STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Standard Aquaculture Lease Application
Suspended culture of oysters
Harpswell Sound, Harpswell

Jon M. Rogers/
Dogs Head Oyster, LLC
HARP DH
Docket #2015-18
March 29, 2016

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Jon Rogers applied to the Department of Marine Resources ("DMR") for a standard aquaculture lease on 8.68 acres[1] located in the coastal waters of the State of Maine, northwest of Orrs Island and southwest of Dogs Head Island in Harpswell Sound in the Town of Harpswell in Cumberland County, for the purpose of cultivating American oysters (*Crassostrea virginica*) using suspended culture techniques. DMR accepted the application as complete on August 26, 2015. No one intervened in this case. A public hearing on this application was held on March 7, 2016 in Harpswell.

After the hearing, Mr. Rogers established Dogs Head Oyster, LLC as the corporate form for his oyster business and requested that the lease be issued to the LLC, which is wholly-owned by him.

1. THE PROCEEDINGS

Notices of the hearing and copies of the application and DMR site report were provided to numerous state and federal agencies for their review, as well as to various educational institutions, aquaculture and environmental organizations, the Town of Harpswell and the Harpswell Harbormaster, members of the Legislature, representatives of the press, riparian landowners, and other private individuals. Notice of the hearing was published in the Brunswick *Times Record* on February 1 and 15, 2016, and in the *Commercial Fisheries News* February 2016 edition.

Sworn testimony was given at the hearing by Jon Rogers and DMR Aquaculture Scientist Marcy Nelson. Mr. Rogers described his proposed project. Ms Nelson described the DMR site visit and presented a videotape of the bottom. The U.S. Army Corps of Engineers was represented by Senior Project Manager LeeAnn Neal.

Each witness was subject to questioning by the Department, the applicant, and members of the public. The hearing was recorded by DMR. The hearing officer was Diantha Robinson.

The evidentiary record before the Department regarding this lease application includes three exhibits introduced at the hearing (see exhibit list below) and the record of testimony at the hearing itself. The evidence from all of these sources is summarized below.[2]

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[1] Lease coordinates listed in the application actually describe a site of 8.82 acres (*see* Site Report, p. 4). Following the DMR site visit, the site boundaries were revised to cover 8.68 acres (*see* Site Report, p. 11, and section 3 (D), Flora & Fauna, below).

[2] In references to testimony, "Smith/Jones" means testimony of Smith, questioned by Jones.

LIST OF EXHIBITS[3]

1. Case file, #2015-18
2. Application signed and dated 6-19-15, revised 8-17-15
3. DMR site report dated February 2, 2016

2. DESCRIPTION OF THE PROJECT

A. Site History

The applicant currently has four limited-purpose aquaculture (LPA) licenses for the suspended culture of American oysters (ROGE-1, -2, -3, and -4-15) located along the proposed eastern boundary of the lease site (SR, Figure 2). At the time of the DMR site visit, four lines of up to five floating oyster cages per line were observed by Department biologists (SR 2 and Images 1 and 2).

B. Site Characteristics

The proposed lease site is located in Harpswell Sound, off the northwest shore of Orrs Island, in an area currently classified by the DMR Bureau of Public Health as "open/approved" for the harvest of shellfish. On October 14, 2015, DMR biologists visited the proposed lease site and assessed it and the surrounding area in light of the criteria for granting an aquaculture lease, as described in the site report.

The proposed lease site occupies a half-moon-shaped site off the northwest shore of Orrs Island in Harpswell Sound (SR 1, Figure 1). Figure 5 of the DMR site report depicts a revision in the eastern boundary of the proposed lease site in order to provide a buffer between the site and an eelgrass bed.[4]

The nearest shore is the northern tip of Orrs Island, about 200 feet east of the proposed lease site, which consists of undeveloped wooded upland bordered by rocky shore and intertidal ledges. This land is owned by Bowdoin College, which operates its Coastal Study Center on 118 acres there, using the area southwest of the proposed lease site for their students and sailing school, according to the application (App 11, 29, 32). To the north of Orr's Island, additional ledges surround tiny Dogs Head Island, approximately 425-500 feet northeast of the proposed lease site, on which a small house and dock are located (SR 5, Fig. 2). To the west, the site is bordered by the open waters of Harpswell Sound.

