



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

Georgetown Aquaculture, LLC
Attn: Pat Burns
PO Box 410
Georgetown, ME 04548

RE: Decision on Species Amendment Request (Standard Lease, SAS RC2)

Dear Mr. Burns:

DMR has reviewed Georgetown Aquaculture, LLC's application for a species amendment for the standard aquaculture lease, SAS RC2, located in Robinhood Cove, Georgetown. Your request was processed in accordance with DMR Regulations Chapter 2.44. After careful review, we find that the request to add hard clams/northern quahogs (*Mercenaria mercenaria*) to your lease does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A), is consistent with the findings of the original decision, and would not result in a change to the original lease conditions. Therefore, your request has been approved, effective on the date of this letter.

However, the species amendment application described the use of floating bags, which would be suspended on or near the surface of the water and on the bottom of the site. Please note that the lease site *is not authorized* for floating bags. Also, the deployment of permitted bottom gear is currently limited to winter months. If you wish to utilize floating bags, please submit a gear amendment application. Otherwise, quahogs can only be cultivated using floating cages, which must be deployed in accordance with what is specified in the original lease decision.

An updated summary of the species approved for your lease is provided below:

Approved Species
American oysters (<i>Crassostrea virginica</i>)
Hard clams/northern quahogs (<i>Mercenaria mercenaria</i>)

The following conditions, which were imposed on your lease remain in place:

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

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

Please retain a copy of this letter for your records. Your original lease application and decision, any previously approved amendments, and this amendment approval letter, may serve as the operational plan for the lease.



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

Date 9/8/2020

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

Georgetown Aquaculture, LLC

SAS RC2

Application for Change in Gear Authorization
Robinhood Cove, Georgetown

June 23, 2020

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Georgetown Aquaculture, LLC applied to the Department of Marine Resources (DMR) for a change in gear authorization on their existing standard lease SAS RC2, located in Robinhood Cove in Georgetown, Sagadahoc County, Maine. The leaseholder is seeking authorization to add a float and flat table sorter to their existing lease. The new float would be 16' x 12' feet and be placed immediately adjacent to an existing float on the site, and the table sorter would be placed on the new float.

1. THE PROCEEDINGS

Notice of the application and the 14-day public comment period were provided to federal agencies, riparian landowners, and the Town of Georgetown. The evidentiary record before the Department regarding this lease amendment application includes two exhibits (see exhibit list below).

LIST OF EXHIBITS¹

1. Application for a change of gear authorization
2. Original lease decision signed January 11, 2019

2. STATUTORY CRITERIA & FINDINGS OF FACT

Approval of standard aquaculture lease amendments is governed by 12 M.R.S.A. § 6072 (13)(G) and Chapter 2.44 of DMR regulations. The statute and regulations provide that the Commissioner may grant amendments for the use of specific gear on an existing lease site provided the proposed changes are consistent with the findings of the original decision and lease conditions.

A. Original Lease Decision

On January 11, 2019, DMR granted the lease SAS RC2 to Georgetown Aquaculture, LLC (Exhibit 2, page 12). DMR's Findings of Fact, Conclusions of Law, and Decision, henceforth referred to as "the decision", found that the evidence in the record supported the conclusion that

¹ Exhibits 1 and 2 are cited as: Application "App", DMR Decision on Lease SAS RC2 - "Exhibit 2".

the aquaculture activities proposed by Georgetown Aquaculture, LLC on tract 1 of their proposal met the requirements for granting a standard aquaculture lease as set forth in 12 M.R.S.A. § 6072 (Exhibit 2, page 12). Georgetown Aquaculture, LLC had originally applied for a lease containing 3 tracts, but only tract 1 was approved in the decision, and that tract represents lease SAS RC2.

The decision for lease SAS RC2 provided authorization to culture American oysters (*Crassostrea virginica*) using suspended culture techniques (Exhibit 2, page 2). Oyster cages secured to longlines, a power washer, and a solar charged battery powered sorter comprise the gear authorized for SAS RC2 (Exhibit 2, page 3-4). The decision also authorized the installation of a work float measuring 16' x 30' (Exhibit 2, page 4).

Conditions imposed on lease SAS RC2, pursuant to 12 M.R.S.A § 6072 (7-B) and located on page 13 of the decision, are as follows:

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
2. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

B. Proposed Gear Changes and Findings

Georgetown Aquaculture, LLC is requesting authorization to add a float measuring 16' x 12', and a generator powered flat-table sorter to their lease site. SAS RC2 is currently authorized for a float with a footprint of 16' x 30' (Exhibit 2, page 4). The requested float would be attached immediately adjacent to their existing float, creating one larger float with a combined footprint of 42' x 16' (App 3). According to the applicant, the additional float would allow for the use of a small table sorter, which has also been requested in the amendment application (App pages 2-5). Georgetown Aquaculture, LLC is currently authorized for the use of a sorter on their existing float. If their amendment request is approved, Georgetown Aquaculture, LLC expects to make 10% more visits to the lease site over the summer (May to August) season (App 5). Their application indicates that the two sorters would not run at the same time, they have built a box to house the generator to help muffle noise, and the requested table sorter is quieter than the existing one (App 5).

