

**STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES**

**Black Stone Point Oysters LLC**

**DAM HI6**

Standard Aquaculture Lease Application

Suspended culture of shellfish

January 7, 2021

Damariscotta River, Damariscotta, Maine

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

Black Stone Point Oysters LLC applied to the Department of Marine Resources (DMR) for a twenty-year standard aquaculture lease on 12.85<sup>1</sup> acres west, south, and east of Hog Island in the Damariscotta River, in Damariscotta, Maine. The proposal is for the suspended and bottom culture of American/eastern oysters (*Crassostrea virginica*), European Oysters (*Ostrea edulis*) and northern quahogs (*Mercenaria mercenaria*).

**1. THE PROCEEDINGS**

The pre-application meeting on this proposal was held on October 5, 2017, and the scoping session was held on November 16, 2017. DMR accepted the application as complete on April 3, 2019. A public hearing was held on this application on October 23, 2019<sup>2</sup> at the Damariscotta Town Office in Damariscotta, Maine. No one intervened in this case. Notice of the completed application and public hearing was provided to state and federal agencies, the Town of Damariscotta, riparian landowners within 1,000 feet of the proposed site, and subscribers to DMR's aquaculture email listserv. Notice of the hearing was published in *The Lincoln County News* on September 12, 2019, and October 3, 2019. Notice was also published in the October 2019 edition of *Commercial Fisheries News*.

Sworn testimony was given at the hearing by the applicant, represented by Brendan Parsons, who described the proposed project, and Flora Drury, DMR Aquaculture Scientist, who described DMR's visit to the site and site report. Colin Greenan, with the United States Army Corps of Engineers (ACOE), Paul Bryant, the Harbormaster for the Town of Damariscotta, and Mike Herz, the Deputy Harbormaster for the Town of Damariscotta, attended the hearing and asked questions of the applicant but did not offer testimony. Riparian landowners, other aquaculture lease and license holders in the Damariscotta River and members of the public asked questions of the applicant and DMR but did not offer testimony.

After the close of record following the hearing on October 23, 2019 a landowner, claiming to be a riparian within 1,000 feet of the proposal, contacted DMR to inquire about why they had not received personal notice of the hearing. This inquiry led the Department to investigate if this individual was in fact

---

<sup>1</sup> Applicant originally requested 12.98 acres. DMR calculations in the site report, based on the provided coordinates, indicate the area is 12.85 acres.

<sup>2</sup> The public hearing for the Black Stone Point Oysters LLC application was originally scheduled for October 17, 2019. The hearing was postponed until October 23, 2019 due to inclement weather.

a riparian landowner within 1,000 feet the proposed site, as DMR is required to provide notice of completed standard lease applications and hearings to riparian landowners within 1,000 feet of the proposed lease.<sup>3</sup> Due to the extensive mudflats to the north of the proposed lease site, determining if this landowner should have received notification was not immediately clear. In Maine, riparian ownership is assumed to the mean low water mark, or to 1,650 ft. from shore, whichever is less. While a proposed lease site may appear to be more than 1,000 ft. from a rocky shoreline, if it is less than 1,000 ft. from mudflats there may be riparian lands within the radius for notification. Given the constraints of determining the exact mean low water line, and to ensure consistency, MDMR began using NOAA nautical charts as the base map from which to determine the mean low water line during the time that the Black Stone Oyster application was under review. Although the mean low water line in the extensive mudflats to the north of the proposal was difficult to discern during the initial review of the application using aerial photographs, when reviewing the proposal using the NOAA chart, the inquiring landowner was found to be within the radius for notification. Further, upon examining the case file associated with this application, it appears Department staff had communicated with the applicant regarding riparian notification and the extensive mudflats near the proposal prior to the application being deemed complete, and urged the applicant to re-check the 1,000-foot radius measurements from the corners of the proposed lease, as there was some question if additional landowners should be notified.<sup>4</sup> It appears that after the applicant received this guidance from the Department, the applicant did not elect to add any additional names to the riparian owners list for the Town of Damariscotta. As such, there appeared to be multiple riparian landowners who should have been included on the riparian list in the application that were not, and as a result these individuals did not receive personal notice of the completed application or the October 23, 2019 hearing. Because these individuals did not receive personal notice, DMR elected to re-open the record on this application and schedule a continuation of the first hearing to ensure all parties were properly notified and had an opportunity to comment or provide testimony on the proposal. A new, certified, riparian list that included all previously missed riparian lots was received by the applicant on February 26, 2020, and a continued hearing was subsequently scheduled for April 21, 2020.

Due to the COVID-19 pandemic, the April 21, 2020 hearing was cancelled. A hearing was not immediately rescheduled because DMR was unsure when it would be safe to conduct the proceeding. Due to the uncertainty and evolving situation regarding COVID-19, and to limit any potential public health risks associated with gathering in groups, DMR elected to conduct the hearing continuation remotely, using a virtual meeting platform<sup>5</sup>. The remote hearing was scheduled for October 20, 2020 at 3:00pm, and public notice was published in the September 17, and October 8, 2020 editions of the *Lincoln County News*. Public notice of the hearing was also provided to the Town of Damariscotta and its Harbormaster, riparian

---

<sup>3</sup> 12 M.R.S.A. §6072 Research and Aquaculture Leases

<sup>4</sup> Application incomplete letter sent to the applicant on April 17, 2018 from Diantha Robinson advised him to check the 1,000 foot radius measurements from corners 1, 2, 4, 5, 13 and 14. Email exchange between A. Ellis and B. Parsons on July 18, 2018 provided further clarification and recommendation regarding areas where there are extensive tidal flats and how that impacts riparian notification.

<sup>5</sup> The Department of Marine Resources uses Microsoft Teams for all virtual conferencing, so this was the platform used for the Black Stone Point Oysters, LLC remote hearing.

landowners within 1,000 feet of the proposal, other state and federal agencies, and subscribers of DMR’s aquaculture email list-serve. The public notice for the October 20, 2020 hearing indicated that the proceeding would be conducted remotely and directed interested persons to contact DMR to sign up to participate in the proceeding. Each person who contacted DMR to participate was provided with instructions on how to join the hearing.