The site report describes the proposed lease site as follows:

> The bottom of the proposed lease is flat without rocky outcrops or ledges. It gently slopes downward east to west. Eelgrass (*Zostera marina*) exists to the east of the proposed lease site boundaries. As the site deepens to the west and eelgrass diminishes, bottom sediments become increasingly silty and muddy. A diver could insert their gloved hand approximately 6-10 inches before meeting resistance (SR 3).

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[3] Exhibits 1, 2, and 3 are cited below as: Case file – "CF"; Application – "App", site report – "SR". Other exhibits are cited by number.

[4] See Section 3 (D), Flora & Fauna, below, for a discussion of this change.

Mean low water depths (MLW) within the area of the proposed lease, as calculated from measurements taken during the site visit, range from "a minimum of roughly 4.12 feet along the nearshore/eastern boundary to 14.12 feet to the south and west" (SR3).

C. Proposed Operations

The applicant proposes to grow American oysters using floating bags and floating and bottom cages.

Oyster bags are plastic mesh, 17" x 40" x 4.5" high (App 3). They will be deployed in two ways: floating at the surface, clipped individually to parallel lines up to 100 feet long; or set inside the oyster cages, which hold up to six bags each (App 3).

Oyster cages are 12-gauge, vinyl-coated, wire mesh, 67" x 40" x 9" high, with two plastic floats (67" x 8" x 11" high) on top, for a total height of twenty inches (App 3, 19). Each cage has a single shelf and holds up to six oyster bags. The cages will be deployed in two ways: floating at the surface attached to parallel lines up to 100-feet long; or set directly on the bottom for grow-out or overwintering (App 6).

Cages will be set on the bottom throughout the lease site (App 3). On the southwestern third of the lease site, no floating gear will be deployed, only cages on the bottom (App 6, 21), "to allow Bowdoin College continued access to the head of Brewer Cove and allow passage for Kayakers to paddle the shoreline uninhibited" (App 23).

Floating bags will be deployed in the eastern portion of the lease, nearer the shore (App 21, 23), with ten to twelve bags per line (App 22-A). The floating bags will be replaced by floating cages in three to five years (App 23).

Floating cages will be deployed in the western portion of the lease, facing the open water of Harpswell Sound, with ten cages per line (App 22).

The numbers of lines, bags, and cages will increase yearly for the first four to six years of the lease until Mr. Rogers's goal of one million oysters in cultivation is attained (App 12). Mr. Rogers states, "My target is 1,000,000 Oysters within this site leaving room for weather, current, boat travel between lines ..." (App 23). He expects to have 500,000 oysters growing on the site by 2017 (App 23). He states:

> When asked about the maximum number of Oysters this site will hold it would be in excess of 1.5 million. This would be a fairly large operation within industry standards. This will be built in stages over the next 2-3 years and looked at in depth after the first overwinter. Current water temperatures and feed indicate this to be a site worth making this attempt (App 23).

Although the application does not indicate the maximum amount of gear Mr. Rogers expects to deploy on the lease site, his discussions with the U.S. Army Corps of Engineers following the hearing resulted in an estimate of up to 2,000 cages, to be listed in the permit issued by the Army Corps.[5]

[5] CF, e-mail from LeeAnn Neal to Jon Rogers, 3-17-16

DMR has evaluated this lease application on the basis of the gear and layout described in the application, as noted above, recognizing that Mr. Rogers intends to increase the amount of gear deployed over time in order to reach his goal of culturing one million oysters. Any significant changes in the nature, amount, or layout of the gear or the activities conducted on the lease site as described in the application must be reviewed and approved by the Department to ensure that they are consistent with the findings made in this decision regarding the lease criteria. Aquaculture leases issued by the Department contain a standard provision to this effect.

