

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

DOWNEAST INSTITUTE

Standard Aquaculture Lease Application
Suspended Culture of Shellfish
Eastern Bay, Beals

EAST MHC

Findings of Fact, Conclusions of Law, and Decision

Downeast Institute applied to the Department of Marine Resources (DMR) for a twenty-year standard aquaculture lease on 3.95 acres located in Mud Hole Cove, Eastern Bay, Beals, Washington County. The proposal is for the suspended culture of soft-shell clams (*Mya arenaria*), Arctic surf clams (*Mactromeris polynyma*), American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), razor clams (*Ensis leei*), blue mussels (*Mytilus edulis*), sea scallops (*Placopecten magellanicus*), and hard clams/northern quahogs (*Mercenaria mercenaria*)¹.

1. Proceedings

DMR held a pre-application meeting on this proposal on April 18, 2023, and a scoping session was held on December 6, 2023. On February 23, 2024, DMR accepted the final application as complete. Notice of the completed application was provided to state agencies, the Town of Beals, riparian landowners within 1,000 feet of the proposed site, and subscribers to DMR's aquaculture email listserv. DMR sent a Harbormaster Questionnaire to the Harbormaster for the Town of Beals, requesting information about designated or traditional storm anchorages, navigation, riparian ingress and egress, fishing or other uses of the area, among other considerations. No response from the Harbormaster was received by DMR. Notice of the hearing was published in the *Machias Valley News Observer* on April 1, 2026, and provided to state agencies, the Town of Beals, riparian landowners within 1,000 feet of the proposed site, and subscribers to DMR's aquaculture email listserv. The public notice for the hearing stated that the proceeding would be conducted in-person and remotely and directed interested persons to register to provide testimony or ask questions during the proceeding. The registration deadline was April 27, 2026. The deadline for requesting intervenor status was April 27, 2026. No applications for intervenor status were received by DMR. Two individuals registered to participate in the hearing. Registered participants and the applicant were sent a hearing agenda and participation instructions on April 28, 2026. The instructions stated that any materials for consideration as an exhibit must be prefiled with the Department by May 7, 2026. Laurie Petronis submitted three photographs prior to the prefile deadline. On May 12, 2026, DMR held a public hearing on

¹ During the applicant's testimony at the hearing, Kyle Pepperman stated they would use "a couple periwinkles" (*Littorina littorea*) as biological cleaners. These periwinkles must be obtained with either a DMR license or under personal use limits.

this application. At the hearing, Glenda Beal stated that she was unaware of the prefiling requirement, however, she had exhibits she wished to submit during her testimony. The Hearing Officer is allowed to accept exhibits after the prefiling deadline at their discretion if it is determined the materials will be beneficial to the record. Using this discretion, two exhibits were accepted from Glenda Beal during her testimony.

Table 1. Individuals who provided sworn testimony at the hearing.

Name	Affiliation
Kyle Pepperman	Executive Director of Downeast Institute
Glenda Beal	Town of Beals Selectboard Chair
Laurie Petronis	Member of the public

Additional DMR staff and members of the public attended the hearing but did not offer testimony. The hearing was recorded by DMR. The Hearing Officer was Maria Eggett. The record was closed on May 12, 2026.

The evidentiary record before DMR regarding this lease application includes the application, DMR's site report dated September 18, 2025, the record of testimony at the hearing, and the case file. The evidence from all sources is summarized below.

A. List of Exhibits

1. Case file (CF)
2. Application (App)
3. DMR site report, issued on September 18, 2025 (SR)
4. Three photographs submitted by Laurie Petronis (Petronis 1, Petronis 2, and Petronis 3)
5. Two graphics submitted by Glenda Beal (Beal 1 and Beal 2)

The case file, application and site report are referred to in the decision with their designated abbreviations. Additional exhibits are referred to in the decision by their exhibit number.

2. Description of the Project

A. Site History

The applicant currently operates experimental lease EAST MHCx within the same footprint as the proposal area (SR 6). This standard proposal is intended to replace EAST MHCx² (SR 6).

The application for the experimental lease was deemed complete for processing on June 10, 2019. The decision granting the lease for EAST MHCx was signed by DMR on April 21, 2020. EAST MHCx is authorized for the suspended culture of soft-shell clams (*Mya arenaria*), Arctic surf clams (*Mactromeris polynyma*), American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), and razor clams (*Ensis leei*). DMR has no record of complaints received regarding the operation of this site.

B. Proposed Operations

The applicant proposes to culture soft-shell clams, Arctic surf clams, American/eastern oysters, European oysters, razor clams, blue mussels, sea scallops, and hard clams/northern quahogs using suspended culture techniques (App 1-3). The applicant proposes to use up to 500 floating trays (48-inch by 36-inch by 3-inch), up to 500 floating oyster bags (32-inch by 18-inch by 3-inch), 10 lantern nets (20-inch by 6-feet), ten weighted bottom cages (36-inch by 18-inch by 9-inch) plus anchors, lines, chains, and buoys (App 10-14).