DMR did not receive any comments from riparian landowners or the Town of Georgetown regarding this application. The only comment DMR received was from the Maine Department of Inland Fisheries and Wildlife, who commented that “minimal impacts to wildlife are anticipated for this project”.²

² Email from R. Settele to C. Burke received on November 5, 2019.

The decision on lease SAS RC2 found that for the approved tract, there would not be an unreasonable impact to navigation, result in an unreasonable impact from noise, or violate any of the other criteria against which DMR evaluates lease applications (Exhibit 2, page 12). Because the proposed additional float would be located immediately adjacent to the existing float, it should not result in significant changes to navigation or other uses of the area. The original decision indicated the applicants expected their generator would run for two days, every couple of months (Exhibit 2, page 11). If the gear amendment is approved, the applicant expects that 10% more trips to the site are expected. With more trips expected, and an additional piece of equipment added to the site, this could result in an increase to noise at the site. However, because the additional sorter would not be used at the same time, and is quieter than the existing one, impacts to noise from the proposed gear amendment are likely minimal. Given that no comments indicating concern with the proposed changes were received, the proposed gear change would add only 12' to the original length of the float, as authorized in the decision, and because the new sorter would not run at the same time as the existing sorter, it appears that this gear amendment is reasonable in consideration of what is permitted by DMR.

Therefore, the proposed change to add a 16' x 12' float, and the addition of a flat-table sorter, do not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A), is consistent with the findings of the original decision, and would not result in a change to the original lease conditions.

3. DECISION

Based on the foregoing, the Commissioner grants the request from Georgetown Aquaculture, LLC to add a float with a footprint to 16' x 12', to be installed adjacent to their existing float. Additionally, the Commissioner grants the request to add a flat-table sorter onto the new float.

Dated: _____

6/23/2020



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

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

Georgetown Aquaculture, LLC

Standard Aquaculture Lease Application

SAS RC2

Suspended Culture of Oysters

January 11, 2019

Robinhood Cove, Georgetown

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Georgetown Aquaculture LLC, a Maine company, applied to the Department of Marine Resources (“DMR”) for a twenty-year standard aquaculture lease comprised of three tracts totaling 26.68 acres.¹ The proposed site is in Robinhood Cove, Georgetown, Sagadahoc County, Maine and is for the cultivation of American oysters (*Crassostrea virginica*) using suspended culture techniques. DMR accepted the application as complete on April 20, 2018. A public hearing on the application was held on December 10, 2018 at Georgetown Central School in Georgetown, Maine. No one intervened in this case.

1. THE PROCEEDINGS

Notice of the hearing, copies of the application and DMR site report were provided to state and federal agencies for their review, the municipality of Georgetown, riparian landowners within 1,000 feet of the proposed site, and subscribers of the Department’s Aquaculture email listserv.² Notice of the hearing was published in the *Times Record* on November 8 and November 23, 2018 and in the December edition of the *Commercial Fisheries News*. Sworn testimony was given at the hearing by the following individuals:

Name	Affiliation
Robert Burns Chad Campbell	Georgetown Aquaculture, LLC
Jon Lewis	Aquaculture Division Director, DMR
J. Garrett Parker, Dave Longstreet, John Teller, and Mike Gaffney	Members of the Public

Messrs. Burns and Campbell described the proposed project, and Mr. Lewis described the site visit. In general, members of the public raised concerns regarding the effects proposed Tracts 2 and 3 may have on navigation within the area. Members of the public also asked the applicant questions about the proposed operations.

¹ Applicant originally requested 26.72 acres and the Department verified the coordinates and determined the site to be 26.68 acres.

² Written notice of the hearing was mailed to riparian owners using certified tax records/addresses as obtained from the Town Clerk of Georgetown.

