

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

FAREWELL LLC

Standard Aquaculture Lease Application
Suspended Culture of Shellfish
Damariscotta River, Newcastle

DAM DPN

Findings of Fact, Conclusions of Law, and Decision

FareWell LLC applied to the Department of Marine Resources (DMR) for a twenty-year Standard aquaculture lease on 3.6 acres located south of Dodge Point, Damariscotta River, Newcastle, Lincoln County. The proposal is for the suspended culture of American/eastern oysters (*Crassostrea virginica*) and European oysters (*Ostrea edulis*).

1. Proceedings

DMR held a pre-application meeting on this proposal on February 2, 2023, and a scoping session was held on November 4, 2023. On February 21, 2024, DMR accepted the final application as complete. Notice of the completed application was provided to state agencies, the Town of Newcastle, riparian landowners within 1,000 feet of the proposed site, and subscribers to DMR's aquaculture email listserv. DMR sent a Municipal Questionnaire to the Town of Newcastle, requesting information about designated or traditional storm anchorages, navigation, riparian ingress and egress, fishing or other uses of the area, among other considerations and received a response from the Harbormaster on March 19, 2024. Notice of the public hearing was published in the *Lincoln County News* on May 21, 2026, and provided to state agencies, the Town of Newcastle, 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 June 14, 2026. The deadline for requesting intervenor status was June 14, 2026. No applications for intervenor status were received by DMR. Two individuals registered to participate in the hearing. On June 29, 2026, DMR held a public hearing on this application.

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

Name	Affiliation
Peter Smith	Owner/president of FareWell LLC
Harriet Burgoon	Employee of FareWell LLC

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 June 29, 2026.

The evidentiary record before DMR regarding this lease application includes the application, DMR's site report dated December 4, 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 December 4, 2025 (SR)

The case file, application and site report are referred to in the decision with their designated abbreviations.

2. Description of the Project

A. Site History

Peter Smith, president of FareWell LLC, currently operates three Limited Purpose Aquaculture (LPA) license sites within the boundaries of the proposal - PSMI821, PSMI921, and PSMI1021¹. A fourth LPA, HBUR122, is licensed to Harriet Burgoon, an employee of FareWell LLC. If this proposal is granted, all four LPAs would be relinquished (App 11).

B. Proposed Operations

The applicant proposes to culture American/eastern oysters and European oysters using suspended culture techniques (App 1, 2). The applicant proposes to use up to 150 floating cages with soft mesh bags (40.5-inch by 36-inch by 24-inch), up to 120 stacks of five 20-inch or 24-inch by 20-inch by 4-inch suspended trays, helix moorings, lines, and buoys (App 4).

The applicant anticipates seeding oysters from July to September approximately one day per week (App 7). The applicant plans to tend the site up to 6 days per week from March to December, and 1-2 times per week the remainder of the year (Smith testimony). Harvesting by hand would occur year-round (Smith

¹ Peter Smith initially received licenses for LPAs in this area in 2014. These licenses were reissued annually until 2021, when new licenses were obtained for the sites. These licenses were subsequently reissued annually and remain active.

testimony). All gear would remain on-site year-round, with the oyster cages sunk to the bottom during the winter (App 8).

According to the application, skiffs will be used to perform site operations and will be running approximately 0.5 hours per day on-site (App 9-10).

Table 2. Power equipment proposed for the lease site

Equipment	Description	Frequency of Use
Crane	Powered by generator	1-2 hours per day, sporadically
Power pack generator	Gasoline powered	Up to 3 hours per day, sporadically

C. Site Characteristics

Description. On June 17, 2025, DMR scientists assessed the proposed lease site (SR 2). DMR scientists revisited the proposal on June 26, 2025, to assess bottom characteristics (SR 2). The proposal is approximately 461 feet east of the western shoreline of the Damariscotta River at mean low water (MLW) (SR 2). The western shoreline of the Damariscotta River in the vicinity of the proposal consists of a primarily rocky shoreline that leads to mixed forest uplands (SR 2). One gravel beach was observed approximately 1,426 feet north of the proposal (SR 2).

Correcting for tidal variations, water depths at the corners of the proposal were derived to be approximately 11.2 to 17.2 feet at mean low water (MLW, 0.0 feet) (SR 2).