The applicant intends to deploy seed for all species from May 1 to July 1 for approximately four days total per year (App 17). The applicant expects to tend the site at least once per week (App 17). The lease site is proposed primarily as a nursery site (App 17). The bottom cages, floating trays, bags, and lantern nets would be deployed from June 1 to December 15 each year (Pepperman testimony). With the exception of the corner marker buoys, which would be on-site year-round, the anchors, lines, and buoys would be removed from December 16 to May 31 each year (Pepperman testimony).

The application states the site will be tended at least once per week (during the growing season). In response to a question from DMR at the hearing, Kyle Pepperman stated they typically do not visit the site from December to June 1 (Pepperman/Eggett).

According to the application, one 22-foot vessel with a four-stroke outboard motor will be used at the lease site (App 20).

At the hearing, Kyle Pepperman testified that no powered equipment will be used on-site (Pepperman testimony).

² The experimental lease expired on April 30, 2023. 12 M.R.S.A. § 6072-A(20) provides that if the lease holder applies for a standard lease under 12 M.R.S.A. § 6072 prior to the expiration of the experimental lease and that application encompasses all or a portion of the experimental lease area then the holder may continue to operate the site while DMR considers the standard lease application. On April 25, 2023, Downeast Institute submitted a standard lease application.

C. Site Characteristics

Description. On July 21, 2025, DMR scientists visited the proposed lease site (SR 2). The proposal is located in subtidal waters in Mud Hole Cove approximately 54 feet from the shoreline at mean low water (MLW) (Figure 1; SR 2). Mud Hole Cove is a secluded cove with a rock ledge shoreline and mudflats to the east that lead to primarily coniferous uplands (SR 2). Sandy beaches were observed near the entrance to the cove (SR 2).

Water depths were determined at MLW (0.0 feet) to be between 2.0-5.2 feet at the proposal corners (SR 2). Approximate depths at mean high water (MHW, 11.3 feet³) are between 13.3-16.5 feet at the proposal corners (SR 2).

Growing Area Classification. Growing Area Classifications for bivalve shellfish are reviewed on an annual basis and subject to change. Classifications can also be updated at any time in response to changing environmental conditions, emergency situations, or other factors that impact water quality. If the lease is granted, it is the responsibility of the leaseholder to stay informed of and comply with harvest requirements applicable to the respective growing area. The proposed lease is located within an area that is currently classified as Approved for the harvest of shellfish by the DMR Bureau of Public Health and Aquaculture.

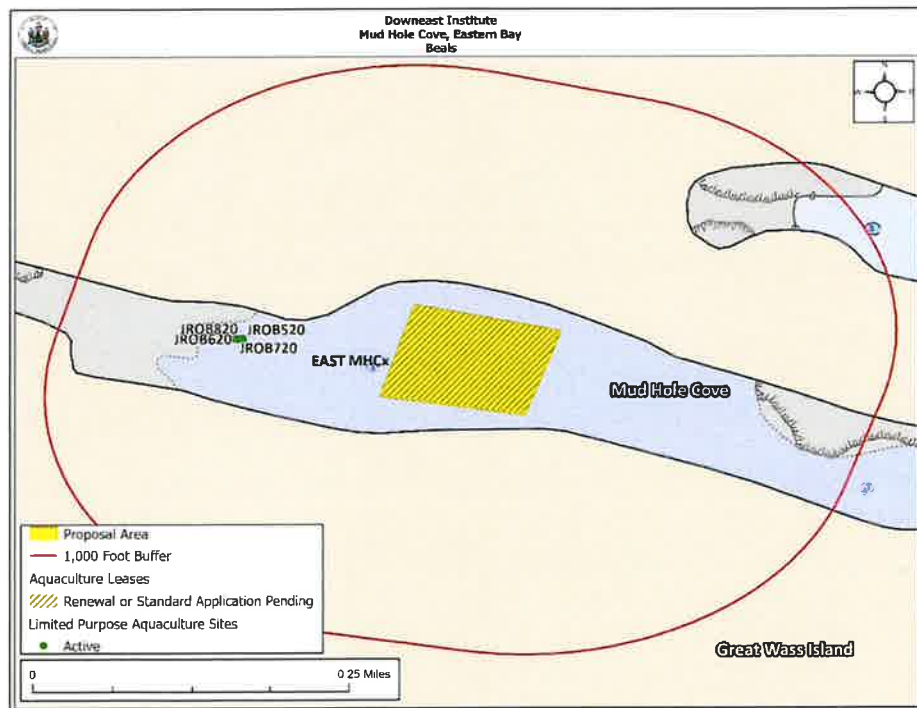


Figure 1. Proposed lease site and surrounding area.

³ MHW in Milbridge, ME is 11.31 feet, NOAA Tide Station 8412581

3. Legal Criteria and Findings of Fact

Approval of standard aquaculture leases is governed by 12 M.R.S.A. § 6072 and DMR Regulations, Chapter 2.37⁴. The statute and regulations provide that a lease may be granted by the Commissioner upon determining that the project will not unreasonably interfere with: the ingress and egress of riparian owners; navigation; fishing or other uses of the area; other aquaculture uses of the area; the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna; and public use or enjoyment within 1,000 feet of beaches, parks, docking facilities, or conserved lands 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; that the lease will not result in an unreasonable impact from noise or light at the boundaries of the lease site; and that the lease will comply with visual impact criteria adopted by the Commissioner.