The hearing was recorded by DMR. The Hearing Officer was Amanda Ellis. The evidentiary record before the Department regarding this lease application includes four exhibits introduced at the hearing (see List of Exhibits below), and the record of testimony at the hearing itself. The evidence from these sources is summarized below.³

LIST OF EXHIBITS⁴

1. Case file
2. Application
3. DMR site report
4. Applicant's rendering of moorings, other aquaculture sites, and a transportation channel in relationship to the proposed tracts (image generated by applicant)

2. DESCRIPTION OF THE PROJECT

A. Site Characteristics

On August 9, 2018 DMR staff assessed the proposed lease site and the surrounding area in consideration of the criteria for granting a standard aquaculture lease. The proposed lease site, consisting of three tracts, occupies subtidal waters in Robinhood Cove. Proposed Tract 1 totals 18.86 acres, and is located off the eastern shoreline of Robinhood Cove, across from Birch Island (SR 2, 7). The shoreline nearest Tract 1 is rocky and the upland is characterized by mixed forest (SR 2). Proposed Tract 2 totals 3.79 acres and Tract 3 totals 4.03 acres (SR 7-8). Tracts 2 and 3 are located to the southwest of Tract 1 and to the north of Little and Big Phebe Islands (SR 2). Mixed forests and residential buildings characterize the uplands near Tracts 2 and 3 (SR 2). Staff observed docks and moorings within the vicinity of Tracts 2 and 3 (SR 2).

At mean low water, the distance between the southern boundary of Tract 1 and the eastern shore of Robinhood Cove is a minimum of ~70 feet (SR 9). At mean low water, the distance from the eastern boundary of Tract 2 to the eastern shore of Robinhood Cove is a minimum of ~395 feet (SR 9). The eastern boundary of Tract 3, at mean low water, is ≥ 265 feet from the eastern shore of Robinhood Cove (SR 9). The bottom of the proposed site is comprised primarily of soft mud (SR 2). The proposed lease is located in an area currently classified by the Department's Water Quality Classification program as "open/approved for the harvest of shellfish" (SR 16).

³ In references to testimony, "Smith/Jones" means testimony of Smith, questioned by Jones.

⁴ Exhibits 1, 2, and 3 are cited below as: Case file – "CF"; Application – "App", site report – "SR". Other exhibits are cited by number.

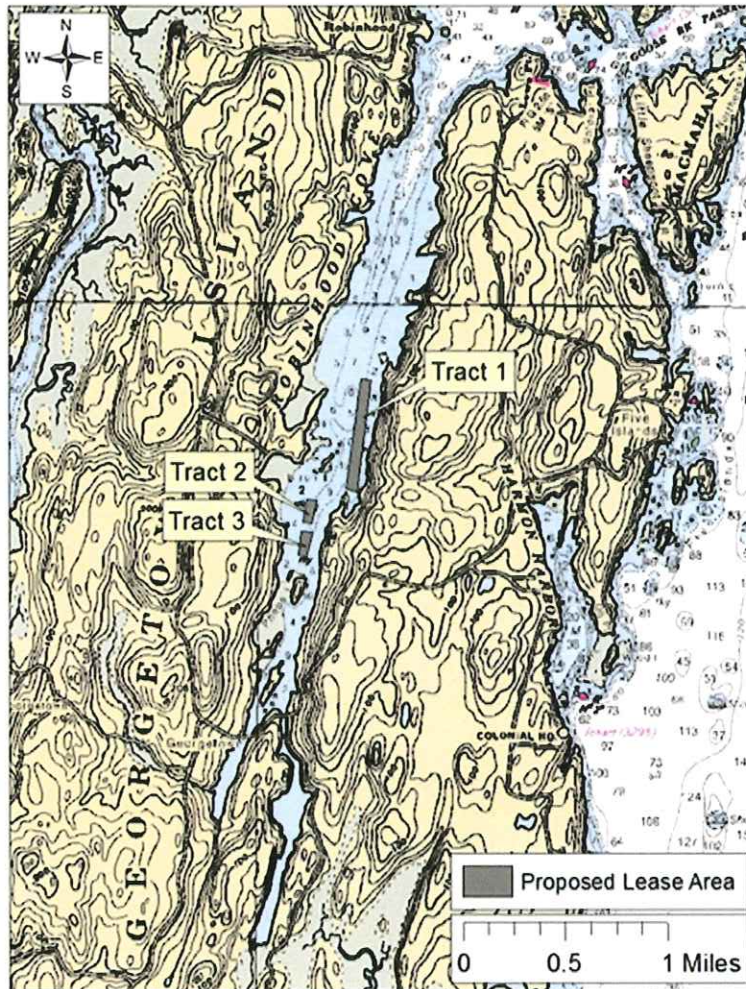


Figure 1: Vicinity map of proposed lease tracts. Image from site report.

