

**STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES**

**Salt of the Earth Seafarm LLC  
PEN Bix**

Experimental Aquaculture Lease Application  
Suspended Culture of Marine Algae  
Penobscot Bay, Deer Isle, Maine

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

Salt of the Earth Seafarm LLC applied for a three year experimental aquaculture lease located east of Barred Island in the Penobscot Bay. The proposed lease is 3.93<sup>1</sup> acres and is for the suspended culture of sugar kelp (*Saccharina latissima*) for commercial aquaculture research and development.

**1. THE PROCEEDINGS**

DMR accepted the application as complete on May 12, 2023. Notice of the application and the 30-day public comment period was provided to state agencies, riparian landowners within 1,000 feet of the proposed site, the Town of Deer Isle and its Harbormaster, and others on DMR's email listserv. Notice to the municipality included a Harbormaster Questionnaire requesting information related to designated or traditional storm anchorages, navigation, riparian ingress and egress, and fishing or other uses of the area, among other considerations. No response was received from the Harbormaster. Notice of the complete application and comment period was published in the June 15, 2023, edition of *The Ellsworth American*. Title 12 M.R.S.A. §6072-A (6) provides that the Commissioner shall hold a public hearing if five or more persons request a public hearing within the 30-day comment period. No requests for a public hearing were received during the comment period and DMR opted not to hold a hearing for this proposal. The evidentiary record regarding this lease application includes the application, DMR's site report dated October 16, 2024, and the case file. The evidence from each of these sources is summarized below.<sup>2</sup>

**LIST OF EXHIBITS**

1. Case file
2. Application
3. DMR site report, issued on October 16, 2024

**2. DESCRIPTION OF THE PROJECT**

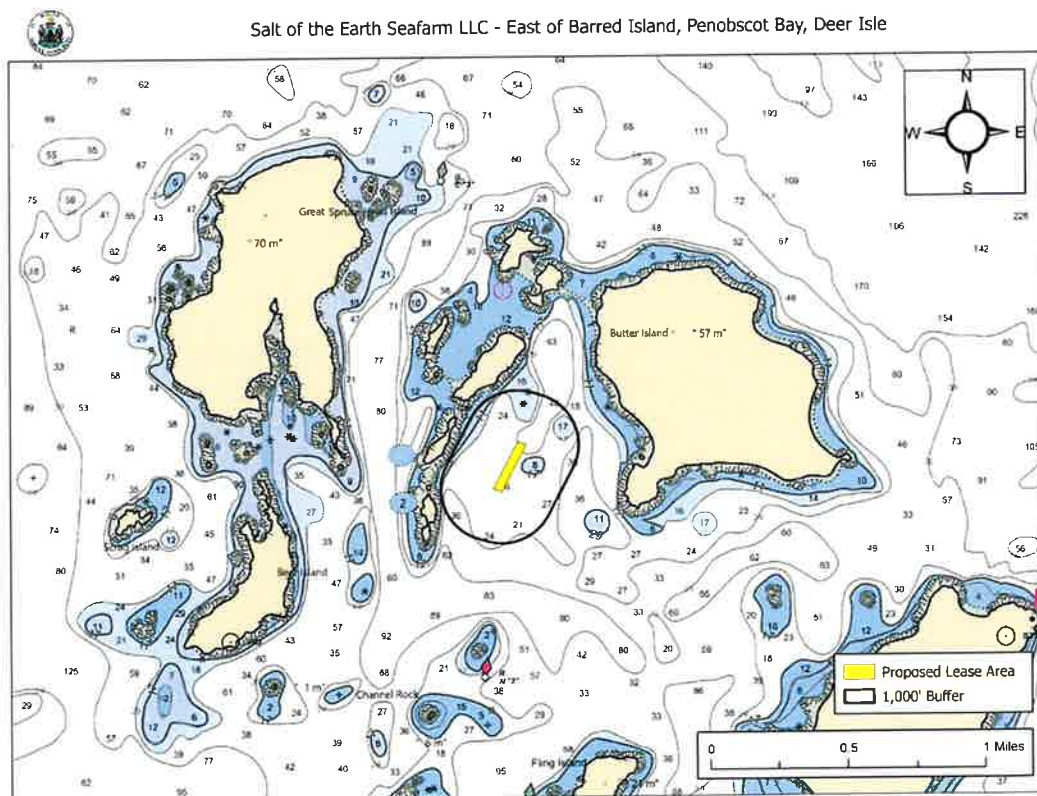
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<sup>1</sup> Applicant originally requested 3.95 acres. DMR calculations indicate the area is 3.93 acres.