On June 26, 2025, DMR scientists observed the bottom characteristics of the proposed lease site via a remotely operated vehicle (ROV) (SR 3). Bottom characteristics were categorized using the Coastal and Marine Ecological Classification Standard (CMECS), a national standard for describing features of the marine environment (SR 3). Sediment information was determined based on visual analysis of the video (SR 3). The bottom of the proposed lease site is composed of mud with an overlay of sheet algal bed (SR 3).

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.

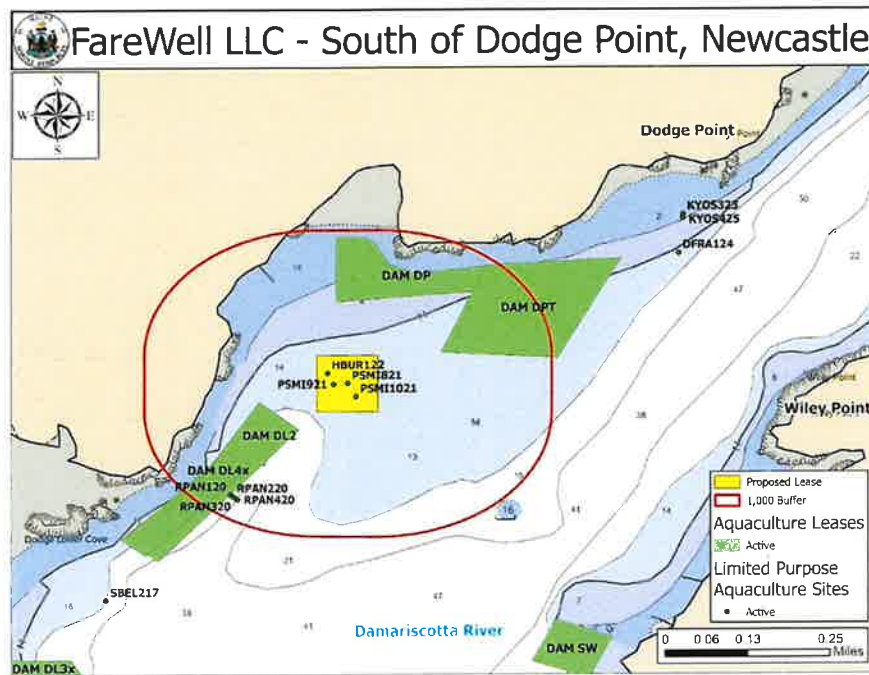


Figure 1. Aquaculture leases and LPA licenses in the vicinity of the proposed lease area².

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 2.37.³ 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.

² Unless otherwise noted, all figures in this report were created in ArcGIS Pro version 3.3 using digitized NOAA Nautical Charts or geo-referenced aerial photographs provided by The Maine Office of GIS.

³ 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>.

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 first site visit on June 17, 2025, DMR scientists observed four piers with docks in the vicinity of the proposal (SR 5). As shown in Figure 2, starting north and heading counterclockwise, one dock was approximately 610 feet northwest of the proposal and had two dinghies, two kayaks, and one small, inflatable boat stored on it (SR 5). The second dock was approximately 370 feet to the west-northwest and had a powerboat of approximately 20 feet in length tied up to it (SR 5). The third dock was approximately 445 feet to the west and had kayaks and paddle boards stored on it (SR 5). The fourth dock was approximately 640 feet southwest of the proposal and had three kayaks stored on it (SR 5). DMR scientists also observed a pier approximately 780 feet north of the proposal (SR 5). The dock associated with the pier was stored on the shore at the time of the site visit (Figure 2; SR 5).

DMR scientists observed seven moorings in the vicinity of the proposal (SR 5). The closest mooring was unoccupied and located approximately 229 feet west of the proposal (SR 5). Other unoccupied moorings observed were approximately 570 feet northwest, 495 feet northwest, 270 feet west, 349 feet west, and 513 feet west of the proposal (SR 5). The occupied mooring was located approximately 520 feet northwest of the proposal and was occupied by a powerboat of approximately 20 feet in length (Figure 2; SR 5).

A Harbormaster Questionnaire was completed by the local Harbormaster and submitted to DMR on March 19, 2024 (SR 5). The Harbormaster stated that there are several docks and moorings in the vicinity of the proposal (SR 5). The comments stated that depending on boat size, the proposal could have a negative impact on riparian ingress and egress (SR 5). The Harbormaster also stated there are permitted moorings within the boundary of the proposal (SR 5).

At the time of the site visit, DMR did not observe any moorings within the boundaries of the proposal (SR 5).