B. Proposed Operations

At the hearing, the applicant indicated that the primary intent of the proposed operation is to provide local fishermen with the opportunity to diversify their livelihoods through community-based aquaculture operations. Georgetown Aquaculture LLC is comprised of seven farmers, who would utilize the site to grow oysters with suspended gear. According to the application, most of the farmers hold Limited Purpose Aquaculture (LPA) licenses within the vicinity of the proposed lease site (App 20). As originally proposed, Georgetown Aquaculture LLC would deploy a total of 7,120 cages secured to 178 longlines strung across the three tracts. During the hearing, when addressing the acreage requested for the proposed site, Mr. Burns indicated that operations are intended to gradually increase over time with initial build-out occurring primarily on Tracts 2 and 3. Mr. Burns estimated that it may take between 35 to 40 years to fully utilize the acreage requested.

The cages would be suspended on the proposed site from spring through fall (App 20). Harvesting would occur through the summer and fall months (App 20). During the winter months, the cages would be submerged on the bottom of the proposed site, or possibly removed to a land-based storage facility (App 20). During the growing season, each farmer would visit the site 1 to 2 times per week (App 20). To control fouling, the cages would be flipped on a weekly basis (App 20). In the future, a power washer may be used to clean the cages (App 20). The proposed operations also include the deployment of a 16' X 30' float, which would contain a power washer and solar charged, battery powered sorter (App 5, 20). Each farmer would have access to this equipment (App 20).

Discussion:

The applicant is requesting a 26.68- acre lease for a 20-year term. During the hearing, the applicant estimated that it would take 35 to 40 years before the entire area is utilized. The estimated build-out extends beyond the requested 20-year lease term. If the lease were granted as proposed, there would be no aquaculture activities in substantial portions of the lease area. Chapter 2.45(3)(B) of DMR regulations, specify consideration of whether a lease is being held for speculative purposes. Such considerations include whether the lessee has conducted aquaculture in the lease areas during the previous lease term. Although this provision of law pertains to lease renewals, the hearing record indicates that substantial portions of the proposed area would not be used during the lease term. Therefore, to grant the lease as proposed would amount to the applicant holding the lease for speculative purposes, excluding others who may want to apply leases in the unused areas of applicant's proposed site.

To prevent the applicant from holding lease acreage for speculative purposes, the Department will reduce the acreage of the lease site by 25%. This reduction will provide current members of members of Georgetown Aquaculture the area they need to begin their operations, while also providing an opportunity for expansion, in accordance with 12 M.R.S.A. §6072 (12-C), as their work progresses. Further details regarding the reduction can be found in section 3.A of this decision.

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 water related 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 comply with visual impact criteria adopted by the Commissioner.

A. Navigation

Robinhood Cove is utilized by commercial and recreational mariners (SR 11). During the site visit, staff observed sailboats, powerboats, rowboats, and kayaks in use, including a lobster boat and an aquaculturist in an outboard-powered boat(SR 11). The sections below detail navigation by tract. The images below (Figure 3) depict the location of each of the proposed tracts relative to docks and moorings within the area. They also include the locations of existing aquaculture lease and license sites.