The continued hearing on the application submitted by Black Stone Point Oysters LLC was held on October 20, 2020. While the testimony and comments from the October 23, 2019 hearing remained on the record, there were many individuals who attended on October 20, 2020 that were not present at the first hearing. Moreover, given the amount of time that had passed since the first hearing, the Hearing Officer had both the applicant and DMR testify again, followed by an opportunity for state, federal and municipal officials and members of the public to testify. Sworn testimony was given at the October 20, 2020 hearing by the following witnesses:

Name	Affiliation
Brendan Parsons	Black Stone Point Oysters, LLC, applicant
Flora Drury	DMR Aquaculture Scientist
Steve Guttenplan, Tom Anderson, Joseph Quinn Martin, Robert Sutton, Natalie Allen, Sarah Kingsbury Rockwell, Betsy Jane Clary, Priscilla Ulin, Ruth Monsell, Deane Constantine, and Moira Colquhoun	Members of the public

Colin Greenan, with the United States Army Corps of Engineers (ACOE), Paul Bryant, the Harbormaster for the Town of Damariscotta, and Mike Herz, the Deputy Harbormaster for the Town of Damariscotta, also attended the October 20, 2020 hearing but did not offer testimony. The hearing was recorded by DMR. The Hearing Officer was Erin Wilkinson.

The evidentiary record before DMR regarding this lease application includes three exhibits introduced at the October 23, 2019 hearing (exhibits 1-3), and two exhibits introduced at the October 20, 2020 hearing (exhibits 4-5), and the record of testimony at the hearings. The evidence from these sources is summarized below.<sup>6</sup>

**LIST OF EXHIBITS**

1. Case file
2. Application
3. DMR site report
4. Site Report Addendum
5. Westview Acres Association petition letter

---

<sup>6</sup> Exhibits 1, 2, and 3 are cited below as: Case file – “CF”, Application – “App”, site report – “SR”.

At the public hearing on October 20, 2020, 11 members of the public provided testimony. Many of these individuals, as well as additional members of the public, also questioned the applicant and DMR about the proposed lease activities. In addition to expressing concerns regarding the impact the proposed lease may have on navigation, recreational uses of the area, and wildlife, much of the concern expressed through questions and public testimony centered around the density of aquaculture leases in this section of the Damariscotta River, and the use of Hog Island and a private dock (located to the northeast of the proposal in Huston Cove) by the applicant. Multiple individuals testified that the lease proposal should be moved further downstream and questioned if it was the applicant or DMR that chose the proposed site. Hog Island, and the dock referenced above are partially owned by the applicant or members of the applicant's family, and permission to use Hog Island was included in the application. DMR must review standard lease applications using decision criteria developed by the Maine Legislature and identified in 12 M.R.S.A. §6072. These criteria will be discussed later in this document, and if the proposed activities unreasonably interfere with any of those decision criteria, a lease would not be issued. The use of Hog Island, and a private dock that is not within the boundaries of the lease proposal, are outside the scope of criteria DMR may consider when evaluating a lease proposal, and DMR does not have the authority to limit someone's activities that may occur on private property. It is the applicant's responsibility to ensure they are following any federal, state, or local laws regarding activities occurring on private property, and that they acquire any necessary permits. Additionally, DMR does not choose prospective lease sites for applicants, and if the applicant were to relocate the proposal, it would require a new lease application that would be adjudicated separately from the current application submitted by Black Stone Point Oysters, LLC.

At the October 2020 hearing, Moira Colquhoun testified that Black Stone Point Oysters, LLC is not an official LLC. According to her testimony, Mr. Parsons had failed to file an annual report, and his LLC status was no longer valid. Mr. Parsons testified in response that he had cleared up the issue with the Maine Secretary of State's office, and as of the hearing the issue had been resolved, and his LLC status reinstated. According to the Maine Department of Secretary of State, Bureau of Corporations, Elections and Commissions, Corporate Name Search website, Black Stone Point Oysters, LLC, failed to file an annual report and the LLC was administratively dissolved on September 4, 2020. However, an annual report was subsequently filed, and Black Stone Point Oysters LLC status was reinstated as of October 21, 2020.

## **2. DESCRIPTION OF THE PROJECT**

### **A. Site Characteristics**

On April 18, 2019, DMR staff assessed the proposed lease site and the surrounding area in consideration of the criteria for granting a standard aquaculture lease (SR 1). Given the amount of time that passed between the first hearing on this application and the second, DMR staff visited the site a second time on October 16, 2020 and provided updated photos and information in a site report addendum that was

---

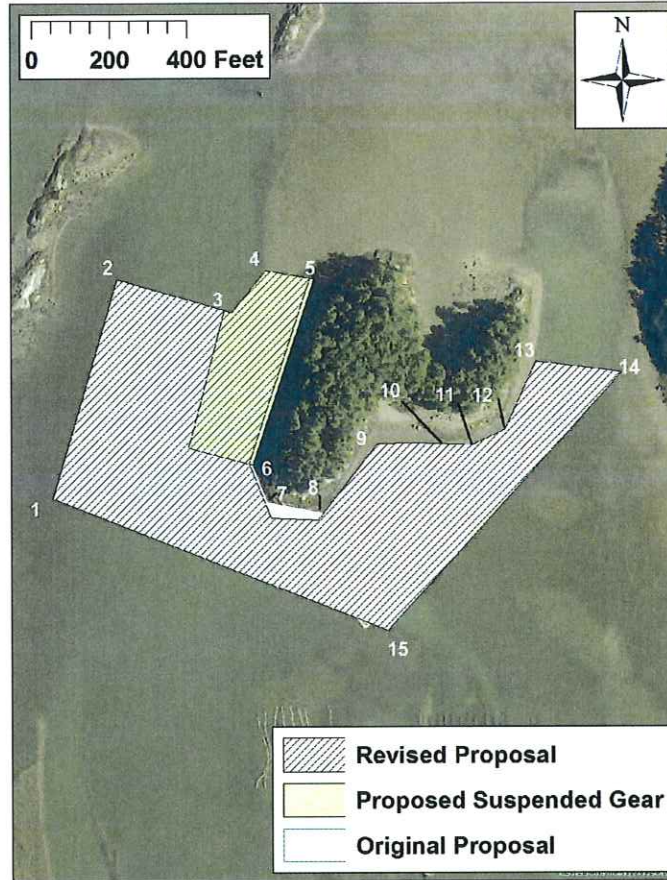
<sup>7</sup> LLC status checked on November 10, 2020 via [https://startabusiness.org/me/business-search/#Search\\_by\\_keyword](https://startabusiness.org/me/business-search/#Search_by_keyword)

introduced at the hearing on October 20, 2020 (Exhibit 4). The proposed lease site is in waters near Hog Island in the Damariscotta River. Hog Island is wooded, with a rocky and sandy shore (SR 3). There is a house and dock on the island (SR 3). The Damariscotta uplands east of the proposed lease area are forested, and there is a dock and residential buildings (SR 3). During their visit to the site in April 2019, DMR staff conducted a SCUBA transect of the proposed site and found that the bottom of the proposed lease is comprised of soft mud, with some section of cobble closer to the shore and in a deeper channel in the western portion of the proposed lease (SR 6). DMR staff conducted a second SCUBA transect of the site in October 2020 (Exhibit 4) and confirmed that the site is comprised of areas with soft mud, cobble, or harder bottom.