A. Riparian Owners Ingress and Egress

When examining riparian access, the Commissioner considers whether the proposed lease will unreasonably interfere with the ingress and egress of riparian owners. 12 M.R.S.A. § 6072(7-A)(A). The Commissioner shall examine whether the riparian owners can safely navigate to their shore and consider the type of shore, the type of vessel that can reasonably land on that shore and the types of structures proposed for the lease and their potential impact on the vessels which would need to maneuver around those structures. Chapter 2.37(1)(A)(1).

During the site visit, DMR scientists observed one unoccupied mooring approximately 197 feet east of the proposal (SR 4). DMR scientists did not observe any residential properties, piers, or docks within the vicinity of the proposal (Figure 2; SR 4).

A Harbormaster Questionnaire was sent to the Town of Beals. DMR did not receive a response (SR 4).

⁴ Chapter 2 of DMR Regulations is published at 13-188 C.M.R. ch. 2 and may be found at <https://www.maine.gov/dmr/rules-enforcement/regulations-rules>.

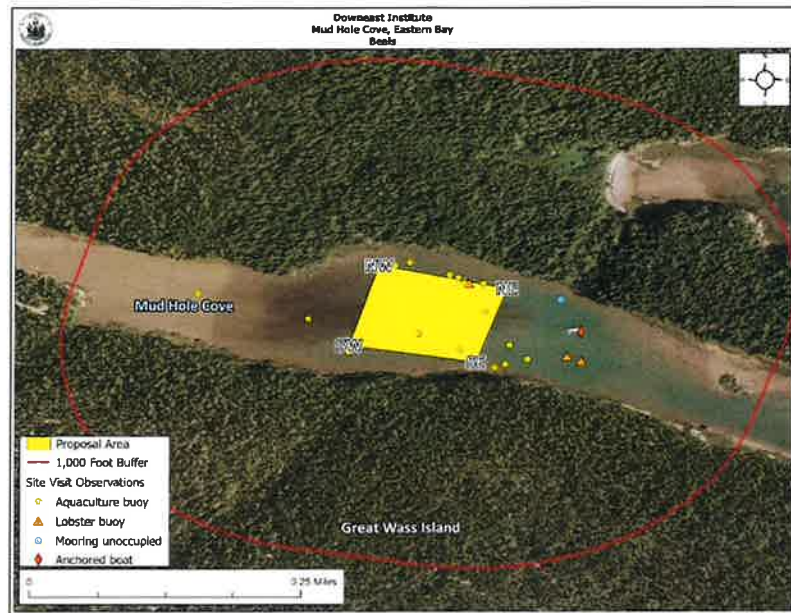


Figure 2. Proposed lease area with site visit observations.

No other testimony concerning riparian access was received, however, Glenda Beal testified that there are five commercial moorings in close proximity to the proposed lease boundaries (Beal testimony). These moorings do not appear to belong to riparian owners and therefore are discussed in the “Other Uses” section below.

Given the absence of riparian structures in Mud Hole Cove, the lease as proposed will not interfere with riparian ingress and egress.

Therefore, the aquaculture activities as proposed will not unreasonably interfere with riparian owner ingress and egress.

B. Navigation

When examining navigation, the Commissioner considers whether the proposed lease will unreasonably interfere with navigation. 12 M.R.S.A. § 6072(7-A)(B). 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 and consider the current uses and different degrees of use of the navigational channels in the area. High tide “short cuts” shall not be considered navigational ways for purposes of this section. Chapter 2.37(1)(A)(2).

Mud Hole Cove is a shallow cove on Great Wass Island on the western side of Eastern Bay (SR 5). The proposal is not near any navigational channels (SR 5). Access to the cove is restricted by shallow water

and an intertidal ledge near the entrance of the cove (SR 5). Water depth at the entrance of the cove is approximately 1 to 5 feet at MLW (SR 5). There is a small area of deeper water directly to the east of the proposal, approximately 16 feet deep at MLW (Figure 3; SR 5).

During the site visit, DMR scientists observed an approximately 30-foot recreational sailboat anchored in an area of deeper water approximately 310 feet east of the proposal (Figure 2; SR 5).

At the hearing, Glenda Beal testified that based on the proposed gear layout in the application, the lease would limit navigation within the cove for all but very small boats (Beal testimony).