The applicant also proposes to deploy a 16-foot by 20-foot wood and fiberglass float on the lease site; the float will be towed to the site as needed but will not be moored there year-round (App 4).

Throughout the growing season, the applicant will monitor the site approximately every three days; he expects to harvest oysters at least once each week. Oysters will be cleaned and graded in a tumbler on the applicant's 46-foot lobster boat; he may also use a pressure washer for cleaning the product (App 6).

Although scallops are not listed on the cover page of the application as species proposed to be cultured on the lease site, the application states, "I would like the right to have scallops within the site raised from captured spat for personal use. I will obtain a license to capture scallop spat if needed" (App 6). No information is provided in the application on how scallops would be cultured or harvested, or how many scallops would be grown. Therefore, scallops will not be approved for culture on the lease site at this time. Mr. Rogers has indicated that he may apply to the Department in the future for a species amendment for scallops and provide information on his plans for scallop culture at that time.[6]

Mr. Rogers has access to the proposed lease site from his own dock on Bailey Island, southwest of Orrs Island (App 11).

3. STATUTORY CRITERIA & FINDINGS OF FACT

Approval of standard aquaculture leases is governed by 12 M.R.S.A. §6072. This statute provides that a lease may be granted by the Commissioner of DMR upon determining that the project will not unreasonably interfere with the ingress and egress of riparian owners; with navigation; with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in an area; with the ability of the lease site and surrounding areas to support existing ecologically significant flora and
fauna; or with the public use or enjoyment within 1,000 feet of beaches, parks, 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 lights at the boundaries of the lease site; and that the lease will be in compliance with visual impact criteria adopted by the Commissioner relating to color, height, shape and mass.

[6] CF, e-mail from Jon Rogers to Diantha Robinson, 3-24-16

A. Riparian Access

According to the site report, "A small beach is located on the south side of Dogs Head Island." The nearest docks are located "along the northwest shore of Dogs Head Island, ~637 feet from the proposed lease, and along the western shore of Orrs Island, ~680 feet to the south of the proposed lease. If granted, the proposed lease would not impede ingress and egress from those properties" (SR 5).

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

B. Navigation

The site report describes the proposed lease site's effect on navigation as follows:

> The proposed lease site occupies nearshore subtidal waters off the northwestern shore of Orrs Island. The primary navigation channel between Orrs Island and High Head is located to the west of the proposed lease (Figure 1). If granted, a minimum of 1,600 feet of navigable water would remain between the proposed lease and High Head to the west. Vessels transiting through the general area will not be impeded by the proposed activities.
>
> The proposed lease is situated less than 30 feet from the shoal waters surrounding an intertidal ledge to the north, 80 feet from the ledge itself, and approximately 100 feet from the nearest intertidal shoreline (MLW) on Orrs Island. To the south is a small cove (Figures 1 & 2, Images 4 and 5). Access to this cove is likely limited to recreational boaters and Bowdoin College students and staff, including the sailing school. To maintain continued access to this cove, the applicant has suggested using bottom cages only in the southwestern 1/3rd of the lease (SR 6).

According to the Harpswell Harbormaster, the proposed lease site will not interfere with navigation (CF, Harbormaster Questionnaire).

The applicant proposes to use submerged cages in the deeper southwestern third of the proposed lease, as described above under Proposed Operations. According to the site report, at mean low water these cages, which are approximately 20 inches high, would be approximately 12.45 feet below the surface of the water, allowing adequate depth for safe navigation through the area (SR4, App 3, 19, 23).

Mr. Rogers testified at the hearing that he has observed people in kayaks and paddleboards navigating in the vicinity of the proposed lease site. He stated that the approximately 100 feet of open water between the east side of the lease site and the shore allows adequate room for navigation of these types of craft (Rogers, testimony).

It appears from this evidence that the proposed lease will not hamper navigation in the vicinity of the site. Aquaculture lease sites are required to be marked for navigation purposes in accordance with U. S. Coast Guard requirements.