<sup>2</sup> These sources are cited, with page references, as App (Application), CF (case file), and SR (site report).

## A. Proposed Operations

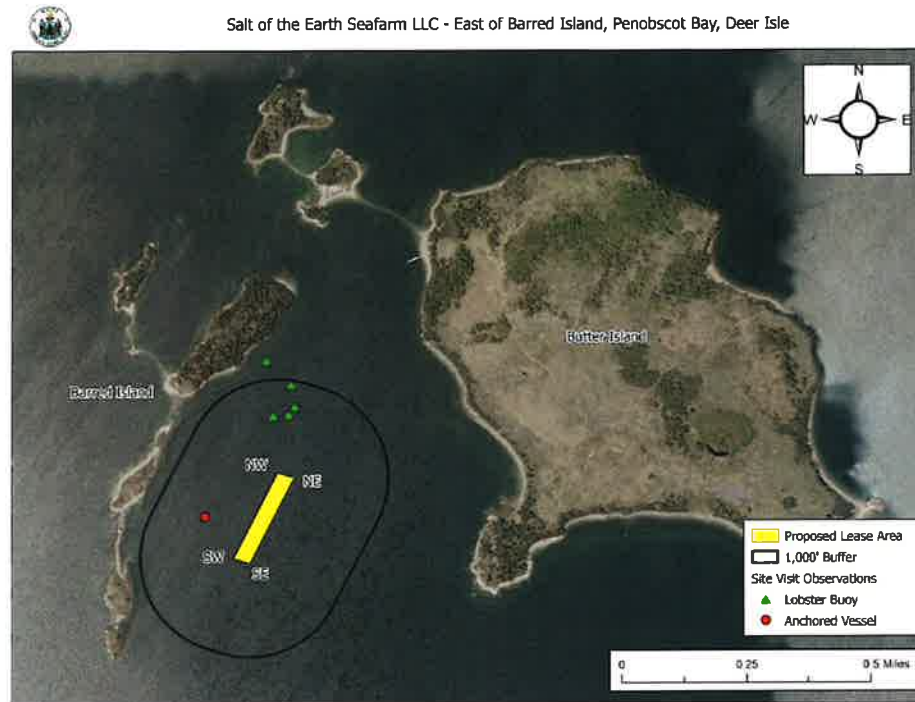
The purpose of the proposed experimental lease site is to determine the efficacy of the layout and mooring system for commercial aquaculture in the project location (App 4). The applicant is proposing to culture marine algae using nine 1,000 linear foot longlines, plus buoys and mooring lines, and blocks. The moorings and marker buoys would remain on-site year-round, but all other gear would be removed from June 1-October 14 (App 5). The applicant intends to seed the lines between mid-October and early November for up to 7 days and to tend the farm weekly (App 4-5). Harvesting would occur in April and May and would take approximately 21 days (App 5). For harvest, the longlines will be lifted into the boat with a pot hauler and the algae will be cut from the lines (App 5).



## B. Site Characteristics

<sup>3</sup> Unless otherwise noted, all figures in this report were created in ArcGIS Pro version 2.9 using digitized NOAA Nautical Charts or geo-referenced aerial photographs provided by The Maine Office of GIS.

On August 2, 2024, DMR scientists assessed the proposed lease site. The surrounding islands, Barred Island to the west and Butter Island to the northeast, have a mix of rocky and sandy shorelines leading to forested uplands. DMR observed a group of people swimming near Barred Island to the west of the proposal (SR 2).