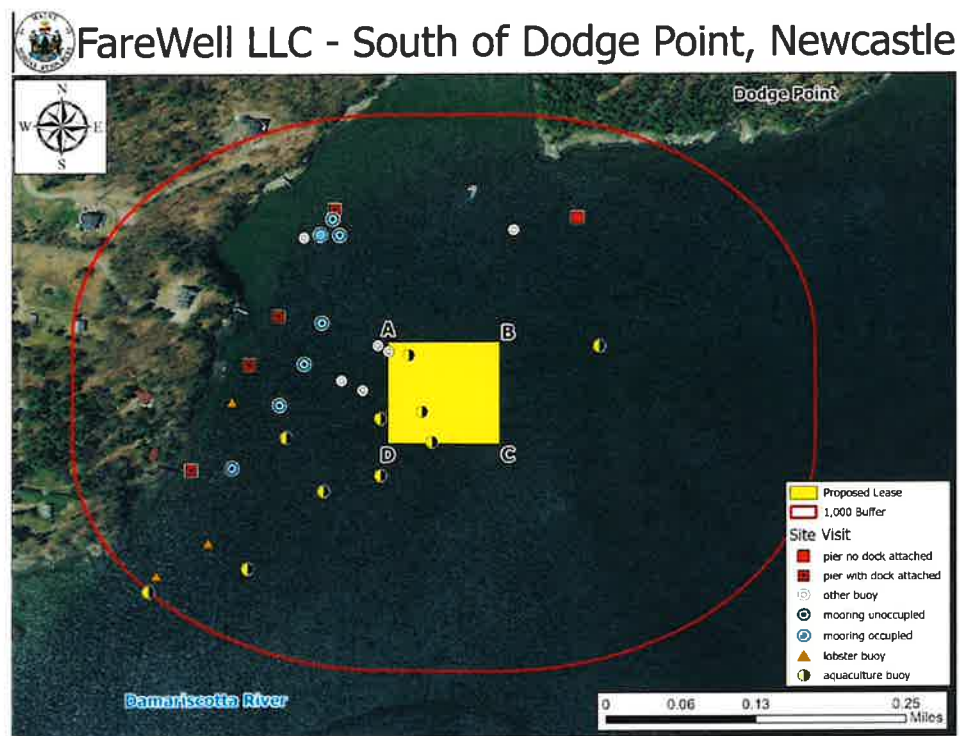


Figure 2. Proposed lease area with site visit observations.

At the hearing, Peter Smith stated that the existing LPAs are situated roughly in the outline of the proposed lease and therefore, there would be no further impact to riparian ingress and egress (Smith testimony). Peter Smith also testified that he is not aware of any objections to the proposed lease from riparian owners (Smith testimony). Peter Smith testified that the closest existing aquaculture lease is approved for bottom culture (therefore it is unlikely to impact riparian access since bottom culture sites typically do not deploy any gear in the water column) (Smith testimony). DMR records confirm that DAM DL2 is approved for bottom culture (Figure 1).

No other testimony or evidence was offered at the hearing concerning riparian ingress and egress.

While the Harbormaster's comments stated that there are permitted moorings within the proposed lease boundaries, both the application (App 15) and the site report (SR 5) stated there are seven moorings in the area, all of which were observed outside of the proposed lease boundaries (Figure 2). Additionally, three of the existing LPAs have been on-site for at least five years presumably with no reported conflict with riparian access.

Given the distance to any riparian structures, and the size of vessels observed in the area during the site visits, the lease activities will not impact riparian access.

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).

The proposal is located approximately 461 feet east of the western shoreline of the Damariscotta River, and south of Dodge Point (SR 5). The center of the mapped navigational channel is located approximately 700 feet east of the proposal, as marked by navigational markers “16” and “17” (Figure 3; SR 5). DMR scientists observed one powerboat operating in the channel to the east of the proposal during the first site visit on June 17, 2025 (SR 5).

The Harbormaster stated in the Municipal Questionnaire that the proposal is located between existing aquaculture leases, and the addition of another lease would make navigation in the area tighter (Figure 1; SR 5). The Harbormaster also stated that there is some recreational boating within the area of the proposal (SR 5).