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

According to the site report, DMR biologists did not observe any fishing in the area at the time of the site visit (SR 8). The site report notes:

> No commercially exploitable quantities of any species were observed on the bottom during the SCUBA assessment. Buoys marking the locations of lobster (*Homarus americanus*) traps were noted in the deeper channel waters to the west of the proposed lease.

It is likely that during summer months some recreational angling for striped bass (*Morone saxatilis*) occurs in the vicinity of the lease site. The installation of oyster cultivation equipment would create a physical obstruction to fishing; however, shelter provided by the equipment at the surface and on the bottom will likely attract and "hold" fish in the vicinity.

Some harvesting of European oysters (*Ostrea edulis*) may occur along the shoreline surrounding the proposed lease.

The harbormaster for the town of Harpswell, in a report submitted to the Department on September 17, 2015, affirmed that the proposed lease site is not within "commercial fishing grounds" and would have "minimal impact" on recreational fishing (SR 8).

Harvesting wild European oysters along the shore will not be impeded by the lease activities, which are located in subtidal waters. The evidence indicates that while some level of commercial and recreational fishing is likely to occur in the vicinity of the proposed lease, it is unlikely that the presence of the aquaculture lease site will interfere significantly with fishing of any kind. The lease must be marked in accordance with DMR Rule 2.80.[7]

Other aquaculture leases. According to the site report, the nearest aquaculture sites are Mr. Rogers's four LPA license sites along the eastern boundary of the proposed lease site. The next-nearest aquaculture sites are two other LPA licenses (LSMI-1-15 and LSMI-2-15) in Long Reach, Harpswell, approximately 2.5 miles northeast of the Rogers site (SR 8). The site report concludes that the proposed lease activities will not interfere with aquaculture activities at these sites (SR 8).

Exclusivity. The applicant requests exclusive use in the areas where gear is deployed, "with the exception of moorings needed by Bowdoin College for small boats" in the southwest portion of the lease site where the bottom cages will be located (App 12). Accordingly, recreational fishing and navigation, except in non-motorized vessels, will be prohibited from areas of the lease site where surface gear is deployed, and dragging and shellfish harvesting will be prohibited on the lease site except with the authorization of the lessee. These restrictions are reasonable in order to enable the aquaculture project to be carried out while encouraging the greatest number of compatible uses of the area, as provided in 12 MRS §6072 (7-B). Conditions reflecting these restrictions will be included in the lease.

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[7] **2.80 Marking Procedures for Aquaculture Leases**

1. When required by the Commissioner in the lease, aquaculture leases shall be marked with a floating device, such as a buoy, which displays the lease identifier assigned by the Department and the words SEA FARM in letters of at least 2 inches in height in colors contrasting to the background color of the device. The marked floating device shall be readily distinguishable from interior buoys and aquaculture gear.

2. The marked floating devices shall be displayed at each corner of the lease area that is occupied or at the outermost corners. In cases where the boundary line exceeds 100 yards, additional devices shall be displayed so as to clearly show the boundary line of the lease. In situations where the topography or distance of the lease boundary interrupts the line of sight from one marker to the next, additional marked floating devices shall be displayed so as to maintain a continuous line of sight.

3. When such marking requirements are unnecessary or impractical in certain lease locations, such as upwellers located within marina slips, the Commissioner may set forth alternative marking requirements in an individual lease.

4. Lease sites must be marked in accordance with the United State's Coast Guard's Aids to Private Navigation standards and requirements.

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

D. Flora & Fauna

Site observations. According to the site report, "Other than eelgrass, little benthic flora or fauna was observed during the SCUBA transect." Other organisms observed during the site visit included brown benthic diatoms, rock crabs (*Cancer spp.*), European oysters (*Ostrea edulis*), and mud shrimp (*Crangon septemspinosa*) (SR 8-9).