**Figure 2.** Proposed lease area with site visit observations. Image from DMR site report.

### **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 for commercial aquaculture research and development or for scientific research may be granted by the Commissioner of DMR upon determining that the project will not unreasonably interfere with the ingress and egress of riparian owners; with navigation; with fishing or other uses of the area, taking into consideration other aquaculture uses in the area; with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna; or with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments. The Commissioner must also determine that the applicant has demonstrated that there is an available source of organisms to be cultured on the lease site.

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

Before granting a lease, the Commissioner must determine that the proposed project “will not unreasonably interfere with the ingress and egress of riparian owners[.]” 12 M.R.S.A. § 6072-A(13)(A). DMR’s Chapter 2 regulations<sup>4</sup> require the Commissioner to examine whether riparian owners can safely navigate to their shore. In examining riparian owner ingress and egress, the Commissioner “shall consider the type of structures proposed for the lease site and their potential impact on the vessels which would need to maneuver around those structures.” Chapter 2, § 2.37(1)(A)(1).

DMR did not observe any docks, houses, or moorings in the vicinity of the proposal. There is no land within 1,000 feet of the proposal. The nearest land is 1,050 feet southwest of the proposal at MLW (SR 4).

The applicant stated that there are no private shorefront property owners within 1,000 feet of the proposed site (App 7). A Harbormaster Questionnaire was sent to the Deer Isle Harbormaster, but no response was received. DMR did not receive any comments from the public regarding this proposal.

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

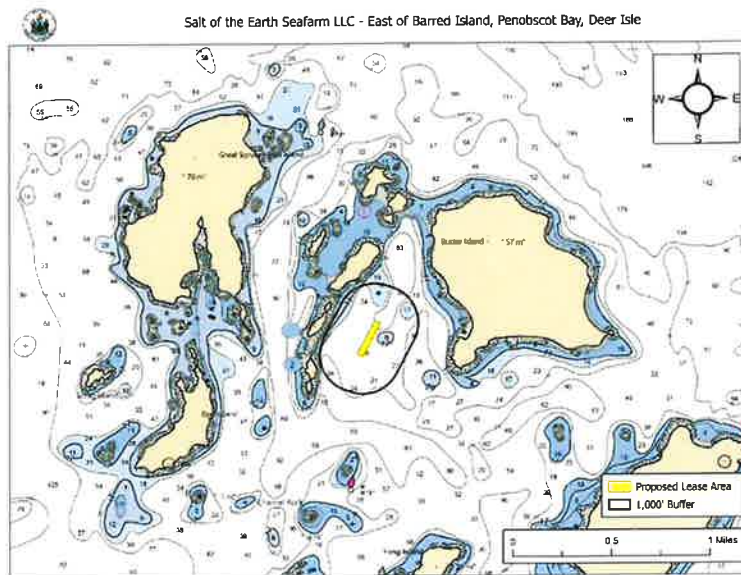
## **B. Navigation**

When examining navigation, the Commissioner considers whether the lease activities would interfere with commercial or recreational navigation around the lease area and considers the current uses of the navigational channels in the area. 12 M.R.S.A. § 6072-A(13)(B); Chapter 2.37(1)(A)(2). In examining navigation, the Commissioner “shall consider the current uses and different degrees of use of the navigational channels in the area in determining the impact of the lease operation.” Chapter 2, § 2.37(1)(A)(2).

The proposal is located approximately 1,050 feet to the east of Barred Island at MLW and 1,760 feet to the west of Butter Island at MLW. The proposal is 3,590 feet north of red navigational buoy “2” (Figure 3)(SR 4).

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<sup>4</sup> 13-188 C.M.R. ch. 2. The Commissioner considers the applicable criteria contained in Chapter 2.37 pursuant to Chapter 2.64(11)(A).