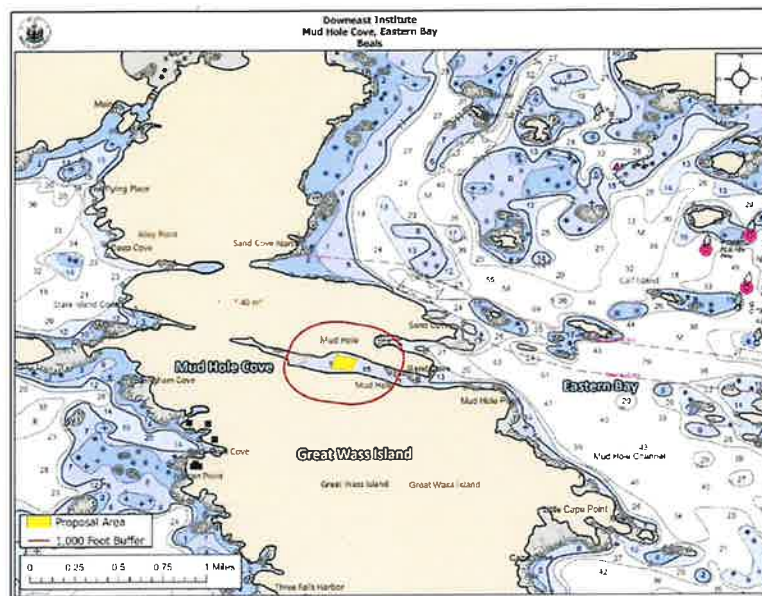


Figure 3. Navigational channels in the vicinity of the proposed lease area.

The lease as proposed may restrict access to a portion of the cove, however, the remainder of the cove will still be navigable. The cove is naturally restricted for navigation by larger vessels due to shallow water (approximately 1 to 5 feet at MLW) and an intertidal ledge at the entrance. The area where the proposal is located is in the upper reaches of the cove where water depths were determined at MLW (0.0 feet) to be between 2.0-5.2 feet at the proposal corners (SR 2). Nonetheless, during the site visit, DMR scientists observed an approximately 30-foot sailboat anchored in the cove approximately 310 feet east of the proposed lease and the existing lease, EAST MHCx which currently occupies the same footprint. The sailboat was able to navigate and set an anchor within the deeper portion of the cove in the approximately 600 feet between the eastern boundary of the existing lease (EAST MHCx) and the nearest shallow and constricted area toward the entrance of the cove. Additionally, because the proposed lease is located inside

of a dead-end cove, there are no throughways or marked navigational channels, and the proposal will not impede navigation through the area.

Therefore, the aquaculture activities as proposed will not unreasonably interfere with navigation.

C. Fishing and Other Uses

When examining fishing and other uses, the Commissioner considers whether the proposed lease activities will unreasonably interfere with fishing or other uses of the area. 12 M.R.S.A. § 6072(7-A)(C). The Commissioner shall examine whether the lease activities would unreasonably interfere with commercial or recreational fishing or other water-related uses of the area. Chapter 2.37(1)(A)(3).

Fishing. With respect to fishing, the Commissioner shall consider such factors as the number of individuals that participate in recreational or commercial fishing, the amount and type of fishing gear utilized, the number of actual fishing days, and the amount of fisheries resources harvested from the area. Chapter 2.37(1)(A)(3).

During DMR's site visit, scientists observed three lobster buoys within the vicinity of the proposal with the closest located just within the proposal boundaries near the northeast corner (Figure 2; SR 5). No other commercial or recreational fishing was observed during the site visit (SR 5).

According to the application, no commercial or recreational fishing is known to occur at the site (App 24).

During the hearing, Glenda Beal testified that seining for schooling fish like herring had occurred in the cove in the past and that last year (2025) there were large schools of fish present (Beal testimony). Glenda Beal expressed concern that, if approved, the lease will prevent bait fishing within the cove (Beal testimony).

Also during the hearing, Laurie Petronis testified that lobster fishing has decreased significantly in the cove (82% decrease in noted buoys between the 2019 and 2025 site reports) since the experimental lease has been operational (Petronis testimony).

In response to a question from Glenda Beal, Kyle Pepperman stated that at MLW there is between <2 to 6 feet of water at the lease site (implying it is not conducive to lobster fishing) (Pepperman testimony). Kyle Pepperman testified that the eastern edge of the lease is in deeper water, approximately 6 feet at MLW (Pepperman testimony).

No persons identifying as commercial fishermen offered testimony or evidence at the hearing. No evidence was presented at the hearing indicating that the experimental lease had displaced lobster fishing in the cove. While Laurie Petronis testified that lobster fishing had decreased significantly in the cove by 82% since EAST MHCx was granted, she cited the DMR site reports for EAST MHCx and this proposal

as the sole sources of evidence. The DMR site reports are single day assessments of the area, the assessments were conducted at different times of year (November 2019 and July 2025), almost six years apart and showed a variation of 17 lobster buoys with none located within the proposal in 2019 and 3 lobster buoys with one located within the proposal in 2025. The Commissioner must determine if the proposed lease activities will unreasonably interfere with fishing. Based solely on the observations in the DMR site reports, the numbers of lobster buoys within the entirety of Mud Hole Cove decreased from November 2019 to July 2025, however there was an observed increase of lobstering activity within the boundaries of EAST MHCx. There is no evidence to suggest that the existence of EAST MHCx or the activities described in this proposal will impede the setting of lobster traps outside of the perimeter of the lease and within the larger area of Mud Hole Cove as was observed in 2019. Therefore, this proposal will not unreasonably interfere with lobstering activity.

