

**STATE OF MAINE  
DEPARTMENT OF MARINE  
RESOURCES**

**Nautical Farms, LLC  
ENG RIx**

Experimental Aquaculture Lease Application  
Suspended Culture of Marine Algae  
Jonesport, Maine

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

Nautical Farms, LLC applied to the Department of Marine Resources (“DMR”) for a three-year experimental aquaculture lease located in Shorey Cove, north of Roque Island, in Englishman Bay, Jonesport, Washington County. The proposed lease is 3.92 acres and is for the suspended cultivation of sugar kelp (*Saccharina latissima*) and winged kelp (*Alaria esculenta*). DMR accepted the application as complete on January 4, 2022.

**1. THE PROCEEDINGS**

Notice of the application and the 30-day public comment period was provided to state and federal agencies, riparian landowners, the Town of Jonesport and its Harbormaster, and others on DMR’s mailing list. Notice of the application and comment period was published in the February 3, 2022 edition of the *Ellsworth American*. No requests for a public hearing were received during the comment period and no hearing was held. The evidentiary record regarding this lease application includes the application, DMR’s site report dated June 24, 2022, and the case file. The evidence from each of these sources is summarized below.<sup>1</sup>

**2. DESCRIPTION OF THE PROJECT**

**A. Proposed Operations**

The purpose of the proposed experimental lease site is to determine the optimal strategy to commercially grow marine algae (App 6). The applicant is proposing to culture marine algae from late October to May 31<sup>st</sup>, annually, using 800-foot horizontal lines suspended 7 feet below the surface of the water. There would be 6 longlines in total, spaced 30 feet apart (App 14). Longlines, depth control lines and buoys, and weights would be removed by May 31<sup>st</sup>, annually,

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<sup>1</sup> These sources are cited, with page references, as App (Application), CF (case file), and SR (site report).

while 18 concrete moorings with associated mooring lines/chains and buoys are proposed to remain onsite through the year (App 14). Because the site coordinates provided in the application did not correlate to the provided maps and project figures, DMR requested correct coordinates, which were provided by the applicant and noted in the site report.

## **B. Site Characteristics**

DMR scientists conducted a site visit of the proposed lease area on April 5, 2022. The proposed lease occupies subtidal waters west of Great Head on Roque Island, in Shorey Cove. The northwestern part of Roque Island, near Squire Point and west of the proposed lease, hosts several buildings, a pier structure, large field, and grazing livestock. Additionally, the area between Squire Point and Great Head, south and southwest of the proposal, features a large sand beach. The rest of the island shoreline is characterized by steep ledge leading to uplands that are predominantly coniferous forest, with the exception of the developed area described above. Seven kelp longlines were located in the general vicinity of the proposed lease area; these longlines are permitted by Limited Purpose Aquaculture (LPA) licenses held by individuals associated with the lease application. North and northwest of the proposed site is open water, scattered islands, and the Jonesport mainland (SR 2). NOAA charts indicate depths at the site range from 9 to 12 feet at mean low water (SR 7).

## **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, a stone/wood pier, a set of stairs to the shoreline, and two moorings were observed west of the project site, on or near Squire Point (SR 9). The proposed lease is located approximately 490 feet from the nearest point on shore and over 3,400 feet

northeast of the existing pier (SR 9 and 10). Due to the location of the existing pier and moorings, it appears the main access to the island is located at Squire Point, more than 3,400 feet from the proposed project site. It is unlikely that mariners accessing the pier or moorings will transit the lease area when arriving from the mainland. While beach landing may also be considered a reasonable route for island access, mariners would be able to utilize the 400-foot corridor between mooring buoys in the summer months or navigate around the lease area. Accordingly, based on this evidence, the location of the proposed project allows sufficient room for vessels to maneuver and land on shore. During the comment period, DMR did not receive any comments regarding riparian access.

**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 is located in navigable waters 9-12 feet deep at mean low tide. The proposed site is approximately 490 feet from shore at the nearest point, to the east, with over half a mile of open water to the west of the proposal. The nearest LPA license site is approximately 1,010 feet from the proposal (SR 11).