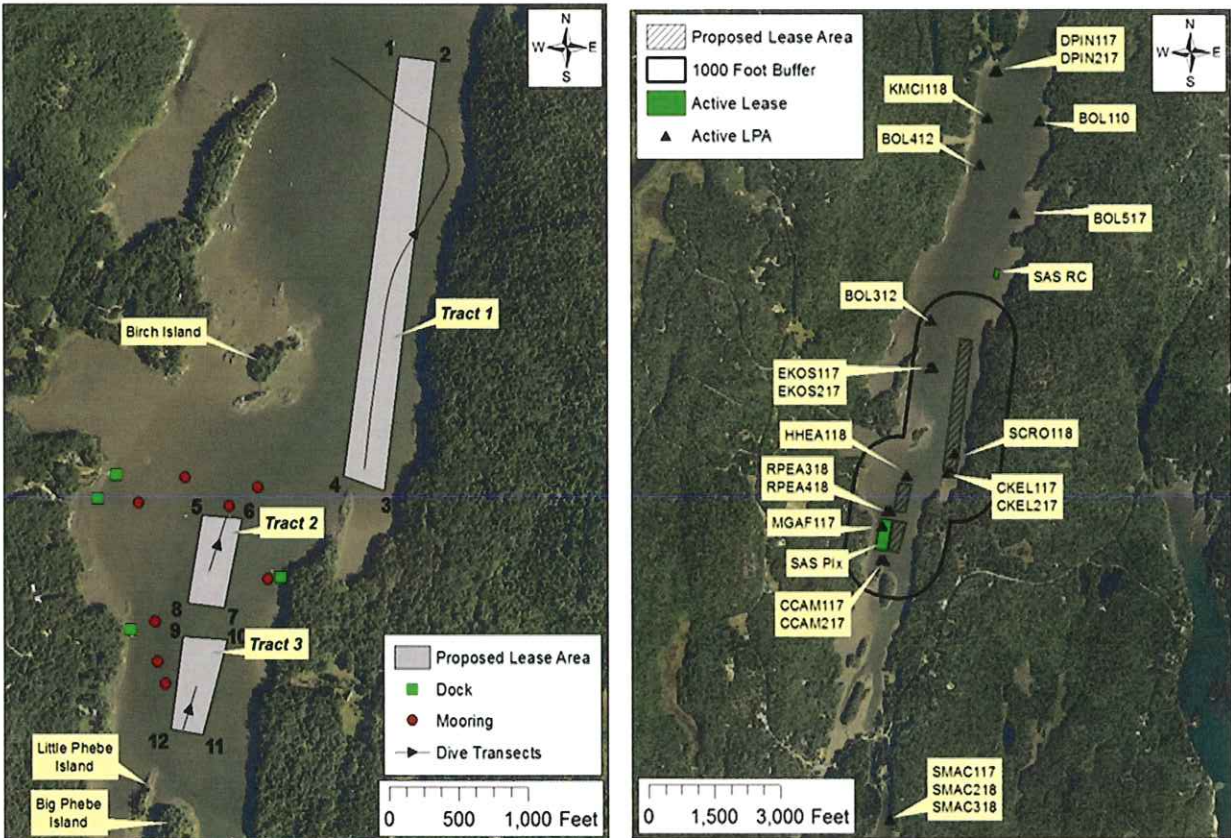


Figure 2: Locations of docks, moorings, and existing aquaculture lease sites relative to the proposed lease site. Images taken from the site report.

Tract 1:

At mean low water, Tract 1 is approximately 70 feet from the undeveloped eastern shore of Robinhood Cove (SR 9, 11). Per the site report: “Deeper water, likely preferred by mariners, is located to the west of Tract 1. Approximately 310 feet lie between proposed Tract 1 and Birch

Island, which is the nearest shoreline to the west” (SR 11). During the site visit, no docks or moorings were observed to the east of Tract 1 (SR 9). Documented moorings and docks were located more than 700 feet to the west of Tract 1 (SR 9).

Tracts 2 and 3:

Proposed Tracts 2 and 3 are in the center of Robinhood Cove, to the southwest of Tract 1 (SR 11). Tract 2 occupies 50-80 feet of the deeper portions of the navigational channel in Robinhood Cove, but most of the proposed tract is situated to the west of the channel (SR 11). There is approximately 395 feet of navigable area between proposed Tract 2 and the eastern shore of Robinhood Cove, and 405 feet to the western shore of Robinhood Cove (SR 11). There is approximately 265 feet between Tract 3 and the eastern shore of Robinhood Cove (SR 11). An existing lease site, SAS PIx, is located 3 feet to the immediate west of proposed Tract 3 (SR 11-12). This existing lease is for the suspended culture of shellfish, meaning there is surface or subsurface structure in the water.

There are also 12 Limited Purpose Aquaculture (LPA) license sites within 1,000 feet of the proposed lease area (SR 12). All of the LPAs are held for the suspended culture of shellfish, so there is surface or subsurface structure in the water (SR 12-13). Tracts 2 and 3 are surrounded by docks and moorings (SR 9). Based on DMR observations, there are at least eight moorings and four docks concentrated in this section of Robinhood Cove (SR 8). The closest mooring is 75 feet to the north of Tract 2 (SR 9). At the time of the site visit, a powerboat was secured to this mooring (SR 9). The closest docks are approximately 380 feet from proposed Tracts 2 and 3 (SR 9).

During the public hearing, several individuals described navigational activities in the area. Mariners traverse throughout the area, and Tracts 2 and 3 are in an area that is frequently utilized by sailboats, which need adequate space for tacking. Dave Longstreet, who sails in the area, indicated that the navigational channel in the area runs through the middle of proposed Tracts 2 and 3. Mr. Longstreet testified that if Tracts 2 and 3 were granted tacking would be eliminated within the area. Garrett Parker, who has a dock and mooring off the eastern shore of Robinhood Cove, near Tract 2, shared some of Mr. Longstreet’s concerns. Specifically, Mr. Parker noted that if Tracts 2 and 3 were granted, any available space for navigation would be limited.

In addition, Mr. Longstreet indicated that there is a rock outcropping between the eastern shore of Robinhood Cove and the boundaries of Tracts 2 and 3.⁵ The rock outcropping is not identified on navigational charts, but mariners try to avoid it. According to John Teller, there are barges towed with heavy equipment through the proposed area. The barges travel through the proposed area at least once a week. Mr. Teller noted that Tracts 2 and 3 could be problematic for barges.