Although bait fish may frequent the cove, no testimony was provided by individuals that have previously or currently fish there. While Glenda Beal provided testimony based on her local knowledge as a Selectboard member that herring seining had occurred in Mud Hole Cove prior to the approval of the experimental lease, the testimony was unclear regarding how often seining activities occurred.

Therefore, the lease as proposed would not adversely impact fishing.

Other Uses. According to the application, no other uses have been observed or known to occur at the site (App 25).

At the hearing, Glenda Beal testified that there are five commercial moorings in close proximity to the proposed lease site (Beal testimony). Glenda Beal submitted a graphic depicting the locations of the moorings in relation to the lease boundaries (Beal 2).

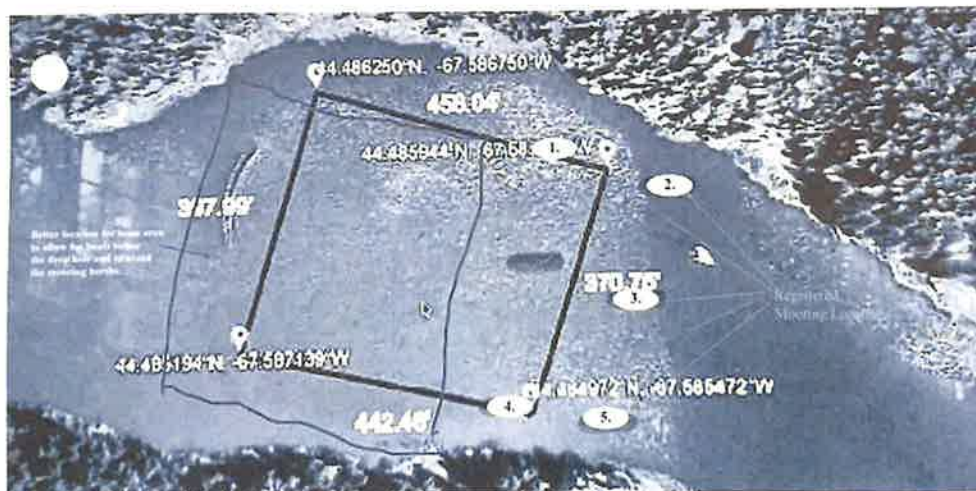


Figure 4. Graphic from Beal Exhibit 2.

It is unclear from Glenda Beal's testimony if these moorings are used on a regular basis or only for storm events. The lease application states that there is one mooring "for a recreational boat" in proximity to the lease that is located within the lease boundaries (App 25). It is unclear whether Figure 4 includes the one mooring observed by the applicant for a recreational boat. The application states that the applicant has no objections to the mooring remaining in place (App 25).

During cross-examination, in response to a question from DMR, Glenda Beal stated that the origination dates of the moorings are as follows (Beal/Eggett):

Mooring 1: October 16, 2019

Mooring 2: August 12, 2020

Mooring 3: October 16, 2019

Mooring 4: February 29, 2024

Mooring 5: February 29, 2024

The experimental lease application (eventually designated EAST MHCx) was deemed complete for processing on June 10, 2019. Notice of the complete application was provided to the Town of Beals and riparian landowners as well as the Zone A Lobster Zone Council and individuals on the DMR email listserv on July 16, 2019, and published in the *Machias Valley News Observer* on July 17, 2019 (CF).

All five moorings presented in the graphic by Glenda Beal (Beal 2) postdate the publication of a notice stating that an experimental lease was proposed in Mud Hole Cove. According to the original experimental lease decision, Isaac Beal, the Beals Harbormaster at that time, testified at the hearing that the moorings granted in 2019 were approved by the town under the assumption that they would be outside the boundaries of the experimental lease, and that both the moorings and lease could be used in conjunction (CF).

Some of the existing commercial moorings are located outside of the lease boundaries, and the experimental lease decision found that the "owners of the mooring should still be able to access and use their moorings" (CF).

During the hearing, Glenda Beal presented a photograph dated August 2009 showing at least four commercial fishing boats rafted together to ride out a hurricane within the cove (Beal 1). In response to a question from DMR, Glenda Beal stated the area where the boats were rafted in the photograph is approximately the northeast corner of the lease, between moorings 1 and 2 in Figure 4 above (Beal/Eggett). Glenda Beal also testified that vessels occasionally and intentionally ground out within the cove to ride out a storm (Beal testimony).

During her testimony, Laurie Petronis presented a quote from the Cruising Club of America, dated July 12, 2025. The quote calls Mud Hole Cove "an intimate, extremely well-protected anchorage" (Petronis

2). Laurie Petronis also testified that kayaking tours of Great Wass Island may seek shelter in the cove in inclement weather (Petronis testimony).

There is conflicting evidence in the record that the lease as proposed will impede the use of moorings or the use of the cove as a storm anchorage. The moorings did not exist prior to the notification of the experimental lease proposal in 2019. During the DMR site visit in July 2025 only one unoccupied mooring was observed (Figure 2) in the vicinity of the number “2.” (Figure 4) outside of the lease boundaries. The applicant reported one mooring in the vicinity of the proposal when the application was deemed complete in 2024.

