



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

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Boston, Massachusetts 02114

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November 6, 2013



Deval Patrick
Governor

Timothy P. Murray
Lt. Governor

Richard K. Sullivan, Jr.
Secretary

Mary B. Griffin
Commissioner

Board of Selectmen
P.O. Box 119
Chilmark, MA. 002535

Ladies and Gentlemen:

Under authority of Chapter 130, section 57 of the Massachusetts General Laws, an on-site inspection was conducted on Wednesday October 30, 2013 commencing at 08:53 A.M. A 20 x 10 square foot shellfish aquaculture license proposed by Donald Poole of Chilmark, MA. was surveyed by personnel from the Division of Marine Fisheries. High tide was a 3.6 tide at 12:00 P.M.

The proposed project area is located in the Town of Chilmark, in Nashaquitsa Pond at a privately owned dock. The private area is to be used for a floating upweller for oyster seed grow out. The applicant plotted the license site and a map of the site was provided by the town.

The area is situated in the sub-tidal zone. Depth at the time of the survey was 12- 15 feet. Substrate throughout the site was mud covered by a heavy mat of dead and decomposing algae. Divers from the Division of Marine Fisheries were used to survey the site. A total of 6 sq. ft. quadrants were sampled on the outer edges of the proposed site. The 6 sq. ft. samples were collected a couple yards apart. A single mature oyster *Crassostrea virginica* and a single mature bay scallop *Argopectin irradians* were observed.

The proposed site does not contain average numbers of naturally occurring shellfish close to the level considered significant by the Division of Marine Fisheries in assessing areas for private shellfish licenses (1 quahog/sq. ft. or 3 soft shell clam or 3 oysters /sq. ft.). No other bivalve molluscan shellfish were found.

No eelgrass (*Zostera marina*) or other submerged aquatic vegetation was observed on the proposed site. Additionally, no endangered species, significant marine resources or fisheries were noted at or immediately adjacent to the proposed site.

Water quality at the site is classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program.

As a result of this inspection, it is our opinion that license and operation of the proposed shellfish aquaculture project under the provisions of Chapter 130, section 57 of Massachusetts General Laws, would not have a substantial adverse impact on the shellfish or other natural resources in Nashaquista Pond in the Town of Chilmark.

All activities in connection with this license must be conducted in accordance with all applicable state statutes and regulations governing shellfish and in accordance with provisions of 322 CMR 15:00 Management of Marine Aquaculture. Marine Fisheries reserves the right to further condition the individual, private aquaculture license sites at any time, under provisions of Chapter 130, section 57 if deemed necessary to protect shellfish and other natural resources.

The licensee-applicant should be aware that this license is subject to further regulation by the U.S. Army Corps of Engineers and may be subject to regulation by the Massachusetts Dept. of Environmental Protection under the provisions of Chapter 91 (Waterways Acts) and/or Chapter 131, section 40 (Wetlands Act) and their regulations.

It is strongly recommended that the applicant contact the local Conservation Commission to determine the applicability of the Wetlands Act and the U.S. Army Corps of Engineers, Regulatory Branch at 696 Virginia Road, Concord, MA. 01742, tel.(978-318-8696), concerning a Programmatic General Permit For Small Scale Shellfish Aquaculture.

Operation of this license prior to such determination by the Conservation Commission or before obtaining other required permits and licenses from the Dept. of Environmental Protection or the U.S. Army Corps of Engineers may result in legal or regulatory action against the applicant by one or more of these agencies.

Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the applicant from the above mentioned obligations.

Sincerely,

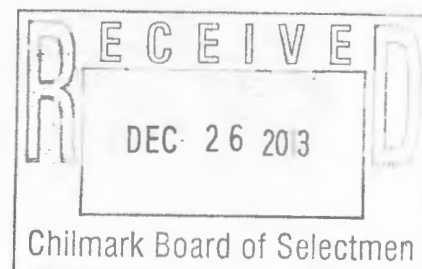


J. Michael Hickey
Chief Biologist

jbm/JMH

cc to: D. McKiernan, Acting Deputy Director, DMF
I. Scheffer, Chilmark Shellfish Constable
Chilmark Conservation
T. Davies SERO, DEP
K. Kotelly, U.S. Army Corps of Engineers
Applicant

1 Encl:K. Kotelly : 1. locus map







Paul J. Diodati
Director

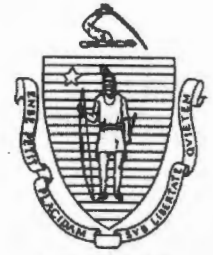
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Ladies and Gentlemen:

Under authority of Chapter 130, section 57 of the Massachusetts General Laws, an on-site inspection was conducted on Wednesday October 30, 2013 commencing at 08:53 A.M. A 20 x 10 square foot shellfish aquaculture license proposed by Emmett Carrol of Chilmark, MA. was surveyed by personnel from the Division of Marine Fisheries. High tide was a 3.6 tide at 12:00 P.M.