**Figure 3.** Navigational channels in the vicinity of the proposal. Image from DMR site report.

The application states that there are vessels that transit in the area, typically 500-1,000 feet away from the lease site (App 7). A Harbormaster Questionnaire was sent to the Town of Deer Isle. No response was received by DMR. No comments regarding impacts to navigation were received by DMR. Given the distance to areas that are commonly used for transit and the depths of the water surrounding the lease site, there would be adequate area for vessels to navigate.

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

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

When examining fishing and other uses, the Commissioner considers whether the lease activities would unreasonably interfere with commercial or recreational fishing or other uses, including water-related uses, of the area. 12 M.R.S.A. § 6072-A(13)(C); Chapter 2.37(1)(A)(3).

**Fishing.** In examining fishing and other uses, 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, § 2.37(1)(A)(3).

During the site visit, DMR documented four lobster buoys within 1,000 feet of the proposal and one within the general vicinity (Figure 2). Though DMR did not observe lobster (*Homarus americanus*)

within the proposal boundaries on underwater camera footage, several lobster burrows were observed. A commercial fishing vessel was observed actively hauling lobster gear north of the proposal (SR 5).

The application states that lobstering does occur approximately 1,000 feet south of the proposed lease area from May to September (App 7). The application also states that no recreational fishing has been observed in the area (App 7). No comments regarding impacts to fishing were received by DMR. Additionally, no comments were received from the Deer Isle Harbormaster concerning impacts to fishing.

Although commercial fishing does occur in the area and buoys were observed near the proposed site, it has been observed by the applicant to occur from May to September. DMR staff did observe light lobstering activity within 1,000 feet of the proposal during their site visit. The site visit took place in August, in line with the range of months in which lobstering occurs that was supplied by the applicant. The applicant has stated that the only surface gear on-site from June 1 to October 14 would be boundary buoys.

Given the lack of public comment, the light level of fishing activity, and the timeframe gear would be fully deployed, it is unlikely that the proposed lease will interfere with commercial and recreational fishing activities in the area.

**Other uses.** During the site visit, DMR observed a sailing vessel on anchor approximately 500 feet west of the proposal, and a group of people were swimming near Barred Island to the west of the proposal (SR 5). According to the application, kayaking has been observed rarely in the area (App 7). No comments regarding impacts to other uses of the lease area were received by DMR.

**Therefore,** the activities proposed for this site will not unreasonably interfere with fishing or other uses of the area.

#### **D. Other Aquaculture Uses**

DMR's Chapter 2 regulations require the Commissioner to consider any evidence submitted concerning other aquaculture uses of the area. "The intensity and frequency of such uses as well as the degree of exclusivity required for each use shall be a factor in the Commissioner's determination of whether any interference is unreasonable. The number, size, location, and type of other aquaculture leases shall be considered by the Commissioner." Chapter 2, § 2.37(1)(A)(4).

There is one Limited Purpose Aquaculture (LPA) site, GIPE422, within 1,000 feet of the proposal. GIPE422, licensed to Gil Perry, owner of Salt of the Earth Seafarm LLC, is located within the

proposal boundaries and will be relinquished if this lease is granted <sup>5</sup>. There are no other aquaculture sites within 1,000 feet of the proposal (SR 6).

**Therefore**, the activities proposed for this site will not unreasonably interfere with other aquaculture related uses in the area.

#### **E. Flora & Fauna**

When examining existing system support, the Commissioner considers the degree to which the use of the lease site will interfere with significant wildlife habitat and marine habitat or with the ability of the lease site and marine and upland areas to support ecologically significant flora and fauna (12 M.R.S.A. § 6072-A(13)(D); Chapter 2, § 2.37(1)(A)(5)). “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, § 2.37(1)(A)(5).

On August 2, 2024, DMR utilized a remotely-operated vehicle to assess the epibenthic ecology of the proposed lease. Small bait fish (unidentifiable), and shrimp (*Crangon septemspinosa*) were seen occasionally at the proposed lease site while crab (*Cancer* sp.) were seen rarely (SR 6).

