR that the project will not interfere with navigation or storm anchorages (Exhibit 1, Harbormaster questionnaire).

According to the application, approximately 100 pleasure craft per day operate in the vicinity of the site in the peak summer months. Vessel traffic “generally parallels the Preble Island shore” between the proposed site and the island, and “[i]t is the opinion of the applicants that there is ample distance from the northern end of the proposed lease and Preble Island for vessels to navigate without getting close to lobster gear along the shore of Preble Island out to the 60-foot depth contour” (Exhibit 2, p. 6).

The site report concurs, noting that water depths between the site and Preble Island are between 30 and 70 feet and that “there is sufficient open water surrounding the proposed lease to accommodate vessel traffic”. The report recommends that the fish pens and floating gear at the site will need to be marked for the safety of nighttime traffic and others operating in low-visibility conditions in what is otherwise open water with few navigational hazards.

It appears from the evidence that the vessel operations to and from the site, as described above, will not interfere with navigation in the area. The site itself is in open water with ample space and depth around it to permit safe navigation by the vessels that operate in the area; further, it is within the bounds of a site already approved for aquaculture. The site is even marked on the NOAA chart as “fish pens”, a relic of the previous salmon lease at the same location. The applicants will be required to mark the finfish site for navigation purposes in accordance with U. S. Coast Guard requirements. Mr. West continues to be required to mark his site in accordance with U. S. Coast Guard requirements.

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with navigation.

### **C. Fishing & Other Uses**

DMR staff visited this site in both 2001 (evaluating Mr. West's mussel lease application) and 2007. No fishing activity was observed at either time within the proposed lease site, but there were lobster buoys around the site and between Preble Island and the 60-foot contour line. No signs of dragging were observed (Exhibit 3, p. 3). The Sorrento Harbormaster reported "very little commercial and recreational" fishing within the lease area (Exhibit 1, Harbormaster questionnaire). The application reports that lobster is "heavily fished in waters out to 60 feet" but not beyond, presumably due to the soft mud bottom (Exhibit 2, p. 6). The site report notes that DMR has received no complaints regarding Mr. West's aquaculture operation, although little activity has occurred on the site in recent years (Exhibit 3, p. 3).

The application discusses Great Bay's need for exclusive use of the lease site by noting that the site is very small and the fish pens and moorings will fill the space, necessarily excluding other activities simply by their physical presence. For biosecurity purposes, the applicants "seek to limit physical contact and access to the cages from unauthorized vessels and persons." Fishing over the mooring lines is not of concern to the applicants, except for dragging, which could "become entangled with the moorings that are critical to the site integrity" (Exhibit 2, p. 7).

Two other aquaculture sites are located in the vicinity, FREN SB (suspended mussel culture), 1.38 miles to the west of this site, and FLAN WN (formerly GEMF WN, bottom mussel culture), 1.54 miles to the north. The site report notes that it is unlikely that the proposed project would have any negative impact on either of these sites.

The evidence shows that fishing does not occur within the lease site and that the nearest aquaculture leases will not be affected by the finfish operation. The applicants will require exclusive use of the lease site, except that fishing (other than dragging) and boating may be conducted in the areas above the mooring lines, provided there is no physical contact of any kind by any person, vessel, or equipment, with the fish pens. Dragging will be prohibited on the site.

The lease must be marked in accordance with DMR Rule 2.80. Mr. West must also mark his larger site in accordance with Rule 2.80 if he deploys gear on it.

**Therefore, considering the number and density of aquaculture leases in the area, I find that the aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area.**

### **D. Flora & Fauna**

Mr. Lewis testified that there is no "biological controversy" at the proposed lease site (Lewis, testimony). Very few species were observed at the site in 2001 by DMR's divers. Their video of the bottom documents only four species, and the site report notes that the 2007 video submitted by the applicants shows little change in the benthic ecology over the intervening six years. Bent mysid shrimp, sand shrimp, and rock crabs were observed, as well as burrows possibly created by wrymouth eels. No

lobsters were observed. The bottom is composed of very soft mud. The site is not within one-quarter mile of either an Essential Habitat or a Significant Habitat (Exhibit 3, p. pp. 2-3). According to the application, there is no eel grass in the vicinity of the site (Exhibit 2, p. 9).

The evidence shows a site with little flora and fauna of any kind. As discussed under “site characteristics” above, possible low current velocities in the area may result in less dispersal of waste and more potential for accumulation. The applicants recognize the need to monitor the site for any undue accumulation of organic matter from the finfish operation, and the NPDES permit requires such monitoring. This is an experimental lease, and part of the experiment involves understanding what the impact of this small-scale cod-farming operation will be. It does not appear that the operation will have an adverse impact on the marine life at and around the site.