In response to concerns regarding using Mud Hole Cove as a storm anchorage, the applicant stated at the hearing that in the event of a catastrophic storm, vessels needing safe harbor have permission to cut gear as needed (Pepperman testimony). 12 M.R.S.A. § 6072(17) states that cutting lines or otherwise intentionally damaging approved aquaculture gear is a civil violation. A leaseholder may not grant permission for someone to violate a state law.

To ensure there is sufficient area for safe anchorage during storm events, if approved, DMR is reducing the size of the lease from the proposed 3.95 acres to 3.48 acres and removing the area to the northeast. The reduced size and coordinates are listed in an appendix to this decision.

Because the reduced size increases the area available for possible storm anchorages, specifically in the area of documented historic use, the lease as modified will not unreasonably interfere with other uses of the cove.

Therefore, as modified, the aquaculture activities will not unreasonably interfere with fishing or other uses, including water-related uses of the area.

D. Other Aquaculture Uses

Pursuant to 12 M.R.S.A. § 6072(7-A), in evaluating the proposed lease, the commissioner shall take into consideration the number and density of aquaculture leases in an area. The Commissioner shall consider any evidence submitted concerning other aquaculture uses of the area, the intensity and frequency of such uses, the degree of exclusivity required for each use as well as the number, size, location, and type of other aquaculture leases. Chapter 2.37(1)(A)(4).

There is one licensed aquaculture lease within the vicinity of the proposed lease site (Figure 4; SR 6). The applicant currently operates experimental lease EAST MHCx within the same footprint as the proposal area (SR 6). This standard proposal is intended to replace EAST MHCx (SR 6). (At the time of the site visit, there were four limited purpose aquaculture licenses to the west of the site as shown on Figure 1. These licenses are no longer active.)

No testimony or evidence was offered at the hearing concerning other aquaculture uses in the area.

Given the absence of other aquaculture leases in the immediate area, and the fact that this proposal, if granted, would replace the experimental lease EAST MHCx, also held by the Downeast Institute, the lease as proposed will not interfere with existing aquaculture activities.

Therefore, the aquaculture activities as proposed will not unreasonably interfere with other aquaculture uses in the area.

E. Existing System Support

When examining the existing system support, the Commissioner considers whether the proposed lease activities will unreasonably interfere with significant wildlife and marine habitat or with the ability of the lease site and surrounding marine and upland areas to support existing ecologically significant flora and fauna. 12 M.R.S.A. § 6072(7-A)(D). Such factors as the degree to which physical displacement of rooted or attached marine vegetation occurs, the amount of alteration of current flow, increased rates of sedimentation or sediment resuspension, and disruption of finfish migration shall be considered by the Commissioner in this determination. Chapter 2.37(1)(A)(5).

Site Observations. DMR scientists utilized a remotely operated vehicle (ROV) to assess the epibenthic ecology of the proposed lease (SR 7). The relative abundance of epibenthic flora and fauna observed in the video footage is described below in Table 2 (SR 7).

Table 2. Species observed on underwater video footage.

Species Observed	Abundance
Sand Shrimp (<i>Crangon septemspinosa</i>)	Rare
Green crab (<i>Carcinus maenas</i>)	Rare

Marine Vegetation. Records of eelgrass collected by DMR in 2010⁵ indicate there is eelgrass mapped within 1,000 feet of the proposal (SR 7). The nearest mapped eelgrass is approximately 952 feet northeast of the proposal (SR 7). During DMR's site visit, scientists did not observe any eelgrass in the vicinity of the proposal (SR 7).

Wildlife. During the site visit, DMR scientists observed herring gulls (*Larus argentatus*) and a bald eagle (*Haliaeetus leucocephalus*) in the general vicinity of the proposal (SR 8).

The Department of Inland Fisheries and Wildlife (IFW) has jurisdiction over inland fisheries and wildlife resources of the state (SR 8). IFW also has the authority to conserve wildlife populations and their

⁵Data obtained from The Maine Office of GIS "GISVIEW.MEDMR.Eelgrass". This is the most current record of mapped eelgrass within the vicinity of the proposal.

ecosystems through applicable state laws and rules (SR 8). DMR provides IFW with notice and the opportunity to comment on all complete lease applications (SR 8). In addition, the Site Report also includes IFW designated and mapped habitat types that are within 1,000 feet of the lease proposal, if applicable (SR 8).

According to Geographic Information System (GIS) data maintained by IFW and available through the Maine Office of GIS (MEGIS), there are not any mapped habitat types within 1,000 feet of the lease proposal (SR 8).

Though bald eagles are no longer listed on Maine's Endangered and Threatened Species List, the United States Fish and Wildlife Service (USFWS) may also have jurisdiction over the management and conservation of the species based on applicable law and rule (SR 8). Data collected by USFWS in 2023 by aerial nest survey shows there is no mapped bald eagle nesting site within the vicinity of the proposal (SR 8).