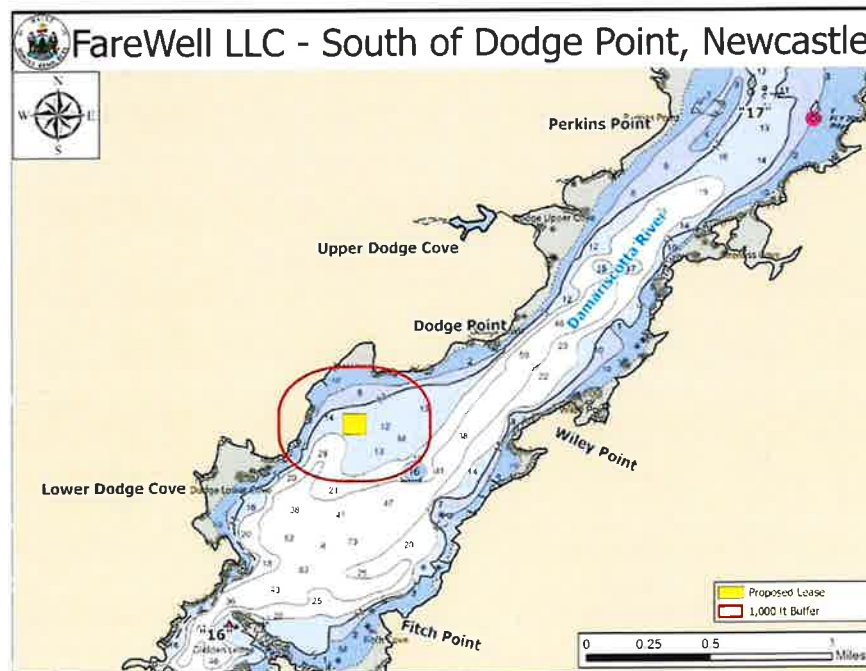


Figure 3. Navigational channels in the vicinity of the proposed lease area.

At the hearing, in response to a question from DMR, Peter Smith and Harriet Burgoon testified that although the Harbormaster stated that the lease as proposed would potential hinder navigation, the closest existing aquaculture lease is a bottom culture site (Eggett/Smith, Burgoon). Additionally, they testified they have not witnessed any issues with navigation when they have been on-site (Smith and Burgoon testimony).

No other testimony or evidence was offered at the hearing concerning navigation.

Three of the existing LPAs have been on-site for at least five years, and one for four years, with no reported impacts to navigation. The closest lease site to the proposal, DAM DL2 is authorized for bottom culture, meaning that there is no suspended gear to hinder navigation in that area. There is approximately 570 feet of open water between the proposal and the nearest boundary of DAM DL4x, which is authorized for suspended gear and approximately 360 feet between the proposal and the closest boundary of DAM DPT, also authorized for suspended gear. Additionally, the lease as proposed is located well outside of the marked navigational channel.

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 on June 17, 2025, no commercial or recreational fishing activity was observed within the boundaries of the proposed lease (SR 6). DMR observed three lobster buoys within 1,000 feet of the proposed lease (SR 6). The closest lobster buoy was observed approximately 501 feet west of the proposal (SR 6).

Also during the site visit on June 17, 2025, DMR scientists observed four teal-colored buoys in the vicinity of the proposal (Figure 2; SR 6). The purpose of the buoys was unknown (SR 6). In response to a question from DMR at the hearing, Peter Smith stated that the teal buoys are his for an existing wet storage site (Eggett/Smith). Wet storage means the storage, by a dealer, of shellstock from growing areas in the approved classification or in the open status of the conditionally approved classification in containers or

floats in natural bodies of water. DMR records confirm that FareWell LLC has a wet storage license in Upper Dodge Cove.

The Harbormaster stated in the Harbormaster Questionnaire that there is some recreational fishing within the area of the proposal, as well as commercial aquaculture.

According to the application, lobster, menhaden, and recreational fishing occur approximately 600 feet, 1000-2000 feet, and 200-800 feet away, respectively (App 14).

Other Uses. According to the application, kayaking and paddleboarding occur at and around the proposed lease site, as often as daily during summer (App 14). The application states that while these activities do not typically occur within the lease boundaries, if the lease is approved, the applicant would continue to welcome the activities within the aquaculture site (App 14).

No testimony or evidence was offered at the hearing concerning fishing or other uses of the area.

While there is evidence of fishing in the area, it typically occurs outside of the proposed lease boundaries between approximately 500 to 2,000 feet away. Therefore, given the ample space available for commercial and recreational fishing and other water-related uses outside of the proposed lease area, and the ability for kayaking and paddleboarding to continue within the lease boundaries, the proposed lease activities will not unreasonably interfere with fishing or other uses.