Depths were not collected during DMR's site assessment in 2019 (SR 5). Upon review by the Department, certain boundaries of the proposal appeared to overlap with the mean low water line on the west and southwestern sides of Hog Island (SR 5). Permission from the landowner of Hog Island was included in the application, however permission from the Municipal Shellfish Committee, required by DMR regulations for intertidal lease applications<sup>8</sup>, was not. It was unclear from the application if the intent was for the proposed lease site to be entirely subtidal or not. Upon being questioned at the October 2019 hearing, Mr. Parsons testified that he did intend for the entire proposed lease area to be subtidal (Wilkinson/Parsons). Following the October 2019 hearing, DMR contacted the applicant and provided him with revised subtidal coordinates for proposed corners 5, 6, 7, and 8. Figure 1 identifies the proposed lease area, the portion of the site that is proposed to contain suspended gear and outlines the coordinate change to ensure the entire site remains subtidal.

---

<sup>8</sup> 12 M.R.S.A. §6072 Research and aquaculture leases, section 3, states that the Commissioner may not lease areas in the intertidal zone in any municipality with a shellfish conservation program under 12 M.R.S.A. §6671, without the consent of municipal officers.



**Figure 1:** Proposed lease area showing the revised proposal and portion of the site that would contain suspended gear (Image taken from site report addendum, exhibit 4)

The coordinate change was also discussed at the October 2020 hearing, during which the applicant testified that the change in coordinates would not result in any reduction to his proposed suspended gear in that section of the site, as he'd like to see the entire suspended culture area shifted west by 11 feet to make up for adjusting the site away from the mean low water line by approximately the same distance (Parsons, testimony, October 20, 2020). Corners 3, 4, 5, 6, 6a and 6b designate the portion of the site that is proposed to have suspended gear deployed. All other areas of the site are for bottom planting only. Therefore, this request would shift coordinates 6a and 6b (listed on page 14 of the application) approximately 11 ft. to the west. Corners 3 and 4 will not be adjusted, as shifting them 11 ft. to the west would move it outside the bounds of the area originally proposed by the applicant. As such, the final revised proposed coordinates for the entire site, are included in Table 1 below. With the adjustment in coordinates, the proposed lease area measures 12.61 acres.

**Table 1: Revised coordinates.** \* denotes area of lease that may contain suspended gear

Corner	Latitude	Longitude
1	44° 0' 46.06" N	-69° 32' 42.71" W

2	44° 0' 51.55" N	-69° 32' 40.49" W
3*	44° 0' 50.73" N	-69° 32' 36.41" W
4*	44° 0' 51.79" N	-69° 32' 35.21" W
5*	44° 0' 51.59" N	-69° 32' 33.54" W
6*	44° 0' 46.92" N	-69° 32' 35.65" W
6a*	44° 0' 47.34" N	-69° 32' 37.93" W
6b*	44° 0' 50.80" N	-69° 32' 36.67" W
7	44° 0' 46.01" N	-69° 32' 35.12" W
8	44° 0' 45.75" N	-69° 32' 33.18" W
9	44° 0' 47.48" N	-69° 32' 31.28" W
10	44° 0' 47.50" N	-69° 32' 29.87" W
11	44° 0' 47.46" N	-69° 32' 27.92" W
12	44° 0' 47.85" N	-69° 32' 26.79" W
13	44° 0' 49.56" N	-69° 32' 25.70" W
14	44° 0' 49.30" N	-69° 32' 22.67" W
15	44° 0' 42.80" N	-69° 32' 30.88" W

**B. Proposed Operations**

The applicant proposes to culture American/eastern oysters (*C. virginica*), European oysters (*O. edulis*), and northern quahogs (*M. mercenaria*) on the proposed lease site using bottom and suspended culture techniques (App 1). After the coordinate adjustments described above, approximately 1.91 acres of the site are proposed to host suspended aquaculture gear, which, according to the application would include wire mesh OysterGro cages, square mesh ADPI bags, and wire mesh bottom cages (App 3-4). According to the application, both ADPI and OysterGro cages would be used during the initial year of operation on the site, but eventually the ADPI bags would be phased out, and OysterGro cages will be the primary gear used (App 4). In the portion of the proposed site located directly west of Hog Island, the applicant has proposed to deploy 10, 300 foot longlines, containing 50 OysterGro cages each and an additional 2 longlines, 100 feet in length, would contain 20 OysterGro cages each. Across the entire section proposed to contain suspended gear, a maximum of 540 OysterGro cages are proposed (App 4). In addition, the applicant is proposing to deploy cages on the bottom of the site near corners 4 and 5. Bottom cages would be attached to 15, 100 foot longlines, and a maximum of 10 bottom cages will be deployed to each line for a total of 150 bottom cages (App 5). The remaining 10.70 acres of the proposed site would be used for bottom culture only and would be free of gear except for corner markers and a moored raft (App 2, SR 2). The raft would be located near corner 15 and would contain a framed structure with a roof. According to the applicant, the structure would eventually be enclosed to protect workers from the elements, and in the winter the raft would be stored in the cove on the north side of Hog Island (App 4). The applicant intends to harvest by diving, dragging, bull raking, and hand picking (App 2). At the October 2019 hearing, the applicant indicated they would be

primarily drag harvesting, and would only drag the east side of the proposed site on an incoming tide; the remaining portion of the site would be drag harvested during all tides. At the October 2020 hearing, the applicant testified that dragging would not necessarily be the primary harvest method, per se, because they only plan to drag harvest on the harder bottom. In the sections of the site containing very soft mud, the applicant would use alternative harvest methods (Parsons, testimony, October 2020). The applicant plans to service the site from a 16 or 21-foot Carolina skiff (App 5), and a washdown pump for cleaning oysters will be used on the moored raft (App 5).

In his testimony at the October 2020 hearing, Mr. Parsons proposed to deploy a new gear type within a 70'x100' area of the lease, closest to corners 4 and 5. In this area, the applicant had originally proposed to deploy up to 150 bottom cages, but proposed to modify his operations to be able to deploy Zapco tumblers in addition to, or in place of, the originally proposed bottom cages (Parsons, testimony, October 20, 2020). The applicant estimated that a total of 540 Zapco tubes would fit within this 70' x 100' area. According to the applicant's written testimony, each tube measures 35"x 13" and is made of plastic mesh and high-density foam for floatation. The tubes are affixed to a frame composed of either wood or PVC pipe. The frame is sunk 3-4 feet into the bottom substrate at the lease site, and an additional 3-4 feet of framing would extend above the surface of the water at mean low water (Parsons, testimony). The tubes suspended from the frame would remain off the bottom, and 'tumble' as the water level changes with the tides; the tubes are only exposed during lower tidal stages. According to his testimony on October 20, 2020, if approved, Mr. Parsons may deploy both the Zapco tumblers and bottom cages within the 70'x100' section of the site. If both the tubes and bottom cages are used, then the proposed maximum number of both tubes and cages used would be reduced. At a maximum, no more than 540 Zapco tubes and 150 bottom cages would be deployed within this area of the proposed lease site. Mr. Parsons' October 2020 testimony indicated the Zapco tumblers are the same as those deployed by Mook Sea Farms on their experimental lease site in Days Cove.

