

LEASE

AGREEMENT of lease made as of July 1, 2013, by and between the TOWN OF AQUINNAH, a municipal corporation in Dukes County, Massachusetts (“Lessor”), and Vernon Welch of Aquinnah, Massachusetts (“Lessee”).

1. **PREMISES:**

Lessor hereby leases to Lessee and Lessee hereby lets from Lessor, a certain parcel of real estate in the Town of Aquinnah, County of Dukes County, Massachusetts, Shown as Parcel “ A ” on the sketch plan attached hereto as “Plan of Lease Lots Gay Head (Menemsha) Mass – 7 July 1992” and incorporated herein by reference (the “Premises”).

2. **TERM:**

This Lease shall be for a term of four (4) years (the “Term”), commencing on July 1st, 2013 (the “Term Commencement Date”) and ending on June 30, 2017.

3. **RENT:**

Lessee shall pay to Lessor Basic Rent during the lease term at the annual rate of four hundred fifty (\$450.00) Dollars for the each year of the original term. The rent for each lease year of the term shall be paid by the 15th day of July in lawful money of the United States at the Office of the Board of Selectmen, 65 State Road, Aquinnah, Massachusetts 02535, or such other place as the Lessor may from time to time designate in writing to the Lessee.

With respect to any future lease renewal, the Lessee shall pay an annual rent which may be subject to a reasonable change as determined by the Lessor.

4. **USE:**

Lessee shall use and occupy the premises only for marine uses permitted under the Aquinnah Zoning By-Laws or for such other uses as have been previously approved in writing by the Lessor. No other trade, occupation, or other activity shall be carried on, in, or about the Premises, or any use made thereof which shall be offensive or contrary to

the laws of the Commonwealth or any ordinance or by-law for the time being in force in the Town of Aquinnah or injurious to any person, persons or property.

5. **INSURANCE:**

Lessee shall procure, keep in force, and pay for comprehensive public liability insurance indemnifying Lessor and Lessee against all claims and demands for injury to or death of persons or damage to property which may be claimed to have occurred on the Premises in amounts which shall be not less than One Million Dollars (\$1,000,000.00) combined single limit for bodily injury and property damage liability including products liability coverage. Such insurance shall be effective with insurers qualified to do business in Massachusetts and in good standing therein insuring Lessor as well as Lessee, as their interests shall appear, against injury to persons or damage to property as provided. Lessee shall deposit with Lessor certificates for such insurance at or prior to the Rent Payment Date and thereafter within thirty (30) days prior to the expiration of any such policies. All such policies shall provide that they shall not be cancelled without at least ten (10) days prior written notice to each insured named therein.

6. **UTILITIES:**

The Lessee shall pay, as they become due, all bills for utilities that may be furnished to the leased premises.

7. **MAINTENANCE:**

Lessee shall maintain and keep the Premises in as good order and condition as the same are in at the commencement of said term, or may be put in during the continuance hereof, reasonable wear and tear or damage by fire or other unavoidable casualty only excepted.

8. **ACCESS TO PREMISES:**

Lessor and Lessor's agents shall have the right to enter the Premises at all reasonable times, after notice to Lessee, to examine the same (and in the case of emergency at any time without notice).

9. **LESSEE'S PROPERTY:**

It is understood and agreed that any structures and improvements and any goods or personal property owned or otherwise possessed by Lessee, and maintained by Lessee at the Premises, shall be kept there at Lessee's sole risk and without any liability whatsoever on the part of the Lessor for any loss or damage thereto. It shall be Lessee's obligation to provide any insurance for such property.

Lessee shall, during the Term hereof, keep the Premises and the area surrounding the Premises in a safe and clean manner.

10. **ESTOPPEL CERTIFICATE:**

Upon not less than fifteen (15) days prior written request, Lessor and Lessee agree, each in favor of the other, to execute, acknowledge and deliver a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if there have been any modifications that the same are in full force and effect as modified and stating the modifications), the dates to which the Basic Rent hereunder and other charges have been paid and any other information reasonably requested. Any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser, mortgagee or lending source.

