

**STATE OF MAINE
DEPARTMENT OF MARINE
RESOURCES**

**Great Ledge Cove Seafood, LLC
CAS LCI3x**

Experimental Aquaculture Lease Application
Suspended Culture of marine algae
Long Island, Maine

November 4, 2019

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Great Ledge Cove Seafood, LLC applied to the Department of Marine Resources (“DMR”) for a three-year experimental aquaculture lease located south of Little Chebeague Island, northwest of Channel Rocks in Long Island, Cumberland County. The proposed lease is 3.73¹ acres and is for the suspended cultivation of sugar kelp (*Saccharina latissima*), winged kelp (*Alaria esculenta*), and horsetail kelp (*Laminaria digitata*). DMR accepted the application as complete on April 19, 2019. Two requests for a public hearing were received during the comment period; no hearing was held.

1. THE PROCEEDINGS

Notice of the application and the 30-day public comment period were provided to state and federal agencies, riparian landowners, the Town of Long Island and its Harbormaster, and others on DMR’s mailing list. Notice of the application and comment period was published in the May 2, 2019 edition of the *Forecaster*. The evidentiary record regarding this lease application includes the application, DMR’s site report dated September 4, 2019, and the case file. The evidence from each of these sources is summarized below.²

2. DESCRIPTION OF THE PROJECT

A. Proposed Operations

The purpose of the proposed experimental lease site is to determine whether the proposed site is a suitable location to commercially grow kelp (App 6). The applicant is proposing to culture marine algae from September 15th to June 15th, annually, and intends to culture kelp on 1,000-foot horizontal lines suspended 7 feet below the surface of the water.

¹ Applicant requested 3.8 acres. DMR calculations indicate the area is 3.73 acres

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

There would be 15 longlines in total, spaced 10 feet apart (App 15). Longlines, depth control lines and buoys, and concrete weights would be removed by mid-June, while 30 helix anchors and associated mooring lines and buoys are proposed to remain onsite through the year (App 17, SR 2). The applicant has proposed to have a significant amount of gear (anchors, and associated lines and buoys) remaining on site year-round so the impact of these activities could be felt all year, not just during the months when growing occurs.

B. Site Characteristics

The proposed lease occupies subtidal waters south of Little Chebeague Island and west of Long Island in Casco Bay (SR 2). Shorelines of Little Chebeague and Long Islands are comprised of rock and sand. While Little Chebeague Island is undeveloped, the shoreline facing the proposed lease on Long Island is lined with residential buildings, docks and moorings (SR 2). During DMR's site visit on July 9, 2019, depths at the corners of the proposed site ranged from 28 feet to 43.1 feet. When correcting for tidal variation, depths are approximately 0.9 feet lower at mean low water (SR 5).

3. STATUTORY CRITERIA & FINDINGS OF FACT

Approval of experimental aquaculture leases is governed by 12 M.R.S.A. §6072-A. This statute provides that a lease 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 other aquaculture uses in the area; with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna; or with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments. The Commissioner must also determine that the applicant has demonstrated that there is available source of organisms to be cultured on the lease site.

A. Riparian Access

During DMR's site visit, houses, docks and moorings were observed along the Long Island shoreline, facing the proposed lease (SR 7). The proposed lease is located more than 1,000 feet from shore (SR 6). Little Chebeague Island is undeveloped, and no docks or moorings were observed in association with that island (SR 7). During the comment period, DMR did not receive any comments regarding riparian access. Based on the lack of public comments, and because the proposed site is located more than 1,000 feet from all nearby shorelines at mean low water, it is reasonable to conclude that there are no concerns regarding the effects the proposed

lease may have on riparian ingress and egress. It appears from this evidence that riparian ingress and egress will not be unduly affected by the proposed application.

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

B. Navigation

The proposed lease area is in navigable waters to the south of Little Chebeague Island in Casco Bay (SR 7). The proposed lease is nearby the marked channel between Little Chebeague and Long Islands that leads to Chandler Cove (SR 7). Because the proposed lease is located over 1,000 feet from adjacent shorelines, vessels would not be prevented from travelling between the proposed lease and the Little Chebeague or Long Island shorelines (SR 8).