Therefore, the aquaculture activities as proposed 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 are four aquaculture leases and eight LPA sites within 1,000 feet of the proposed lease (SR 7). Peter Smith, the president of FareWell LLC currently operates three LPAs within the boundaries of the proposal - PSMI821, PSMI921, PSMI1021, and a fourth, HBUR122, is licensed to a FareWell LLC employee, Harriet Burgoon (CF). If this standard lease is granted, all four LPAs would be relinquished.⁴ There are four additional LPAs approximately 840 feet southwest of the proposal (SR 7). RPAN120, RPAN220, RPAN320, and RPAN420 are held by Rochelle Panichelle (SR 7).

⁴ Application page 11, CF

There are three standard aquaculture leases and one experimental aquaculture lease within 1,000 feet of the proposal (SR 7). DAM DL2 is a standard lease approximately 180 feet southwest of the proposal (SR 7). DAM DL4x is an experimental lease approximately 570 feet southwest of the proposal (SR 7). Both DAM DL2 and DAM DL4x are held by Glidden Point Oyster Company (SR 7). DAM DPT is a standard lease approximately 361 feet northeast of the proposal and is held by Dodge Cove Marine Farm (SR 7). DAM DP is a standard lease approximately 427 feet north of the proposal and is held by Muscongus Bay Aquaculture (Figure 1; SR 7).

During the site visit on June 17, 2025, DMR scientists observed several aquaculture buoys in the vicinity of the proposal (Figure 2; SR 7). Three aquaculture buoys within the boundaries of the proposal, as well as one approximately 25 feet west of the proposal, were associated with LPAs PSMI821, PSMI921, PSMI1021, and HBUR122 (SR 7). An aquaculture buoy located approximately 144 feet southwest of the proposal was labeled 'DAM DL2', as well as two additional buoys located approximately 295 and 330 feet southwest of the proposal (SR 8). Additionally, an aquaculture buoy located approximately 317 feet east of the proposal was labeled 'DAM DPT' (Figure 2; SR 8).

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

Three of the existing LPAs have been on-site for at least five years and one for four years with no reported conflict with other aquaculture uses of the area. DAM DL2, the closest lease site is permitted for bottom culture meaning there is no suspended gear on that site. DAM DL4x is approximately 570 feet away and is authorized for suspended gear. DAM DPT is approximately 361 feet northeast of the proposal and is also authorized for suspended gear. There is ample space available for the operation of the proposal and the existing aquaculture leases.

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. During the second site visit on June 26, 2025, DMR scientists utilized an ROV to assess the epibenthic ecology of the proposed lease (SR 8). The relative abundance of epibenthic flora and fauna observed in the video footage is described below in Table 3 (SR 8).

Table 3. Species observed using underwater video footage.

Species Observed	Abundance
Crab (<i>Cancer sp.</i>)	Rare

Marine Vegetation. Records of eelgrass collected by the Department of Environmental Protection (DEP) in 2023 indicate no mapped eelgrass presence in the vicinity of the proposal (SR 9).⁵ No eelgrass was observed within the boundaries of the proposal during DMR’s site visit and on underwater video footage (SR 9).

Wildlife. During DMR’s site visit, scientists observed herring gull (*Larus argentatus*) and great cormorant (*Phalacrocorax carbo*) in the general vicinity of the proposal (SR 9).

The Department of Inland Fisheries and Wildlife (IFW) has jurisdiction over inland fisheries and wildlife resources of the state (SR 9). IFW also has the authority to conserve wildlife populations and their ecosystems through applicable state laws and rules (SR 10). DMR provides IFW with notice and the opportunity to comment on all complete lease applications (SR 10). 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 10).

According to Geographic Information System (GIS) data maintained by IFW and available through the Maine Office of GIS (MEGIS), there is one mapped habitat type in the vicinity of the lease proposal (SR 10). The proposal is approximately 1,052 feet from Tidal Waterfowl and Wading Bird Habitat (TWWH), which is a type of Significant Wildlife Habitat designated and regulated by IFW (SR 10).⁶ Based on data maintained by IFW, it is approximately 1,052 feet from the proposal to the nearest mapped TWWH (SR 10).

IFW was provided with the opportunity to comment on this proposal (SR 10). On March 14, 2024, a Resource Biologist with IFW responded by email to a “Request for Agency Review and Comment” stating that minimal impacts to wildlife are anticipated for this project (SR 10).⁷

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 10). Data collected by USFWS in 2023

⁵ Data obtained from The Maine Office of GIS “GISVIEW.ME/DEP.Sea grass2023”. This is the most current record of mapped eelgrass within the vicinity of the proposal.