⁵ Mr. Longstreet marked the location of the rock outcropping on DMR’s vicinity map. Some members of the public also noted the presence of the rock outcropping in their questioning and testimony.

Discussion:

In evaluating the impacts a lease proposal may have on navigation, Chapter 2.37(1)(A)(2) specifies: "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." In this instance, the navigational channel currently supports a variety of existing uses. For example, Tracts 2 and 3 are in an area surrounded by moorings, docks, and several LPA sites. There is an existing aquaculture lease site approximately three feet from the immediate west of Tract 3. The LPA sites and the existing lease site contain surface or subsurface gear, which occupy navigable area within the channel.

Proposed Tracts 2 and 3 would also occupy an area of the channel that is utilized by mariners as they traverse through Robinhood Cove, particularly those who sail. There are also barges that routinely navigate throughout the area. The existing use of the channel is also influenced by a rock outcropping, which is located between Tracts 2 and 3 and the eastern shore of Robinhood Cove.

If Tracts 2 and 3 were granted, they would occupy a considerable portion of the existing navigational channel. In addition, mariners would have to avoid three aquaculture leases, several LPA sites, and at least eight moorings. This would result in adverse impacts to navigation, which would be exacerbated by the rock outcropping between Tracts 2 and 3 and the eastern shore of Robinhood Cove. These effects may preclude tacking within this area of Robinhood Cove. Finally, these impacts pose a variety of access and safety concerns as they relate to navigation. For example, barges that pass through the area with heavy equipment may not have adequate navigable area. Given the location of proposed Tracts 2 and 3, individuals who have moorings in the area may find their access obstructed. Based on the evidence, it is reasonable to conclude that navigation in the area will be unduly affected by Tracts 2 and 3.

Tract 1:

Unlike Tracts 2 and 3, Tract 1 is located outside portions of the channel that are preferred by mariners. There is approximately 310 feet of navigable area between Tract 1 and Birch Island, which is the nearest shoreline to the west. During the site visit, no docks or moorings were observed to the east of Tract 1. Any documented moorings and docks were more than 700 feet to the west of Tract 1. During the public hearing, testimony regarding navigation focused primarily on proposed Tracts 2 and 3. Tract 1 will not unreasonably interfere with navigation.

However, to prevent the applicant from holding lease acreage for speculative purposes, the Department will reduce the acreage of the lease site by 25%. Given the gradual build-out of the proposed aquaculture activities, DMR will reduce corners 1 and 2 of Tract 1 by 815 feet and 820 feet, respectively.⁶ The modification to corners 1 and 2 will reduce the size of Tract 1 from

⁶ Revised coordinates: Corner 1: 43.825813, -69.740488; Corner 2: 43.825724, -69.739395

18.86 acres to 14.09 acres. Such a reduction is necessary to accommodate the proposed operations, while also avoiding the possibility of the lease being held for speculative purposes. The image below reflects the revision to Tract 1.