The proposed lease lies outside of any marked navigational channel. However, the proposed lease is in a heavily used area, and vessels navigating into Chandler Cove from the north and west have been observed to cut through the area (SR 7). During the site visit, DMR staff observed commercial and recreational vessels in the area around the proposed lease, one of which navigated through the proposed lease area (SR 8). There are also two other active aquaculture leases close by the proposed site. CAS LCI2 is permitted for the suspended culture of marine algae and is approximately 700 feet to the northeast, and CAS LONG, located 715 north of the proposal, is permitted for the suspended culture of blue mussels (SR 9). Longlines will not be present on the site during summer when vessel traffic is likely heaviest, and mariners would be able to navigate through the proposed lease area. However, due to the presence of thirty year-round moorings and balls, vessels may avoid the area (SR 8). During the review period, DMR did not receive any comments regarding navigation. However, the site report notes that while the area is outside marked navigation channels, mariners travelling to or from Chandler Cove are known to cut through the area where the proposed lease is located (SR 7). Given the use of the area by mariners, and the popularity of the area for recreational uses, DMR will require that all gear, except for helix anchors, be removed from the water between June 15th and September 15th of each year. Conditions reflecting this requirement will be included in the lease.

Based on the evidence, and the condition described above, it appears that the proposed aquaculture activities will not unreasonably interfere with navigation.

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

C. Fishing & Other Uses

Fishing. During DMR's site visit on July 9, 2019 lobstering activity was observed near the proposed lease; one lobster boat was observed to the immediate east of the proposed lease and one lobster buoy was observed on the northern boundary of the proposal (SR 8). DMR scientists did not observe other commercial or recreational fishermen during the visit to the site (SR 8), but it is possible the area is used by both. The applicant noted that there is light lobster fishing in the area during the summer months, which, according to the applicant, would be able to continue (App 9). The applicant proposes to deploy longlines on the site from September through mid-June, while 30 helix anchors and associated mooring lines and buoys would remain on site year-round (App 17). Whether lobstermen might avoid the area in the summer months due to the proposed moorings is unknown. Other fisheries, such as scallop dragging or menhaden fishing, would be excluded from the lease area due to the year-round presence of gear (SR 8). Some recreational fishing may occur near the proposed lease site (App 9). During the review period, no comments were received regarding the impact the proposed lease may have on fishing.

As discussed in the navigation section of this document, DMR will require that all gear, except for helix anchors, must be removed from the water between June 15th and September 15th each year. As such, the proposed aquaculture activities should not interfere with any lobstering or other fishing that may occur in the area during the summer months.

Given the absence of public comments expressing concern regarding interference with fishing, and the condition described above, it is reasonable to conclude that there are no concerns about the effects the proposed site may have on commercial or recreational fishing. It appears from the evidence, and the condition described above, that the proposed lease is unlikely to unreasonably affect commercial and recreational fishing activities in the area.

Exclusivity. Due to possible interactions with gear, dragging and other forms of commercial fishing are prohibited within the boundaries of the proposed lease site from September 15th through June 15th when longlines are present.

Other aquaculture uses. There are 6 aquaculture leases located within one mile of the proposed lease. The closest lease to the proposed site, CAS LCI2, is permitted for the suspended culture of marine algae and is approximately 700 feet to the northeast (SR 9). CAS LONG, located 715 north of the proposal, is permitted for the suspended culture of blue mussels.

DMR is considering two other pending aquaculture lease applications nearby the proposed lease site. Applicant Steve Train and applicant Chebeague Island Oyster Company, LLC have both applied within one mile of the proposed lease site.

Other water-related uses. During the review period, DMR did not receive any comments detailing other water-related uses that are not already contemplated in other sections of this decision. The applicant noted that kayaking does occur in the area, but that kayaking will remain unaffected (App 10). Based on the absence of public comments, it is reasonable to conclude that there are no concerns regarding the effects the proposed lease may have on other water-related uses of the area.

Therefore, considering the other aquaculture uses of the area, and the condition described above, the activities proposed for this site will not unreasonably interfere with fishing or other water related uses of the area.

D. Flora & Fauna

Historical eelgrass data collected by DMR indicated that, in 2018, the nearest eelgrass to the proposed lease was 880 feet northeast of the site. The proposed aquaculture activities for this site are unlikely to shade or disrupt these eelgrass beds (SR 10).

Data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW) indicated that the proposed lease is located approximately 845 feet from Tidal Wading Bird and Waterfowl Habitat, which is defined under Maine's Natural Resource Protection Act as Significant Wildlife Habitat (SR 10). Mapped habitat for the purple sandpiper (*Calidris maritima*), and for an unidentified 'rare animal' is located on the north tip of Long Island, more than 1,000 feet east of the proposed site (SR 10). DMR sent a copy of the application to MDIFW for their review and comment. MDIFW indicated that "minimal impacts to wildlife are anticipated for this project."³

Based on the evidence that the proposed lease does not interact with historical eelgrass beds or mapped wildlife habitat, and because DMR's site report does not contain concerns regarding the impact of the proposed lease on the surrounding ecosystem, it appears that the proposed aquaculture activities for this lease site will not interfere with the ecological function of there are.