The proposed gear change was not introduced at the original hearing on this application in October 2019, and members of the public, DMR staff, municipal officials and others had only limited time at the October 2020 hearing to consider and evaluate the gear change. In addition, there appeared to be confusion at the October 2020 hearing about what areas of the site the applicant was proposing to deploy gear, vs. areas of the site that would be for bottom culture only. Furthermore, it was not clear to the Hearing Officer that everyone in attendance at the October 2020 hearing understood the gear change that was being proposed. As a result, some individuals may not have had enough time to consider the proposed gear change. In some circumstances, gear changes may be presented and considered at lease hearings, but given the complicated procedural history of this case, the limited amount of time individuals had to consider the change, and the fact that the proposed gear type is different from the originally proposed bottom cages in both design and how the gear would be deployed, DMR will not consider the request to include the additional gear as part of this decision. If the applicant is still interested in pursuing the gear change, they may apply for a gear amendment. Therefore, except for the change in coordinates discussed above, this decision will evaluate the lease proposal based upon what was contained in the original application.



### **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 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 of 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, 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. Riparian Access**

During their visit to the site, DMR scientists observed a dock on the southern shore of Hog Island, and a hauled-out float was also observed (SR 8). Except when Black Stone Point Oysters is actively working on the site, access to this dock is unlikely to be prevented because the area surrounding it is proposed to be free of gear (SR 8). A second dock was observed to the northeast of the proposed site on the Damariscotta shoreline, approximately 350 feet away from the proposed site (SR 8). The eastern half of the lease is proposed to be used for bottom culture only. Therefore, except when Black Stone Point Oysters, LLC is actively working on the site, it is unlikely access to this dock, or the surrounding shoreline would be hindered by the proposed aquaculture activities (SR 8).

Approximately 1.91 acres of the propose site, immediately west of Hog Island, is intended for the suspended culture of shellfish. As indicated in the DMR's site report, presence of suspended aquaculture gear could inhibit access to the western shore of Hog island (SR 8). However, the applicant intends to maintain a 50-foot corridor for navigation (App 16, Parsons testimony), which would allow riparian owners to access the western shoreline of Hog Island. Additionally, Brendan Parsons is the sole owner of Black Stone Point Oysters, LLC, and Mr. Parsons family owns Hog Island. The owners of Hog Island provided permission for the applicant to "operate on and around its property" (App 30), and therefore do not appear to have concerns about the aquaculture activities proposed by Black Stone Point Oysters, LLC.

During the October 2019 hearing, no testimony was provided from riparian landowners, nor was there any indication that riparian ingress or egress was a concern to those in attendance. At the October 2020 hearing, multiple riparian landowners testified, but there was no testimony offered to indicate individuals were concerned specifically with being able to access their shorefront property if this lease were approved. Tom Anderson testified that his dock is probably within 25 feet of the proposed lease boundary at low tide, but later clarified that this distance was likely closer to 75 feet. His testimony indicated that the channel between Hog Island and West View Acres on the Damariscotta shore is the only way to get around this area, as there is already a lot of aquaculture gear located to the south (Anderson,

testimony). Mr. Anderson's testimony did not specifically indicate he had concerns about his riparian access but was more concerned with issues surrounding navigation and other uses of the area. Other members of the public who testified echoed Mr. Anderson's concerns but did not speak to riparian ingress and egress. Given that the applicant has proposed bottom culture only on the east side of the site, access to riparian property is not likely to be hindered by the proposed activities.

Based on this evidence, it appears that riparian access will not be prevented or unduly affected by the proposed lease.

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

### **B. Navigation**

The main channel of the Damariscotta River lies west of the proposed lease, and a red nun, which marks the eastern side of the channel, is approximately 580 feet southwest of the proposal (SR 9). Goose Ledge, located between the proposed aquaculture activities and the main channel of the river, discourages most boaters from navigating east of the channel into the area where the proposed lease would be located (SR 9). As such, it is unlikely those travelling in the main channel of the Damariscotta River would be unreasonably impacted by the proposed activities.

Approximately 1.91 acres of the proposed site, parallel to the western shore of Hog Island, would contain suspended aquaculture gear (App 3). According to the site report, there is approximately 425 feet between this area and Goose Ledge to the west (SR 9). At both hearings, adjusting the coordinates away from the western shoreline of Hog Island was discussed so that the entire proposed lease site remains subtidal. As a result of shifting the coordinates about 11 feet away from the shore of the island, the applicant would also like to shift the additional coordinates that designate the area containing surface gear. By doing so, this would reduce the area available for navigation between Goose Ledges and Hog Island to approximately 414 feet.

During the first public hearing on October 23, 2019, the Damariscotta Harbormaster did not provide testimony but did express concern about the available area for small boat sailing being reduced around the east side of Hog Island. However, the area where the Harbormaster expressed concern for is to be used for bottom planting only and will be free of gear, except for a work float. As such, the proposed aquaculture activities should not impede the ability of sailors travelling east of Hog Island, and as discussed above, there is approximately 414 feet of navigable water between the proposed activities to the west of Hog Island and Goose ledge. The Harbormaster also attended the October 2020 hearing but did not ask any questions or provide testimony.

Prior to the first hearing, DMR received a comment from Steve Guttenplan, a nearby landowner who was unable to attend. In his email,<sup>9</sup> Mr. Guttenplan expressed concern that navigation would be impacted by the portion of the proposed site that will contain surface gear. At the 2019 hearing, an area

---

<sup>9</sup> CF: email from S. Guttenplan to C. Burke and J. Lewis on October 17, 2019.

landowner and member of the public questioned the applicant about the location of the proposed lease site, gear that will be used, and impacts to navigation. The applicant clarified that the only portion of the site that will contain any gear, aside from a work float, is the area directly west of Hog Island. Landowners who were present at the October 2019 hearing did not offer testimony, and upon learning only a small area would contain surface gear did not seem as concerned about the proposed activities.