**Therefore, I find** that the aquaculture activities proposed 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.

#### **E. Public Use & Enjoyment**

According to the site report, there are no government-owned beaches, parks, or docking facilities located within 1,000 ft. of the proposed lease site (Exhibit 3, p. 4).

**Therefore, I find** that the aquaculture activities proposed 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.

#### **F. Source of Organisms**

The application and the applicants’ testimony demonstrate that they will obtain their cod and halibut stock from the University of Maine’s Center for Cooperative Aquaculture Research (“CCAR”), which is raising juvenile cod and halibut initially spawned from wild native stocks at Great Bay’s hatchery in Portsmouth, N.H. (Exhibit 2, p. 4). Any mussels growing on the finfish site will originate from local, naturally-occurring wild spat.

**Therefore, I find** that the applicant has demonstrated that there is an available source of Atlantic cod (*Gadus morhua*), Atlantic halibut (*Hippoglossus hippoglossus*), and blue sea mussels (*Mytilus edulis*) to be cultured for the lease site.

#### **4. CONCLUSIONS OF LAW**

Based on the above findings, I conclude that:

1. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.
2. The aquaculture activities proposed for this site will not unreasonably interfere with navigation. The lease site shall be marked in accordance with U. S. Coast Guard requirements.

3. The aquaculture activities proposed 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. The applicants shall be granted exclusive use of the lease site, except that fishing (other than dragging) and boating may be conducted in the areas above the mooring lines, provided there is no physical contact of any kind by any person, vessel, or equipment, with the fish pens. Dragging will be prohibited on the site. The lease boundaries must be marked in accordance with DMR Rule 2.80.<sup>3</sup> No gear may be deployed on the site until DMR is satisfied that the debris currently on the bottom as shown in the applicants' baseline video has been removed and authorizes the installation of new gear.

4. The aquaculture activities proposed 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 proposed 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 Atlantic cod (*Gadus morhua*), Atlantic halibut (*Hippoglossus hippoglossus*), and blue sea mussels (*Mytilus edulis*) to be cultured for the lease site.

Accordingly, the evidence in the record supports the conclusion that the proposed 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 1.86 acres to Great Bay Aquaculture, LLC and James West 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 applicants<sup>4</sup>; however, no aquaculture

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### <sup>3</sup>**2.80 Marking Procedures for Aquaculture Leases**

1. When required by the Commissioner in the lease, aquaculture leases shall be marked with a floating device, such as a buoy, which displays the lease identifier assigned by the Department and the words SEA FARM in letters of at least 2 inches in height in colors contrasting to the background color of the device. The marked floating device shall be readily distinguishable from interior buoys and aquaculture gear.
2. The marked floating devices shall be displayed at each corner of the lease area that is occupied or at the outermost corners. In cases where the boundary line exceeds 100 yards, additional devices shall be displayed so as to clearly show the boundary line of the lease. In situations where the topography or distance of the lease boundary interrupts the line of sight from one marker to the next, additional marked floating devices shall be displayed so as to maintain a continuous line of sight.
3. When such marking requirements are unnecessary or impractical in certain lease locations, such as upwellers located within marina slips, the Commissioner may set forth alternative marking requirements in an individual lease.
4. Lease sites must be marked in accordance with the United State's Coast Guard's Aids to Private Navigation standards and requirements.

<sup>4</sup> DMR Rule 2.64 (14) provides:

"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."

rights shall accrue in the lease area until the lease is fully executed. This limited-purpose (experimental) lease is granted to the applicants for the purpose of cultivating Atlantic cod (*Gadus morhua*) and Atlantic halibut (*Hippoglossus hippoglossus*) using net pen culture techniques and blue sea mussels (*Mytilus edulis*) using suspended culture techniques. The applicants shall pay rent to the State of Maine in the amount of \$100.00 per acre per year. The applicants shall post a bond or establish an escrow account pursuant to DMR Rule 2.40 (2) (A) in the amount of \$25,000, conditioned upon their 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 MRSA §6072-A (15)<sup>5</sup>. 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 purposes of the lease. The following conditions shall be incorporated into the lease:

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
2. Fishing (other than dragging) and boating may be conducted in the areas above the mooring lines, provided there is no physical contact of any kind by any person, vessel, or equipment, with the fish pens. Dragging is prohibited on the site.
3. No gear may be deployed on the site until DMR is satisfied that the debris currently on the bottom as shown in the applicants' baseline video has been removed and authorizes the installation of new gear.

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<sup>5</sup> 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.”

**7. REVOCATION OF LEASE**

The Commissioner may commence revocation procedures if s/he determines that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements imposed in this decision, in the lease, or in the law is not being observed, the Commissioner may revoke the aquaculture lease.

Dated: \_\_\_\_\_

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**George D. Lapointe (Commissioner)**  
**Department of Marine Resources**