The proposed lease lies between the headlands of a privately owned island, approximately 775 feet from the 22-foot depth contour that surrounds both headlands (SR 11). It is likely that the majority of marine traffic through the site would be associated with island access. Longlines will not be present on the site during the summer when vessel traffic is likely heaviest. During the review period, DMR did not receive any comments regarding navigation.

Based on the evidence, 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 April 5, 2022, two heavily fouled lobster trap-style buoys were located near the proposed lease site (SR 11). DMR scientists did not observe evidence of other commercial or recreational fishing activities during the visit to the site (SR 11), but it is possible the area is used by both. According to the applicant, there is lobster fishing in the area during the summer months, with very few traps located near the lease site (App 7). The applicant proposes to deploy longlines on the site from September 30<sup>th</sup> through May 31<sup>st</sup>, while

18 concrete moorings with associated mooring lines/chains and buoys would remain on site year-round (App 16). Whether lobstermen might avoid the area in the summer months due to the proposed moorings is unknown. The applicant also indicated that recreational fishing is typically more prevalent in the summer months. During the review period, no comments were received regarding the impact the proposed lease may have on fishing.

DMR will require that all gear, except for the mooring system, be removed from the water between May 31<sup>st</sup> and September 30<sup>th</sup> each year. As such, the proposed aquaculture activities should not interfere with any lobstering or other fishing that typically 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 regarding the potential effect of the proposed lease on commercial and recreational fishing activities in the area.

**Exclusivity.** Due to possible interactions with gear, the applicant has requested that dragging and other forms of commercial fishing be prohibited within the boundaries of the proposed lease site from September 30<sup>th</sup> through May 31<sup>st</sup> when longlines are present.

**Other aquaculture uses.** There are eight LPA aquaculture licenses located within one mile of the proposed lease, all held by the principals of Nautical Farms, LLC. Three of the LPAs, JPAT 620, JPAT 720, and JPAT 820 will be relinquished if the proposed lease is granted.

**Other water-related uses.** During the review period, DMR did not receive any comments detailing other water-related uses. The applicant noted that kayaking may occur in the area (App 8). 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 2009, the nearest eelgrass to the proposed lease was 1,100 feet south of the site. The proposed aquaculture activities for this site are unlikely to shade or disrupt these eelgrass beds (SR 13).

Data maintained by the Maine Department of Inland Fisheries and Wildlife (MDIFW) indicated that the proposed lease is located approximately 1,100 feet from Tidal Wading Bird and Waterfowl Habitat, which is defined under Maine's Natural Resource Protection Act as

Significant Wildlife Habitat (SR 13). DMR sent a copy of the application to MDIFW for their review and comment. No comments from MDIFW were received.

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 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**

There are no beaches, parks, or docking facilities owned by federal, state, or municipal government within 1,000 feet of the proposed lease site.

During the comment period, DMR did not receive any comments regarding public use and enjoyment. Based on the lack of public comments, and the project's location in relation to public facilities, it is reasonable to conclude that there are no concerns regarding the effect the proposed lease may have on public use and enjoyment. DMR finds 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 marine algae from Springtide Seaweed in Gouldsboro, 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.

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 3.92 acres to Nautical Farm, LLC, for three years, the term of the lease to begin within twelve months of the date of this decision, on a date chosen by the lessee<sup>2</sup>; 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*) and winged kelp (*Alaria esculenta*) 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

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<sup>2</sup> DMR Rule 2.64 (14) provides:

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

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 statues 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 MSRA §6072-A (15)<sup>3</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 purpose of the lease.

The following condition shall be incorporated into the lease:

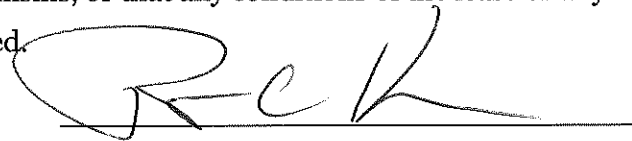
All gear, except for the mooring system, must be removed from the water between May 31<sup>st</sup> and September 30<sup>th</sup> of each year.

**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:

June 27<sup>th</sup>, 2022



Patrick C. Keliher, Commissioner

Department of Marine Resources

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<sup>3</sup> 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.”