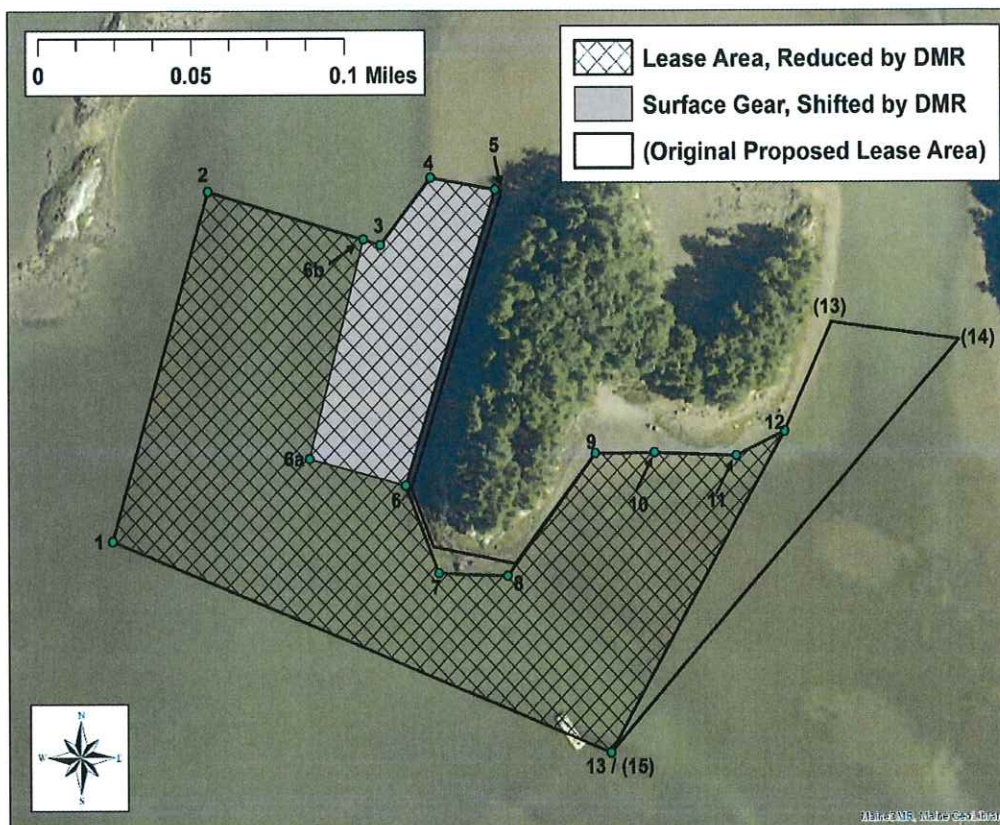
At the October 2020 hearing several individuals testified with concerns related to navigation. Steve Guttenplan, who also submitted the comment referenced above, testified that if the Black Stone Point Oyster application is approved, navigation would be impacted by the proposal. Specifically, he testified that sailing would be further restricted in the area, and sailboats would be pushed further west into the main channel and near Goose Ledges where there is higher traffic. Mr. Guttenplan also indicated that given the variable wind on the river, sailboats must be able to do a lot of tacking to be able to go up and down the river, and this ability is being limited by the amount of aquaculture gear in the river (Guttenplan, testimony).

Tom Anderson expressed concern that the channel between Hog Island and West View Acres to the east of the proposal is the only way to get around in that area, and his testimony indicated that the proposal could impede access to this channel. The petition submitted to DMR by members of the West View Acres Association also referenced that boat traffic may be restricted within this channel as a result of the proposal (Exhibit 5). Testimony from members of the public (identified in the table on page 3 of this decision), many of whom reside in the West View Acres Association, indicates that there is heavy recreational boat traffic, swimming, and other uses around all of Hog Island, and especially within the area closest to the West View Acres Association shared property which is located near the proposed corner 14 (identified in Figure 1). Because no gear is proposed to be deployed in that section of the site, navigation is not likely to be restricted by surface gear. However, while there is no surface gear proposed for the majority of the proposed lease site, given the amount of recreational boat traffic in the area, including sailboats, kayaks, paddleboard and motorboats, some impact to navigation around Hog Island may occur when seeding, tending, or harvesting activities are occurring on site. Given that there would be approximately 414 feet between Goose Ledges and the proposed surface gear, and this distance should provide ample space for various vessel types to navigate safely, impacts to navigation would most likely be felt on the western portion of the lease, in the area between Hog Island and the West View Acres Association. There is approximately 230 feet between Hog Island and the West View Acres association shared property. Given the narrow nature of this channel, should there be multiple boaters, swimmers, or others using the area, and should the applicant actively be harvesting product from that section of the site, navigation within that area could be limited. In his testimony on October 20, 2020, Mr. Parsons indicated that at some point, harvesting could occur 5 days per week, and ideally drag harvest would occur at least 1-2 days per week. The application also stated that boats would be present on-site Monday-Friday from 6:00am to 5:00pm.<sup>10</sup>

---

<sup>10</sup> The application stated boats would be on site from 6:00PM to 5:00PM (APP 5). At the public hearings, the applicant clarified they meant the application to state 6:00AM-5:00PM.

In consideration of the heavy amount of recreational boat traffic, especially during the warmer months, and because the applicant is likely to be on the site five days per week which could result in increased boat traffic to the area and within the channel between Hog Island and West View Acres, the proposed lease will be reduced by eliminating points 13 and 14. A map showing the reduced lease area is provided in Figure 2. This reduces the acreage of the propose lease to 10.87 acres and ensures that the channel between Hog Island and the West View Acres Association will remain open for boat traffic during all times, even if the applicant is conducting harvesting activities. As the area between Goose Ledges and the proposed surface gear is almost twice as wide as the area on the west side of Hog Island, there should be ample room available for navigation and lease activities to occur concurrently.



**Figure 2:** Lease area showing the original proposal, portion of the site that would contain surface gear, and the reduction in the lease footprint between Hog Island and the eastern shore of the Damariscotta River.

Given the available distance for boats to navigate between the portion of the lease that will contain surface gear and Goose Ledge to the west, and given the reduction in the lease size on the east side of Hog Island, and because much of the lease site will be free of gear, it is reasonable to conclude that navigation in the area will not be unduly affected by the presence of the proposed lease site.

**Therefore,** considering the reduction on the east side, the aquaculture activities proposed for this site will not unreasonably interfere with navigation.

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

**Fishing.** Although no commercial or recreational fishing activities were observed during either site visit (Drury, testimony), clams (*Mya arenaria*) and oysters (*C. virginica*) are harvested from mudflats and ledges in the area around the proposal (SR 10). However, because the proposed lease does not overlap with mudflats located on either shoreline of the Damariscotta River, the lease would not impede commercial or recreationally harvesters from utilizing those areas (SR 10).