IFW was provided with the opportunity to comment on this proposal (SR 8). DMR did not receive any comments (SR 8).

At the hearing, Laurie Petronis expressed general concerns about wildlife interactions with the lease gear (Petronis testimony).

Given the absence of mapped significant wildlife habitat in close proximity to the proposed lease site and the absence of eelgrass at the lease site, the proposed activities will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.

Therefore, the aquaculture activities as proposed will not unreasonably interfere with significant wildlife and marine habitat or with the ability of the lease site and surrounding marine and upland areas to support existing ecologically significant flora and fauna.

F. Source of Organisms to be Cultured

Pursuant to 12 M.R.S.A. § 6072(7-A)(E), in evaluating the proposed lease, the commissioner considers whether the applicant has demonstrated that there is an available source of organisms to be cultured for the lease site. The Commissioner shall include but not be limited to, consideration of the source's biosecurity, sanitation, and applicable fish health practices. Chapter 2.37(1)(A)(6).

According to the application, soft-shell clams (*Mya arenaria*), Arctic surf clams (*Mactromeris polynyma*), American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), razor clams (*Ensis leei*), blue mussels (*Mytilus edulis*), and hard clams/northern quahogs (*Mercenaria mercenaria*) will be sourced from Downeast Institute (DEI) in Beals, Maine (App 2-3). DEI is an approved source for soft-shell clams (*Mya arenaria*), American/eastern oysters (*Crassostrea virginica*), and blue

mussels (*Mytilus edulis*)⁶. The application also states that sea scallops (*Placopecten magellanicus*) will be sourced as wild seed from DEI in Beals, Maine or Alex deKonig (App 3). Alex deKonig does not currently have a collection license for sea scallops. At the hearing, in response to a question from DMR, Kyle Pepperman confirmed that all stock for sea scallops will be obtained from DEI, which is a DMR approved source (Pepperman/Eggett).

DEI is not currently an approved source of stock for Arctic surf clams (*Mactromeris polynyma*), European oysters (*Ostrea edulis*), razor clams (*Ensis leei*), and hard clams/northern quahogs (*Mercenaria mercenaria*). However, there is a facility currently approved for hard clams/northern quahogs (*Mercenaria mercenaria*). If the lease is granted, the applicant is required to obtain this species from a DMR approved source.

There are currently no DMR approved sources for Arctic surf clams (*Mactromeris polynyma*), European oysters (*Ostrea edulis*), or razor clams (*Ensis leei*). If the applicant wants to cultivate these species in the future, they may apply for a species amendment to demonstrate that they have a DMR approved source of stock.

Therefore, the applicant has demonstrated that there are available sources of stock for soft-shell clams (*Mya arenaria*), American/eastern oysters (*Crassostrea virginica*), blue mussels (*Mytilus edulis*), sea scallops (*Placopecten magellanicus*), and hard clams/northern quahogs (*Mercenaria mercenaria*) to be cultured for the lease site. The applicant has not demonstrated that there is an available source of stock for Arctic surf clams (*Mactromeris polynyma*), European oysters (*Ostrea edulis*), or razor clams (*Ensis leei*) to be cultured for the lease site.

G. Interference with Public Facilities

When examining interference with public facilities, the Commissioner considers whether the proposed lease will unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park, docking facility or certain conserved lands owned by the Federal Government, the State Government or a municipal governmental agency. 12 M.R.S.A. § 6072(7-A)(F). In determining interference with the public use or enjoyment of conserved lands, the Commissioner shall consider the purpose(s) for which the land was acquired. Chapter 2.37(1)(A)(7)).

Laurie Petronis testified that Mud Hole Cove is surrounded by conserved lands and stated the aquaculture gear detracts from the island's scenic beauty (Petronis testimony).

⁶ DEI holds two Land-based Aquaculture (LBA) licenses, MELBA0009 and MELBA0036. MELBA0036 was licensed after this lease application was submitted and authorizes the culture of soft-shell clams (*Mya arenaria*).

However, the proposed lease is not within 1,000 feet of any conserved lands, beach, park, or docking facility, owned by federal, state, or municipal governments (SR 10).

Therefore, the aquaculture activities as proposed will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, docking facilities, or certain conserved lands owned by federal, state, or municipal government.

H. Light

When examining light, the Commissioner considers whether the proposed lease will result in an unreasonable impact from light at the boundaries of the lease site. 12 M.R.S.A. § 6072(7-A)(G). Compliance with exterior lighting regulations is evaluated, including the requirement that the applicant demonstrate that all reasonable measures will be taken to mitigate light impacts from the lease activities. Chapter 2.37(1)(A)(8).

According to the application, no lights are proposed for use on the lease site (App 20).

Therefore, the aquaculture activities as proposed will not result in an unreasonable impact from light at the boundaries of the lease site.

I. Noise

When examining noise, the Commissioner considers whether the proposed lease will result in unreasonable impact from noise at the boundaries of the lease site. 12 M.R.S.A. § 6072(7-A)(G). Compliance with noise regulations is evaluated along with the requirement that the applicant demonstrate that all reasonable measures will be taken to mitigate noise impacts from the lease activities. Chapter 2.37(1)(A)(9).