#### **Eelgrass (*Zostera marina*)**

Historical records of eelgrass collected by DMR in 2010 indicate no mapped eelgrass presence in the vicinity of the proposal.<sup>6</sup> No eelgrass was observed on underwater camera footage within the proposal boundaries during DMR’s site assessment (SR 7).

#### **Fauna**

According to Geographic Information System (GIS) data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW) and available through the Maine Office of GIS (MEGIS), the proposed lease is located approximately 2.5 miles to the north of mapped Tidal Waterfowl and Wading Bird Habitat (TWWH). Data collected by the United States Fish and Wildlife Service in 2022 by aerial nest survey shows the closest mapped bald eagle nesting site to be approximately 2.25 miles northwest of the proposal on Little Spruce Head Island. There are no bald eagle nesting sites or TWWH within the vicinity of the proposal.

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<sup>5</sup> Application page 8

<sup>6</sup> Data 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.



During the site assessment, DMR observed double-crested cormorant (*Nannopterum auritum*), harbor seal (*Phoca vitulina*), black guillemot (*Cepphus grylle*), bald eagle (*Haliaeetus leucocephalus*), and herring gull (*Larus argentatus*) in the general vicinity of the proposal.

On July 24, 2023, a Resource Biologist with MDIFW responded by email to a “Request for Agency Review and Comment” stating minimal impacts to wildlife are anticipated for this project.<sup>7</sup>

Based on the evidence, it is unlikely the proposed activities will unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora or fauna.

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

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

When examining interference with public facilities, the Commissioner considers the degree to which the lease interferes with public use or enjoyment within 1,000 feet of beach, park, or docking facility owned by the Federal Government, the State Government, or a municipal government 12 M.R.S.A. § 6072-A(13)(F); Chapter 2, § 2.37(1)(A)(7); Chapter 2, § 2.64(11)(A).

The proposed lease is not within 1,000 feet of any beach, park, or docking facility owned by federal, state, or municipal governments.

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

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

When examining the source of organisms, the Commissioner shall include but not be limited to, consideration of the source’s biosecurity, sanitation, and applicable fish health practices 12 M.R.S.A. § 6072-A(13)(E); Chapter 2, § 2.37(1)(A)(6).

The applicant proposes to obtain sugar kelp stock from Summit Point LLC in Falmouth, Maine. This is an approved source for stock. If the applicant is unable to obtain stock from this facility, then it must come from another DMR approved source.

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

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

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<sup>7</sup> Email correspondence between MDIFW and DMR



Based on the above findings, the Department concludes that:

1. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of riparian owners.
2. The aquaculture activities proposed for this site will not unreasonably interfere with navigation.
3. The aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area.
4. The aquaculture activities proposed for this site will not unreasonably interfere with other aquaculture uses of the area.
5. 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.
6. 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.
7. The applicant has demonstrated that there is an available source of stock to be cultured for the lease site.

Accordingly, the evidence in the record supports the conclusion that the 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 3.93 acres to Salt of the Earth Seafarm LLC, for three years, the term of the lease to begin within twelve months of the date of this decision, on a date chosen by the lessee<sup>8</sup>; however, no aquaculture rights shall accrue in the lease area until the lease is fully executed.

This lease for is granted to the lessee for the suspended cultivation of sugar kelp (*Saccharina latissima*). The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. Because this is an experimental lease with more than 400 square feet of structures and no discharge, a bond or escrow account is required. The lessee shall post a bond or establish an escrow account pursuant to DMR Rule Chapter 2.64 (12)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. CONDITIONS TO BE IMPOSED ON LEASE**

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<sup>8</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.”

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-A (15) and 2.64(11)(B). 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. No conditions are imposed on this lease.

#### **7. REVOCATION OF EXPERIMENTAL LEASE**

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072-A (22) that no substantial aquaculture or research has been conducted on the site over the course of the lease, that aquaculture has been conducted in a manner substantially injurious to marine organisms, or that any condition of the lease or any applicable laws or regulations have been violated.

Dated: 2/5/25



**Patrick C. Keliher, Commissioner**  
**Department of Marine Resources**