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 ecological significant flora and fauna.

E. Public Use & Enjoyment

Little Chebeague Island, which is owned by the Maine Department of Agriculture, Conservation, and Forestry, Bureau of Parks and Lands is located approximately 1,100 feet

³ CF: Email from R. Settele to C. Burke on May 9, 2019

northeast of the proposed site. The island is popular with recreational boaters and beachgoers (SR 11), and access to the island from the water requires landing directly on one of the island's beaches or anchoring offshore in the shallows. Access by foot is possible at low tide via an exposed sandbar (SR 11). As discussed in the navigation section of this document, the proposed lease is located over 1,000 feet from any adjacent shoreline, and vessels would not be prevented from travelling between the proposed lease and Little Chebeague Island.

During the comment period, DMR did not receive any comments regarding public use and enjoyment. Based on the lack of public comments, and because the proposed lease is located over 1,000 feet from adjacent shorelines, it is reasonable to conclude that there are no concerns regarding the effect the proposed lease may have on public use and enjoyment. It appears from this evidence that public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by federal, state, or municipal governments will not be unduly affected by the proposed application.

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

F. Source of Organisms

The applicant intends to source sugar kelp, winged kelp, and horsetail from Ocean Approved in South Portland, Maine. This source is approved by DMR.

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

4. CONCLUSIONS OF LAW

Based on the above findings, I conclude that:

1. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.
2. Given the condition related to gear deployment, the aquaculture activities proposed for this site will not unreasonably interfere with navigation.
3. Given the condition related to gear deployment, the aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in the area.

4. The aquaculture activities proposed for this site will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.

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

6. The applicant has demonstrated that there is an available source of stock to be cultured for the lease site.

Accordingly, the evidence in the record supports the conclusion that the proposed aquaculture activities meet the requirements for the granting of an aquaculture lease set forth in 12 M.R.S.A. §6072-A.

5. DECISION

Based on the foregoing, the Commissioner grants the requested experimental lease of 3.73 acres to Great Ledge Cove Seafood, LLC, for three years, the term of the lease to begin within twelve months of the date of this decision, on a date chosen by the lessee⁴; however, no aquaculture rights shall accrue in the lease area until the lease is fully executed.

This lease is granted to the lessee for the cultivation of sugar kelp (*Saccharina latissima*), winged kelp (*Alaria esculenta*), and horsetail kelp (*Laminaria digitata*) using suspended culture techniques. The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. Since this is an experimental lease with more than 400 sq. ft. of structures and no discharge, a bond or escrow account is required. The lessee shall post a bond or establish an escrow account pursuant to DMR Rule 2.64 (10) (s) 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

⁴ DMR Rule 2.64 (14) provides:

“The term of the lease shall begin within 12 months of the Commissioner’s decision, on a date chosen by the applicant. No aquaculture rights shall accrue in the lease area until the lease term begins and the lease is signed.”

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 MSRA §6072-A (15)⁵. 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 purpose of the lease.

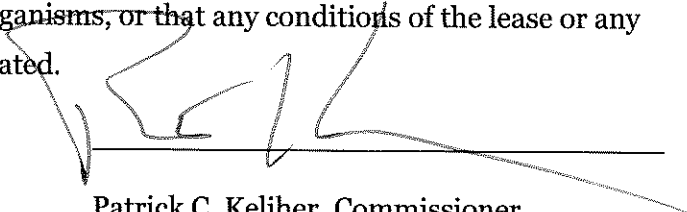
The following conditions shall be incorporated into the lease:

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
2. All gear, except for helix anchors, must be removed from the water between June 15th and September 15th each year.
3. Due to possible interactions with gear, dragging and other forms of commercial fishing are prohibited within the boundaries of the proposed lease site from September 15th to June 15th when longlines are present on the site.

7. REVOCATION OF EXPERIMENTAL LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072-A (22) and DMR Rule Chapter 2.64 (13) that no substantial research has been conducted on the site within the preceding year, that research has been conducted in a manner injurious to the environment or to marine organisms, or that any conditions of the lease or any applicable laws or regulations have been violated.

Dated: 11/4/19


Patrick C. Keliher, Commissioner

Department of Marine Resources

⁵ 12 MRSA §6072-A (15) provides that:

“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. The commissioner may grant the lease on a conditional basis until the lessee has acquired all the necessary federal, state and local permits.”