Eelgrass. Mr. Rogers states in the application,

> I have sited the lease outside the nearest eelgrass beds. There is no eelgrass within the proposed lease boundaries (App 9).
>
> Eelgrass as mapped in 2013 is shown on the Vicinity Map, Attachment 1a. The lease site is outside of the nearest eelgrass bed...There is a mapped eelgrass site inside (not within but 'inshore') of the designated lease area that comes and goes in cycles (App 10).

Prior to the Department's site visit, the U.S. Army Corps of Engineers advised DMR with respect to eelgrass as follows:

> The Corps recommends a minimum setback of 25' from any known, observed, mapped eelgrass to avoid not only direct impact (bottom gear) but also impact from shading associated with surface gear. Therefore, the site should be situated to reflect a minimum setback of 25'. This will be duplicated as a Corps permit condition in the event a permit is drafted. The setback should be reflected on the permit plan, with the appropriate coordinates supplied if not already depicted within the context of the application materials.[8]

During the site visit, DMR biologists verified and mapped the location of eelgrass on the proposed lease site as follows:

> Proximity to eelgrass (*Zostera marina*) was documented by a diver carrying a line that was connected to a dive flag at the surface. The line was held taut to the surface and the diver swam along the western (nearest the boundary of the proposed lease) extent of the eelgrass bed. While swimming along the eelgrass boundary the diver would tug the flag and line in three successive pulls to communicate to a person at the surface to collect a GPS waypoint; thus marking the eelgrass boundary (see Figures 2 and 5) (SR 8).
>
> Of note during the SCUBA dive was the amount of sediment and detritus in the water and covering fronds of eelgrass in the cove. The presence of oysters might prove to be beneficial to the growth of eelgrass due to their ability to increase water clarity by removing particulates during filter-feeding (SR 9).

[8] CF, e-mail from LeeAnn Neal, USACOE, to Diantha Robinson, DMR, October 6, 2015.

Figures 3 and 4 of the site report show 2002 and 2013 eelgrass maps, respectively (SR 9, 10). Both maps depict eelgrass surrounding the proposed lease site on the north, east, and south. Ms Nelson testified that general mapping of eelgrass along the Maine coast has not occurred recently, so that published maps may not accurately depict where eelgrass is currently located. Therefore, she said, DMR biologists used the information on eelgrass location obtained during the site visit to revise the boundaries of the proposed lease in order to create the 25-foot setback from the existing eelgrass beds recommended by the Army Corps.

Figure 5 of the site report accordingly depicts the "Suggested reduction in proposed lease to ensure greater than 25 foot separation from eelgrass observed by SCUBA on October 14, 2015. (Corners D and E relocated)" (SR 11). The revised coordinates for the lease site are listed in the site report at page 11; they reduce the size of the site from 8.82 to 8.68 acres.

Mr. Rogers expressed concerns at the hearing that he might have to alter his lease boundaries if eelgrass developed inside the boundaries in the future. Both Ms Neal of the Army Corps and the DMR hearing officer stated that, assuming the DMR lease and the Corps permit are granted, the boundaries of the lease site would not be changed on account of changes in the location of the eelgrass during the terms of the lease and the permit. Mr. Rogers then indicated that the boundaries as recommended in the site report are acceptable to him (Rogers, testimony).

Fisheries & wildlife. Copies of the application were provided to the Maine Departments of Environmental Protection and Inland Fisheries and Wildlife for review. John Perry, Environmental Review Coordinator for MDIF&W, stated in an email sent to MDMR on October 6, 2015 that "The applicant claims lease is out of the eelgrass beds but acknowledges that they 'come and go.' In our Agency's view, staying out of the eelgrass beds is definitely preferable. Otherwise, minimal impacts are anticipated" (CF, e-mail from John Perry, MDIF&W).

The site report notes that "the proposed lease activities are not located within any designated Essential or Significant Wildlife Habitat," and that "The eelgrass beds between the proposed lease and the adjacent shoreline are classified as Tidal Wading Bird and Waterfowl Habitat under the Natural Resources Protection Act" (SR 12).