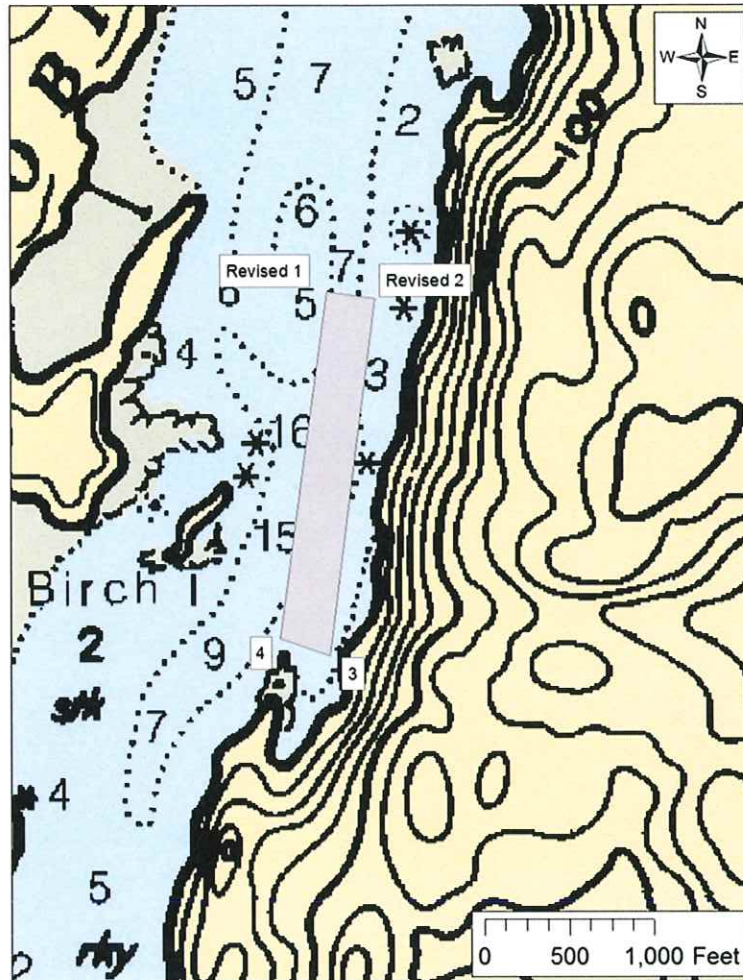


Figure 3: Revised corners 1 and 2 of Tract 1. Image generated by DMR staff.

Based on the evidence, Tracts 2 and 3 are denied as they would unreasonably interfere with navigation. Tract 1 will not unreasonably interfere with navigation, but has been reduced to avoid the possibility of the applicant holding the lease for speculative purposes.

Therefore, Tracts 2 and 3 are denied as they would unreasonably interfere with navigation. Tract 1 will not unreasonably interfere with navigation.

B. Riparian Access

For the reasons described in section 3.A of this decision, Tracts 2 and 3 have been denied, and Tract 1 has been reduced in size. Therefore, riparian access is evaluated in consideration of these modifications.

Revised Tract 1 occupies subtidal waters near the three undeveloped shorefront parcels as shown in the figure below.

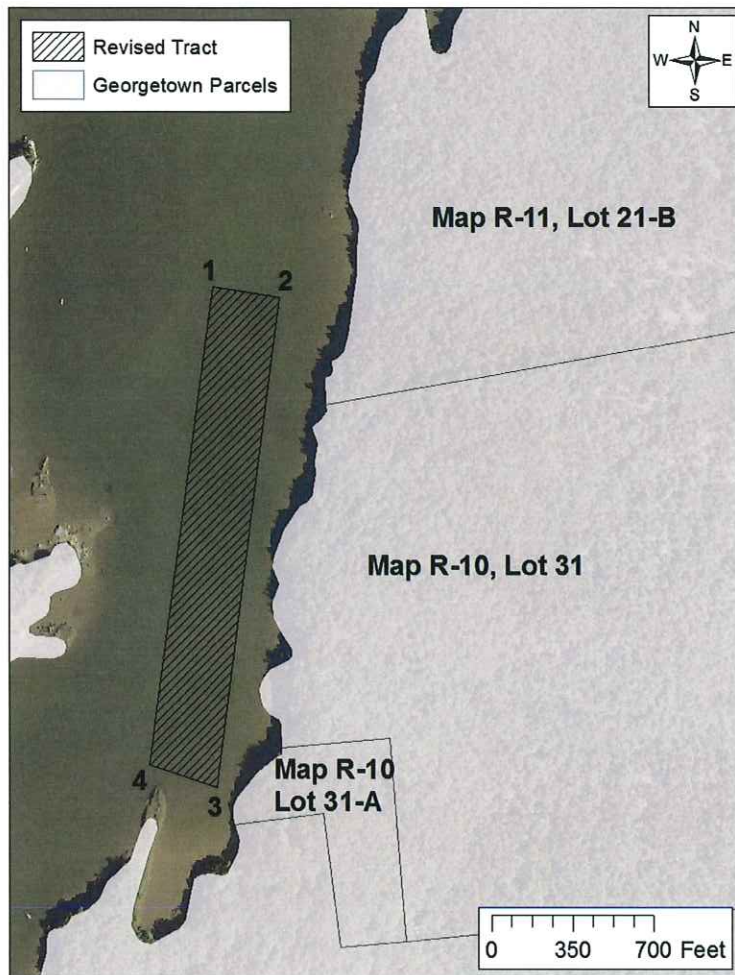


Figure 4: Revised Tract 1 in relationship to undeveloped shorefront parcels.

No docks, moorings, or other infrastructure providing riparian access were observed along this shoreline. Observed moorings and docks were located along the western shore of Robinhood Cove and were more than 700 feet from proposed Tract 1. During the public hearing, none of the shorefront owners of the parcels included in Figure 4 and correspondingly listed on page 32 of the application raised concerns about their access to this shoreline.

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

C. Fishing & Other Water Related Uses

During the site visit, staff observed eight lobster buoys to the west of the proposed Tract 1 and one lobster buoy to the south of Tract 1 (SR 11). Staff also observed a lobsterman hauling traps

to the west of Tract 1 (SR 11). During the public hearing, fishermen did not raise concerns about the effects the proposal may have on commercial or recreational fishing within the area.