Some recreational fishing is known to occur in the proposed lease area. During the hearing, some members of the public testified that they have witnessed recreational fishing in the area, or that they themselves fish, and DMR's site report indicated that recreational fishing is known to occur in the proposed lease area from both boat and shore (SR 10). Because most of the proposed lease would be for bottom planting and no gear would be present except when Black Stone Point Oysters LLC is actively working on the site, the proposed aquaculture activities are unlikely to impact recreational fishing in the area (SR 10). The applicant has also indicated that recreational fishing would be permitted within the boundaries of the proposed lease (App 9), and as discussed in the navigation section of this decision, recreational boaters and users of the area should be able to navigate around and within the proposed lease site. Mr. Parsons also reiterated in his testimony on October 20, 2020 that recreational uses of the area would not be prohibited from the site and recreational fishermen could continue to fish and move through the site.

DMR did not hear from any commercial fishermen regarding the proposed aquaculture activities. Given that recreational fishing would be permitted within the lease boundaries, the proposed lease is not likely to impact commercial or recreational fishing.

**Other aquaculture uses:** At the time DMR published the first site report, in 2019, there were seven active aquaculture leases and four Limited Purpose Aquaculture licenses within 1,000 feet of the proposed lease site (SR 10). At the time of the second hearing, and according to the Site Report Addendum introduced at the hearing (Exhibit 4), the number of active leases or LPAs within 1,000 feet of the proposed lease site has not changed. However, since the Black Stone Point Oysters application was received and deemed complete, an additional lease application has been received for an area within 1,000 feet of the proposed Black Stone site<sup>11</sup>. There are also many additional leases and LPAs located in the Damariscotta River upstream and downstream from the proposed site (SR 10).

Other aquaculture lease holders in the Damariscotta River were present at the public hearing on October 23, 2019, but none testified. Lease or LPA holders were not present at the October 2020 hearing. While none provided official testimony during the first hearing, some questioned the applicant about their proposed operations, and what methods Black Stone Point Oysters, LLC would be using to harvest oysters. When the applicant testified that they plan to drag harvest, and that they plan to drag harvest the east side of their proposal only on an incoming tide, one grower questioned why this would be the case.

---

<sup>11</sup> Standard lease application from Christopher Dickenson for the suspended culture of American oysters, deemed complete by DMR on September 26, 2019. A hearing has not yet been held on this application.

The applicant stated they felt that would be a better approach due to flow of water in the area and moving sediment. The applicant was further questioned if they felt there would be sediment buildup and how that may impact surrounding leases, to which the applicant responded that there would likely be some sediment churned up due to the nature of dragging, and that the bottom is disturbed during the process of dragging. The applicant also testified that there would be dragging on the west side of the proposed lease site at all tides. Another aquaculture lease holder in the area expressed concern, but did not offer testimony, about the proposed dragging activities on the lease site and the impact that may have on other growers in the area. Jon Lewis, DMR's aquaculture program director at the time<sup>12</sup>, asked the applicant if they are aware if other growers in the area drag harvest. The applicant testified that some of the aquaculture lease holders nearby the proposed site also drag harvest and have for many years. Flora Drury, DMR Aquaculture scientist, testified that in their visit to the site they did observe soft mud on portions of the site.

At the first hearing, other aquaculturists seemed concerned about the proposed dragging activities because of the potential impact on their own aquaculture operations, however no testimony was offered. At the second hearing, concern about dragging was raised by some members of the public in their testimony. While there was some concern expressed about the environmental impacts associated with dragging, most of the references to dragging as part of testimony was concerned with navigation, or the impact that dragging may have on someone's ability to use the area, for swimming or other uses, while dragging is occurring. Because the proposed lease site is being reduced to accommodate the large amount of recreational traffic in the area, dragging will not occur within the channel between West View Acres and Hog Island as was originally proposed by the applicant. No testimony was given by aquaculture lease and/or license holders or members of the public regarding the effects of the proposed lease may have on other aquaculture uses in the area. The applicant indicated during the second hearing that dragging will not be the only harvest method used (the applicant has also proposed to dive, rake, and hand harvest), and he does not intend to drag the areas of the site where there is very soft mud (Parsons, testimony, October 2020).

Based on this evidence, it appears that the proposed lease will not unreasonably interfere with other aquaculture activities in the area.

**Other water-related uses.** During the site visit on April 18, 2019, DMR staff did not observe other water-related uses of the proposed lease area, and during the 2019 hearing, no testimony was offered that described other uses of the area not already discussed elsewhere in this decision. However, at the 2020 hearing testimony was provided from numerous individuals that indicated the area is heavily used by swimmers, boaters, recreational fishermen, and others, especially during the warmer summer months. Much of the concern expressed by members of the public centered around the narrow channel between Hog Island and the West View Acres Association, as well as concern about whether water-related uses, such as swimming, would be able to continue safely while the applicant is operating across the entire

---

<sup>12</sup> Since the October 2019 hearing, Jon Lewis has retired and is no longer DMR's aquaculture program director

site. By eliminating points 13 and 14 from the proposed lease, as discussed within the navigation section of this document, the channel between Hog Island and West View Acres should safely remain open for all water-related uses, regardless of the applicant's harvest or other activities. In addition, because there is approximately 414 feet of space between Goose Ledges and the proposed surface gear, even while the applicant is operating within that area of the lease site, there should be ample space for water related uses to continue within the west side of the lease as well.

**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**

**Site observations.** DMR scientists conducted a SCUBA transect of the proposed lease site on April 18, 2019, and an additional dive on October 16, 2020. A drop camera transect was also conducted near proposed corners 13 and 14. During their dives, they observed the bottom of the proposed lease to vary and contained sections of soft mud, cobble, and firmer sediment. Sections of soft sediment were observed east, south, and west of Hog Island (SR 12, Drury testimony). Green crabs and benthic microalgae were the dominant species observed south of Hog Island where the bottom was comprised of soft mud sediment (12). A deeper channel, in the western portion of the proposed site, was observed to be comprised of cobble and shell hash (SR 12). In the banks of the channel, clam holes were observed, and macro flora and fauna diversity increased in the area (SR 12).

**Eelgrass.** In their application, the applicant noted eelgrass had been observed on the south side of Hog Island (App 7). Historical records collected by DMR in 1994 and 2005 indicate eelgrass was present in the southeast corner of the proposed lease site (SR 12). However, no eelgrass was observed during DMR's visits to the site on April 18, 2019 or October 16, 2020. During the 2019 hearing, Colin Greenan from the Army Corps of Engineers (ACOE), asked the applicant to clarify where they may have observed eelgrass in their proposed site. The applicant indicated they may have observed eelgrass around the southern shore of Hog Island between points 11 and 12 (identified on Figure 1 earlier in this document), but that they would trust what DMR staff had observed as they are not a biologist. The applicant also clarified that they did not observe eelgrass in areas where there would be suspended gear (Parsons, testimony). ACOE had no further questions regarding impacts on eelgrass due to the aquaculture activities proposed. ACOE did not offer testimony at either hearing.