With the adjustment of the lease boundaries to provide more separation from the eelgrass bed, the proposed lease does not appear to pose any harm to the ecology of the site or surrounding area.

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

E. Public Use & Enjoyment

According to the site report, "there are no public beaches, parks, or publicly-owned conserved lands within 1000 feet of the proposed lease" (SR 12).

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

F. Source of Organisms

The application indicates that the source of stock of American oysters (*Crassostrea virginica*) for this proposed lease site is Muscongus Bay Aquaculture in Bremen, Maine (App, cover page).

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

G. Light

The application indicates that no lights will be installed at the lease site and that work beyond daylight hours would occur only in an emergency (App 8).

Therefore, I find that the aquaculture activities proposed for these sites will not result in an unreasonable impact from light at the boundaries of the lease site.

H. Noise

The site report states:

> The applicant intends to use a 46' lobster boat with hydraulics or a small skiff with outboard to tend this site. Both of the vessels are of the type commonly used along Maine's waterfronts. Grading of oysters would be done with the aid of hydraulics with 30% of the grader in the water to reduce noise and aid in washing. This is a creative and likely efficient method to mitigate an otherwise small amount of noise from grading. Washing would be done using a deck hose such as those commonly found on lobster boats in the area (SR 12).

Based on this evidence, it appears that any noise generated by operations on the site is unlikely to have a significant effect at the boundaries of the lease.

Therefore, I find that the aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease.

I. Visual Impact

According to the application, the work float will be gray, the cages and bags are black, and the marking buoys are red. Cages used for overwintering will be deployed under water and will not be visible.

The Department's visual impact rule requires structures and gear on lease sites to blend with the surroundings as much as possible with respect to color, materials, and height. The evidence shows that this will be the case on the proposed lease site.

Therefore, I find that the gear and structures to be used at the proposed lease site will comply with the visual impact criteria contained in DMR Regulation 2.37 (1) (A) (10).

4. CONCLUSIONS OF LAW

Based on the above findings, I conclude that:

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

2. The aquaculture activities proposed for this site will not unreasonably interfere with navigation.

3. The aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in the area.

4. The aquaculture activities proposed for this site will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna. The lease boundaries will be revised in accordance with the description in the DMR site report, Figure 5 and page 11, in order to protect eelgrass.

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

6. The applicant has demonstrated that there is an available source of American oysters (*Crassostrea virginica*) to be cultured for the lease site.

7. The aquaculture activities proposed for this site will not result in an unreasonable impact from light at the boundaries of the lease site.

8. The aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease site.

9. The aquaculture activities proposed for this site will comply with the visual impact criteria contained in DMR Regulation 2.37(1)(A)(10).

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 the requested lease of 8.7 acres to Dogs Head Oyster, LLC for ten years for the purpose of cultivating American oysters (*Crassostrea virginica*) using suspended culture techniques. 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 DMR Rule 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. CONDITIONS TO BE IMPOSED ON LEASE

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 MRSA §6072 (7-B)[9] Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease.

The following conditions shall be incorporated into the lease:

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.

2. Recreational fishing and navigation, except in non-motorized vessels, are prohibited from areas of the lease site where surface gear is deployed.

3. Dragging and shellfish harvesting are prohibited on the lease site except with the authorization of the lessee.

4. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

7. REVOCATION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072 (11) and DMR Rule Chapter 2.42 that no substantial aquaculture has been conducted within the preceding year, that the lease activities are substantially injurious to marine organisms, or that any of the conditions of the lease or any applicable laws or regulations have been violated.

Dated: 3/28/16

Patrick C. Keliher, Commissioner,
Department of Marine Resources

[9] 12 MRSA §6072 (7-B) states: "The commissioner may establish conditions that govern the use of the leased area and limitations on the aquaculture activities. These conditions must encourage the greatest multiple, compatible uses of the leased area, but must also address the ability of the lease site and surrounding area to support ecologically significant flora and fauna and preserve the exclusive rights of the lessee to the extent necessary to carry out the lease purpose."