Exclusivity. The applicant intends to permit other compatible uses within the boundaries of the proposed lease site (App 25).

Other aquaculture leases. The Department provided notice of the proposal to operators of aquaculture sites within 1,000 feet of the proposed area. At the time of the site visit and publication of the site report, there were 12 LPA sites and one aquaculture lease within 1,000 feet of the proposed lease site (SR 11). There are nine additional LPAs and one additional lease located within Robinhood Cove (SR 11). Several of the LPAs within Robinhood Cove are held by members of Georgetown Aquaculture, LLC. The closest aquaculture site is an experimental lease, which is ~3 feet from western boundary of proposed Tract 3 (SR 12). The experimental lease is held for the suspended culture of shellfish (SR 12). The Department did not receive any comments from any LPA or lease holders in the area regarding this proposal. The existing lease holder near Tract 3 supported the application.

Therefore, the aquaculture activities proposed for this site will not unreasonably interfere with fishing, existing aquaculture operations, or other water related uses of the area.

D. Flora & Fauna

DMR observations. While conducting dive transects of the proposed site, staff observed a variety of marine organisms including green crab (*Carcinus maenas*) and benthic microalgae. Staff also observed bald eagles (*Haliaeetus leucocephalus*) and herring gulls (*Larus argentatus*) near the proposed lease. Based on data collected by DMR, in 2005, eelgrass (*Zostera marina*) was documented over one mile to the east of the proposed lease site, in the Sheepscot River. (SR 15). No eelgrass was observed within the boundaries of the lease site during the DMR's site assessment (SR 15).

Fisheries & wildlife. Data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) indicates that the proposed lease is located over 350 feet to the west of Tidal Wading Bird and Waterfowl Habitat (SR 15). DMR sent a copy of the lease application to MDIF&W for their review and comment. MDIF&W indicated that: "minimal impacts to wildlife are anticipated."⁷

Based on this evidence, it appears that the proposed lease site will not interfere with the ecological functioning of the area.

Therefore, 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

⁷ CF: Email from J. Perry to C. Burke dated May 16, 2018.

Per the site report, “the proposed lease is not within 1,000 feet of any beach, park, docking facility, or conserved lands owned by federal, state, or municipal governments” (SR 16).

Therefore, 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 municipal, state, or federal governments.

F. Source of Organisms

The application indicates that the source of stock for this proposed lease site is Muscongus Bay Aquaculture located in Bremen, Maine and Mook Sea Farm located in Walpole, Maine (App 1).

Therefore, 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 lights would only be used in case of an emergency (App 20).

Therefore, 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

A mechanized, battery powered oyster sorter and tumbler are proposed for the lease site (App 20). The applicant estimates that the sorter and tumbler would be utilized once a week (App 20). The applicant also intends to utilize a battery powered pressure washer (App 20). The pressure washer would be placed in a wooden box to muffle the sound (App 20). During the hearing, the applicant indicated that the generator would run for two days, every couple of months. 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, 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

The applicant proposes to culture oysters using wire cages supported by submersible plastic floats (App 20). A work float would be deployed on Tract 1, which would contain the sorter, tumbler, and pressure washer. The float would sit approximately three feet above the surface of the water. Per the site report: “all of the proposed gear and structures comply with MDMR’s height limitations” (SR 17).

Therefore, equipment proposed for the 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:

- a. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.
- b. Tracts 2 and 3 unreasonably interfere with navigation. Tract 1 does not unreasonably interfere with navigation.
- c. 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.
- d. 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. The aquaculture activities proposed for this site will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments.
- f. The applicant has demonstrated that there is an available source of American oysters (*Crassostrea virginica*) to be cultured for the lease site.
- g. The aquaculture activities proposed for this site will not result in an unreasonable impact from light at the boundaries of the lease site.
- h. The aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease site.
- i. 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 denies the application with respect to Tracts 2 and 3, but grants a lease on Tract 1 in the amount of 14.09 acres, reduced from the original application as discussed above, to Georgetown Aquaculture, LLC for 20 years for the cultivation of 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 M.R.S.A §6072 (7-B).⁸ 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.

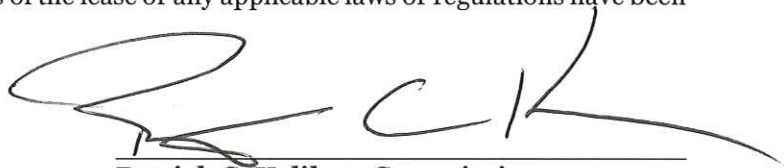
The following conditions shall be incorporated into the lease:

- a. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
- b. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

7. REVOCAION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 M.R.S.A §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: Jan 11, 2019



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

⁸ 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."