⁶ <https://www.maine.gov/ifw/programs-resources/environmental-review/significant.html>

⁷ Email correspondence between IFW and DMR

by aerial nest survey shows there is no mapped bald eagle nesting site within 1,000 feet of the proposal (SR 10).

No testimony or evidence was offered at the hearing concerning the existing system support.

Based on the absence of eelgrass and the distance from the significant wildlife habitat, the lease as proposed will not adversely impact mapped significant wildlife and marine habitats in the area.

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, American oysters (*Crassostrea virginica*) will be sourced from either Muscongus Bay Aquaculture in Bremen, Maine or the Downeast Institute (DEI) in Beals, Maine (App 2). Muscongus Bay Aquaculture and DEI are DMR approved sources of American oyster stock. The application states that European oysters (*Ostrea edulis*) would be sourced from DEI. DEI is not currently an approved source of stock for this species. In response to a question from DMR at the hearing, Peter Smith stated that FareWell LLC does not have an alternate source for European oyster stock (Eggett/Smith). Therefore, if the lease is approved, it will not authorize the culture of European oysters (*Ostrea edulis*). If the applicant wants to cultivate European oysters 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 is an available source of stock for American oysters (*Crassostrea virginica*) to be cultured for the lease site. The applicant has not demonstrated that there is an available source of stock for European oysters (*Ostrea edulis*) 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)).

The proposed lease is located approximately 842 feet south of Dodge Point Preserve, which is owned by the State of Maine and co-managed by the Maine Department of Agriculture, Conservation, and Forestry and Coastal Rivers Conservation Trust (SR 12). Dodge Point Preserve allows for general use by the public and maintains trails with shoreside access, including a public dock (SR 12). The proposed lease is not within 1,000 feet of any other beach, park, docking facility, or conserved lands owned by federal, state, or municipal governments (SR 12).

No testimony or evidence was offered at the hearing concerning public facilities.

Given the distance to the Dodge Point Preserve, the lease activities will not interfere with public facilities.

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 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, lights (specifically headlamps) will only be used in the event of an emergency (App 10). Chapter 2.37(1)(A)(8) exempts the use of the lights during emergency situations.

Therefore, the aquaculture activities as proposed will not result in 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, including 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, a crane powered by a generator will be used on-site approximately one hour per day (App 10). The application also states that the generator will be housed in an aluminum box to mitigate the noise output (App 10). Additionally, when the crane/generator is in use, any vessels on-site will be shut off to minimize noise levels (App 10). At the hearing, Peter Smith stated he recently developed a small tube device that would also be powered by the generator, but it will be used sporadically, 1-2 hours per day (Smith testimony).

Given the minimal use of the noise-generating equipment, as well as the proposed mitigation measures, the proposed lease will not generate unreasonable impacts from noise.

Therefore, the aquaculture activities as proposed will not result in 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).

According to the application, with the exception of the corner marker buoys, all gear will be black, green, or gray in compliance with regulations (App 6).

Therefore, the lease site as proposed 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. 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 is an available source of American oyster (*Crassostrea virginica*) stock to be cultured for the lease site. The applicant has not demonstrated that there is an available source of European oyster (*Ostrea edulis*) stock to be cultured for the lease site.
- h. The aquaculture activities proposed for this site will not result in unreasonable impact from light at the boundaries of the lease site.
- i. The aquaculture activities proposed for this site will not result in unreasonable impact from noise at the boundaries of the lease site.
- j. The aquaculture activities proposed for this site will comply with the visual impact criteria.

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.

5. Decision

Based on the foregoing, the Commissioner grants a Standard lease to FareWell LLC for 3.6 acres for twenty years for the cultivation of American oyster (*Crassostrea virginica*) using suspended culture techniques. The granted lease coordinates are contained in the Appendix to this decision. 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 leased area and impose limitations on aquaculture activities, pursuant to 12 M.R.S.A. § 6072(7-B) and Chapter 2.37(1)(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. No conditions have been imposed on this lease.

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: 9.29.2026



Carl J. Wilson, Commissioner
Department of Marine Resources

Appendix

Granted Lease Coordinates

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
A	43.982444°	-69.566254° then 350 feet at 090° True to
B	43.982444°	-69.564924° then 450 feet at 180° True to
C	43.981209°	-69.564924° then 350 feet at 270° True to
D	43.981224°	-69.566254° then 445 feet at 001° True to A