During the 2020 hearing, a few members of the public expressed concern about eelgrass in Huston Cove located to the north of the proposed lease site. Their concern centered around the possible increase in boat traffic to the cove as a result of the proposed lease. However, no part of Huston Cove is included within the proposed lease boundaries, and the historical eelgrass records referenced in the site report do not indicate eelgrass was present within the cove in 1994 or 2005 (SR 12-13).

Because the area of the proposed site where historical records indicate there may be eelgrass would be used for bottom planning only and be free of gear, the proposed aquaculture gear should not impact any eelgrass that may be in the area. Because the applicant has proposed to drag harvest, this

could impact eelgrass in the area. However, because no eelgrass was observed during DMR's sit visits, and the historical eelgrass records indicate only a small amount of eelgrass was present in the south east corner of the site, the proposed aquaculture activities should not adversely impact eelgrass within the proposed site. ACOE did not indicate any concern regarding eelgrass.

**Wildlife.** During the site visit, a bald eagle was observed carrying sticks near the proposed lease (SR 13). Data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW) indicate that the proposed lease is located within the 1/4 mile buffer associated with bald eagle nests in Maine<sup>13</sup> (SR 13). The proposed lease area also overlaps with Tidal Wading Bird and Waterfowl Habitat (SR 14), which is defined under Maine's Natural Resources Protection Act as significant Wildlife Habitat. The Department sent a copy of the lease application to MDIFW for their review and comment and MDIFW indicated that "minimal impacts to wildlife are anticipated for this project."<sup>14</sup>

During the October 2020 hearing on this application, numerous members of the public testified that they were concerned about the impact the proposed activities may have on the eagles in the area. A petition letter submitted by residents of the West View Acres Association also expressed concern about the location of the proposed site in relationship to the eagle's nest on Hog Island (Exhibit 5). The Bald Eagle Protection Act of 1940 prohibits anyone, without a permit, from 'taking' bald or golden eagles, including their nests, or eggs. The Act defines 'take' as, "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest, or disturb."<sup>15</sup> Given the proximity of the proposed aquaculture activities to the eagle's nest of Hog Island, a permit from the U.S. Fish and Wildlife may be required, and it is the applicant's responsibility to ensure they are abiding by all federal laws. According to the applicant, they have been in contact with the U.S. Fish and Wildlife Service about their proposed activities (Parsons, testimony). In his testimony, the applicant stated that it is in their best interest to not disturb the eagles or the nest and given the amount of aquaculture activity already in the area, he believes the eagles are well accustomed to aquaculture. In addition, the applicant testified that the eagle's nest is out of sight from the portion of the proposed lease that will contain surface gear (Parsons, testimony).

During the October 2020 hearing, a question was asked about Goose Ledges, located to the west of the proposed lease site, and if the proposed activities may have an impact on the common terns that may use that area. In her testimony, Flora Drury indicated that DMR did not include information about common terns in the Department's site report, but the seabird nesting layer was included as part of the Department's review. Ms. Drury testified that she is confident that if MDIFW had concerns about the proposed lease and impact on common terns in the area, they would have identified as such during their review. As referenced above, MDIFW commented that minimal impacts were expected.

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

---

<sup>13</sup> The Maine Legislature removed bald eagles from the state's endangered and threatened list in 2009.

<sup>14</sup> CF: Email to C. Burke from R. Settele dated May 1, 2019.

<sup>15</sup> Bald and Gold Eagle Protection Act, 16 U.S.C. 668-668c



**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**

Goose Ledges, which is managed by MDIFW, is located approximately 130 feet west of the proposed lease and is classified as a “coastal island” (SR 14). In their review of the application, MDIFW indicated minimal impacts to wildlife are anticipated for the project.<sup>16</sup> During the second public hearing, a few individuals testified that they enjoy kayaking or boating around Goose Ledges to observe the terns and seals that frequent the area. These activities will not be prohibited by the presence of the lease, and there were not any specific comments provided that would indicate access to Goose Ledges would be prevented. No other beach, park, or conserved lands owned by federal, state, or municipal governments, or docking facilities are located within 1,000 feet of the proposed lease site.

**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 applicant lists seed stock for this proposed lease site as Mook Sea Farm in Walpole, Maine (App 1). The proposed source is an approved source of seed stock. During the first public hearing, DMR asked the applicant where they intended to source seed for their site, and specifically where they were sourcing seed for European oysters (*O. edulis*), as Mook Sea Farm does not currently produce seed for European oysters. The applicant indicated that they’re planning to focus on wild spat collection for European oysters. Wild spat collection would be permitted within the boundaries of the proposed lease site only. Wild spat may be collected from within the proposed lease site but may not be transferred to another area outside the Damariscotta River without a Chapter 24 movement or transfer permit from DMR. Collection of undersize European oysters from outside the lease boundaries is not allowed due to season and size limit restrictions.

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

#### **G. Light**

According to the application, no lights would be used on the proposed lease site, as all work would be done during daylight hours (App 7). The owner of Black Stone Point Oysters LLC is also part owner of Hog Island. In his application (App 7), and testimony on October 20, 2020 Mr. Parsons indicated that work would not occur on the lease site outside of the operating hours of 6AM to 5PM, but that he may travel out to Hog Island using the same boat he uses to work on the aquaculture site, so some lights may be visible

---

<sup>16</sup> CF: Email to C. Burke from R. Settele dated May 1, 2019.

from the boat during those times. There was no testimony provided at either the 2019 or the 2020 hearing to indicate there was concern regarding light associated with the proposed activities.

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

#### **H. Noise**

According to the application, boats would be on the site Monday-Friday from 6:00AM to 5:00PM<sup>17</sup>. One 21' and one 16' Carolina skiff would be used as work boats, and the applicant intends to eventually turn the 21' skiff into a drag boat. A shellfish raft measuring 12x16 feet will be placed on a pre-existing mooring within the proposed lease site to the south of Hog Island (App 5). The raft would be used for sorting and grading oysters and drying gear, and a wash down pump would also be used on the raft (App 7). An integrated muffler would be used on the wash down pump to help with noise reduction, and the pump would only be used during harvesting (App 7). In their testimony in October 2019, the applicant indicated the wash down pump would likely be used every couple of days. At the October 2020 hearing, the applicant indicated the wash down pump would be used every day that harvesting is occurring, which ideally would be five days a week (Parsons testimony).