According to the application, the only sources of noise are a four-stroke outboard motor and a 12-volt washdown pump (App 20). In response to a question from DMR at the hearing, the applicant stated that the washdown pump will not be used, nor will any other powered equipment aside from their vessels (Pepperman/Eggett).

A four-stroke outboard motor is consistent with noise produced by any motorized recreational or commercial vessel operated in Maine waters.

Therefore, with the removal of the washdown pump, the aquaculture activities as proposed will not result in an unreasonable impact from noise at the boundaries of the lease.

J. Visual Impact

When examining visual impact, the Commissioner considers whether the proposed lease is in compliance with visual impact criteria relating to color, height, shape and mass. 12 M.R.S.A. § 6072(7-A)(H). Compliance with visual impact regulations including building profiles, height limitations, roof and siding materials and color are evaluated. Chapter 2.37(1)(A)(10).

The application states that all gear will be black or green, with the exception of the lobster and mussel buoys which could be yellow or white, and the yellow corner marker buoys (App 15).

To comply with DMR's visual impact criteria, all buoys except corner marker buoys must be an approved color (gray, black, brown, blue, or green). To ensure the lease will comply with the visual impact criteria, it will be conditioned to require all gear, except the corner marker buoys, to use only approved colors.

There are no buildings or floats proposed in the application.

Therefore, as conditioned, the lease site will comply with DMR's visual impact criteria.

4. Conclusions of Law

Based on the above findings, DMR concludes that:

- a. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of riparian owners.
- b. The aquaculture activities proposed for this site will not unreasonably interfere with navigation.
- c. As modified by this decision, the aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses, including water-related uses of the area.
- d. The aquaculture activities proposed for this site will not unreasonably interfere with other aquaculture uses of the area.
- e. The aquaculture activities proposed will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.
- f. The aquaculture activities proposed for this site will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, docking facilities, or certain conserved lands owned by federal, state, or municipal government.
- g. The applicant has demonstrated that there are available sources of stock for soft-shell clams (*Mya arenaria*), American/eastern oysters (*Crassostrea virginica*), blue mussels (*Mytilus edulis*), sea scallops (*Placopecten magellanicus*), and hard clams/northern quahogs (*Mercenaria mercenaria*) to be cultured for the lease site. The applicant has not demonstrated that there is an available source of

stock for Arctic surf clams (*Mactromeris polynyma*), European oysters (*Ostrea edulis*), or razor clams (*Ensis leei*) to be cultured for the lease site.

- h. The aquaculture activities proposed for this site will not result in an unreasonable impact from light at the boundaries of the lease site.
- i. The aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease site.
- j. As conditioned, the aquaculture activities proposed for this site will not comply with the visual impact criteria.

Accordingly, the evidence in the record supports the conclusion that the proposed aquaculture activities, as modified and conditioned by this decision, meet the requirements for the granting of an aquaculture lease set forth in 12 M.R.S.A. § 6072.

5. Decision

Based on the foregoing, the Commissioner grants a standard lease to Downeast Institute for 3.48 acres for twenty years for the suspended culture of soft-shell clams (*Mya arenaria*), American/eastern oysters (*Crassostrea virginica*), blue mussels (*Mytilus edulis*), sea scallops (*Placopecten magellanicus*), and hard clams/northern quahogs (*Mercenaria mercenaria*). The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. The lessee shall post a bond or establish an escrow account pursuant to Chapter 2.40(2)(A) 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. Lease Conditions

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 M.R.S.A. § 6072(7-B) and Chapter 2.37(B). Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while addressing the ability of the lease site and surrounding area to support ecologically significant flora and fauna, and preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease. In consideration of these principles, and based on facts in the record, the following condition(s) shall be incorporated into the lease:

1. To comply with DMR's visual impact criteria, all buoys excepting corner marker buoys shall be an approved color (gray, black, brown, blue, or green).

7. Revocation of Lease

The Commissioner may initiate revocation proceedings and revoke the lease upon determining pursuant to 12 M.R.S.A. § 6072(11), that no substantial aquaculture or research has been conducted over the course of the lease, that the lease activities have been conducted in a manner substantially injurious to marine organisms or public health, or that any condition of the lease, or any minimum lease maintenance standard contained in Chapter 2.75, has been violated.

Dated: 10-7-2026


Carl J. Wilson, Commissioner
Department of Marine Resources

Appendix

Reduced Coordinates (WGS84) – 3.48 acres

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
1	44.486250°	-67.586750° then 303 feet at 104° True to
2	44.486047°	-67.585626° then 134 feet at 197° True to
3	44.485696°	-67.585775° then 153 feet at 105° True to
4	44.485586°	-67.585209° then 234 feet at 197° True to
5	44.484972°	-67.585472° then 443 feet at 281° True to
6	44.485194°	-67.587139° then 398 feet at 013° True to 1



Downeast Institute
Mud Hole Cove, Eastern Bay
Beals