The proposed project area is located in the Town of Chilmark, at the Coast Guard Marina at the applicants private slip. The area is to be used for a floating upweller for oyster seed grow out. The applicant plotted the license site and a map of the site was provided by the town.

The area is situated in the sub-tidal zone. Depth at the time of the survey was 12- 15 feet. Substrate throughout the site was a mud and sand bottom littered with rope and burnt timbers from the July 12, 2010 Coast Guard boathouse and pier fire. Divers from the Division of Marine Fisheries were used to survey the site. A total of 9 sq. ft. quadrants were sampled on the outer edges and through the middle of the proposed site. The 9 sq. ft. samples were collected a couple yards apart. No bivalve molluscan shellfish were observed.

The proposed site does not contain average numbers of naturally occurring shellfish close to the level considered significant by the Division of Marine Fisheries in assessing areas for private shellfish licenses (1 quahog/sq. ft. or 3 soft shell clam or 3 oysters /sq. ft.). No other bivalve molluscan shellfish were found.

No eelgrass (*Zostera marina*) or other submerged aquatic vegetation was observed on the proposed site or bordering the site. Additionally, no endangered species, significant marine resources or fisheries were noted at or immediately adjacent to the proposed site.

Water quality at the site is classified as "Conditionally Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program.

In order to ensure public health protection and the integrity of closures due to bacterial contamination, the Division of Marine Fisheries is conditioning the license as follows under authority of Chapter 130, sec. 57, MGL:

- 1.) No harvestable market size shellfish shall be held at this site during periods when the site is in the "closed" status.
- 2.) Routine maintenance of shellfish seed in the upwellers may be conducted during periods when the area is in the "closed" status under the classification conditions for shellfish area BB50.1.
- 3.) No overwintering of seed may occur at the upweller license site during periods when the area is in the "open" status under the classification conditions for shellfish area BB50.1 without prior permission from the Division of Marine Fisheries. The overwintering site will be the 3 acre aquaculture license site located in menemsha Pond in the area classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program.
- 4.) Conditions 1 and 2 shall also apply during other public health closures such as, but not limited to, biotoxin (Red Tide), oil spills or other contaminants.

In order to obtain permission for emergency maintenance of the shellfish aquaculture license site, the license holder should contact one of the following individuals during regular business hours:

Mike Hickey (508) 990-2860 X122

Jerry Moles (508) 990-2860 X129

As a result of this inspection, it is our opinion that license and operation of the proposed shellfish aquaculture project under the provisions of Chapter 130, section 57 of Massachusetts General Laws, would not have a substantial adverse impact on the shellfish or other natural resources in Menemsha Pond in the Town of Chilmark.

All activities in connection with this license must be conducted in accordance with all applicable state statutes and regulations governing shellfish and in accordance with provisions of 322 CMR 15:00 Management of Marine Aquaculture. Marine Fisheries reserves the right to further condition the individual, private aquaculture license sites at any time, under provisions of Chapter 130, section 57 if deemed necessary to protect shellfish and other natural resources.

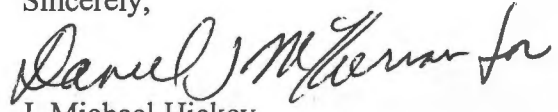
The licensee-applicant should be aware that this license is subject to further regulation by the U.S. Army Corps of Engineers and may be subject to regulation by the Massachusetts Dept. of Environmental Protection under the provisions of Chapter 91 (Waterways Acts) and/or Chapter 131, section 40 (Wetlands Act) and their regulations.

It is strongly recommended that the applicant contact the local Conservation Commission to determine the applicability of the Wetlands Act and the U.S. Army Corps of Engineers, Regulatory Branch at 696 Virginia Road, Concord, MA. 01742, tel.(978-318-8696), concerning a Programmatic General Permit For Small Scale Shellfish Aquaculture.

Operation of this license prior to such determination by the Conservation Commission or before obtaining other required permits and licenses from the Dept. of Environmental Protection or the U.S. Army Corps of Engineers may result in legal or regulatory action against the applicant by one or more of these agencies.

Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the applicant from the above mentioned obligations.

Sincerely,


J. Michael Hickey
Chief Biologist

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I. Scheffer, Chilmark Shellfish Constable
T. Davies, SERO, DEP
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