At the 2020 public hearing, one individual expressed concern about the level of noise associated with the proposed activities, such as dragging and other harvest activities, especially given the proximity of corner 14 to the West View Acres Association and the start time of 6AM every day (Colquhoun, testimony). Mr. Parsons indicated that while the proposed hours of operation do begin at 6AM, that is likely when he or his staff would be in route to the lease site, not necessarily beginning harvesting or other operations. However, Mr. Parsons response did not indicate that work would never occur as early as 6AM. As discussed in the navigation section, the proposed lease has been reduced by removing corners 13 and 14. By reducing the lease in this way, the lease boundary is no longer within 25 feet of West View Acres, which should alleviate the specific concern about noise generated from the northeast corner of the original proposal. The use of the integrated muffler on the washdown pump and limiting the pumps use to during harvesting activities should also help reduce noise (App 7). During the 2020 hearing, the applicant testified that there is an insulated box to place over the pump to help muffle the sounds. In addition, most of the public testimony focused around concern about navigation, and other uses of the area and most of the concern was not specific to noise. During the 2019 public hearing, there were no concerns raised about noise from the proposed lease.

Based on this evidence, it appears that reasonable measures would be taken by the applicant to mitigate noise impacts and that any noise generated by the proposed operations is unlikely to have a significant effect at the boundaries of the lease site.

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

---

<sup>17</sup> The application stated boats would be on site from 6:00PM to 5:00PM (App 5). At the public hearings, the applicant clarified they meant the application to state 6:00AM-5:00PM.

## **I. Visual Impact**

Most of the proposed lease would be used for bottom planting and would be free of gear. For the portion of the site that would contain suspended gear, the applicant intends to use wire cages with submersible plastic floats, plastic mesh floating bags, and wire mesh bottom cages. In addition, the applicant intends to install a 12'x16' raft on the site and plans to eventually enclose the raft to protect workers from the elements (App 7). A 10-foot-tall framed structure with a temporary roof will be added atop the raft and sit approximately 12.5 feet above the water line (App 4). At the 2019 hearing, the applicant testified that the tent structure would be white, and at the 2020 hearing, the applicant testified that he does plan to eventually enclose the raft to provide protection against the elements for workers, but that it would be enclosed with plastic siding that is removable, and be more tent like (Parsons, testimony). The Department assess visual impacts in accordance with Chapter 2.37(1)(A)(10), which requires gear and structures on the proposed site to comply with certain requirements regarding color, height, and building profiles. The regulation requires that gear and structures be of a color that does not contrast with the surrounding area, and acceptable hues are black, brown, grey, green and blue. While the applicant has testified that the structure would be white in color, it is also described as 'tent like' and temporary. Because some portions of the structure are removable and will presumably be used only when needed to protect product or workers from the elements, it is unlikely that this structure would stand out against the surrounding environment, the white color will likely fade as it is exposed to the elements, and white often appears gray in some lights. Although white is not specifically listed as an acceptable hue in the regulation, it is evident from examining the criteria as a whole that it was designed to prohibit colors that might not already exist in the surrounding area, such as neon, or to prevent installation of gear that clearly sticks out from the surrounding environment. White can routinely be observed in structures and the natural environment along the Damariscotta River. Therefore, DMR's assessment is that this structure complies with the visual impact criteria.

Some members of the public commented about the applicant's plan to tow the raft to the north side of Hog Island during the winter. If the applicant chooses to move his raft off the lease site to an alternative location, it is their responsibility to make sure they are acquiring any necessary permits needed. This lease decision does not extend to activities that may occur outside of DMR's jurisdiction. The West View Acres Petition letter (exhibit 5), and comments from members of the public made during testimony or questioning indicate that some feel the proposed lease will impact the vista from the shared West View Acres Association property. As described in DMR's Chapter 2 regulations, section 2.37(1)(A)(10), the decision criteria related to visual impact applies to equipment, buildings and watercraft used at an aquaculture site, and establishes building profiles, height limits, roof and siding materials and color guidelines, which are all met by the applicant's proposal in this case.

**Therefore**, the equipment utilized on the proposed lease site will comply with the DMR's visual impact criteria.

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

Based on the above findings, and considering the removal of corners 13 and 14, 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. 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 water-related uses of the area, taking into consideration other aquaculture uses 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, docking facilities, or certain conserved lands owned by municipal, state, or federal governments.
- f. The applicant has demonstrated that there is an available source of seed 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 grants the requested lease to Black Stone Point Oysters LLC, reduced to 10.87 acres, for twenty years for the cultivation of American/eastern oysters (*Crassostrea virginica*), European Oysters (*Ostrea edulis*) and northern quahogs (*Mercenaria mercenaria*) using suspended and bottom culture techniques. The lease is granted with the adjustment in coordinates as outlined in section 2.B of this document, to ensure the lease is entirely subtidal. Suspended gear must remain in the area between coordinates 3, 4, 5, 6, 6a and 6b. The final approved coordinates for this lease are provided in Table 2.

**Table 2: Final coordinates.** \* denotes area of lease that may contain suspended gear

Corner	Latitude	Longitude
1	44° 0' 46.06" N	-69° 32' 42.71" W
2	44° 0' 51.55" N	-69° 32' 40.49" W
3*	44° 0' 50.73" N	-69° 32' 36.41" W
4*	44° 0' 51.79" N	-69° 32' 35.21" W
5*	44° 0' 51.61" N	-69° 32' 33.69" W
6*	44° 0' 46.96" N	-69° 32' 35.78" W
6a*	44° 0' 47.37" N	-69° 32' 38.07" W
6b*	44° 0' 50.81" N	-69° 32' 36.82" W
7	44° 0' 45.59" N	-69° 32' 34.99" W
8	44° 0' 45.56" N	-69° 32' 33.36" W
9	44° 0' 47.48" N	-69° 32' 31.28" W
10	44° 0' 47.50" N	-69° 32' 29.87" W
11	44° 0' 47.46" N	-69° 32' 27.92" W
12	44° 0' 47.85" N	-69° 32' 26.79" W
13	44° 0' 42.8" N	-69° 32' 30.88" W

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).<sup>18</sup> 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 have been imposed on this lease.

**7. REVOCATION OF LEASE**

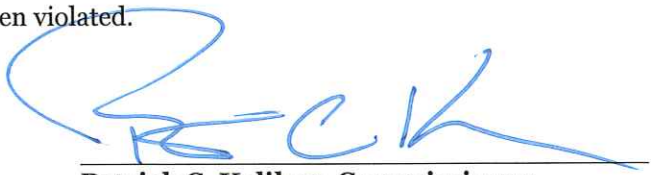
The Commissioner may commence revocation procedures upon determining, pursuant to 12 M.R.S.A §6072 (11), that no substantial aquaculture has been conducted within the preceding year, that the

---

<sup>18</sup> 12 M.R.S.A §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."

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. 7<sup>th</sup> 2021



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