11. **RIGHT TO TERMINATE:**

This Lease is subject to the express condition that, if Lessee shall neglect or fail to pay the Basic Rent, or any installment thereof, within ten (10) days after having been notified by Lessor in writing that such Basic Rent has not been so paid, or if Lessee shall fail to perform or to observe any of the other covenants contained herein on Lessee's part to be performed or observed, including but not limited to violation of the indemnification contained in section 5, 6 and 7 to be performed or observed for thirty (30) days after having been notified by Lessor of such failure, or if the estate hereby created shall be taken on execution or by other process of law, or if the Lessee or any entity entitled to operate any business from the Premises shall be declared bankrupt or insolvent according

to law, or if any assignment shall be made of Lessee's property or the property of said other entity for the benefit of creditors, then, and in any of the aforesaid cases (notwithstanding any former breach of a covenant or waiver of a benefit hereof or consent in a former instance), Lessor lawfully may, immediately or at any time thereafter, and without further demand or notice, enter into and upon the Premises, or any part thereof, in the name of the whole and repossess the same as of its former estate, and expel the Lessee and those claiming through or under Lessee and remove Lessee's effects, without prejudice to any remedies which Lessor might otherwise be used.

12. **LESSEE'S FAILURE TO PERFORM:**

(a) If Lessee shall at any time fail, as required in this Lease, to take out, pay for, maintain or deliver the insurance policy provided for in this Lease, or shall fail to make any other payment or perform any other act on its part to be made or performed under this Lease, then Lessor, after ten (10) days written notice to Lessee, except when other notice is expressly provided for in this Lease (or without notice in case of an emergency), and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease, may (but shall be under no obligation to):

- (1) Take out, pay for and maintain the insurance policy provided for in this Lease; or
- (2) Make any other payments or perform or cause to be performed any act on Lessee's part to be made or performed as in this Lease provided.

(b) All sums so paid by Lessor and all costs and expenses incurred by Lessor in connection with the performance of any such act, together with interest thereon at the rate of nineteen (19%) percent per annum or such lesser rate as may at the time be the maximum rate permitted by law, from the respective date of Lessor's making of such payment or incurring of each such cost and expense, shall be paid by Lessee to Lessor on demand as if the same were Basic Rent hereunder (and nonpayment of which shall have the consequences as non-payment of Basic Rent).

13. **ASSIGNMENT AND SUBLETTING:**

No subletting or shared usage of lots is permitted. The Lessee may permit a person related by blood or marriage to share the premises if such person is also an active commercial fisherman subject to the same conditions as Lessee and provided Lessee notifies the Board of Selectmen in writing prior to such shared usage.

14. **EMINENT DOMAIN:**

(a) If the entire Premises shall be taken for public or quasi-public purposes, then this lease shall terminate as of the date Lessee shall be required by law to vacate the Premises and surrender them to the authority making the taking.

(b) If such portion of the Premises shall be taken so as to render the Premises unsuitable for the continuance of Lessee's use of the Premises in substantially the same manner as the same was being conducted immediately prior to such taking, then Lessee shall have the right to terminate this Lease by giving written notice to Lessor within thirty (30) days after receipt of Notice of Entry for purposes of effectuating the taking. If the costs of repairing or restoring the Premises after a partial taking is more than twenty (20%) percent of their value immediately prior to such taking, Lessor may, at its option, terminate this Lease by written notice to Lessee within thirty (30) days after the date of the taking.

(c) If the Premises, or any part thereof, shall be rendered untenable and this Lease is not terminated, the Basic Rent herein reserved or a just and proportionate part thereof, shall be suspended or abated according to the nature and extent of the taking from the date of such taking until the Premises shall be restored, and if after such restoration the Premises are smaller than they were prior to the taking or the utility thereof to Lessee is otherwise diminished, the annual Basic Rent shall remain in force.

(d) In the event of such taking, the proceeds thereof shall be payable to Lessor or Lessor's institutional first Mortgagee, if so required by the applicable terms of the mortgage, and Lessee shall have absolutely no right or interest in any award. Lessee

hereby irrevocably appoints Lessor as its attorney-in-fact for the purposes of collecting any such compensation award and dealing with all governmental authorities with respect thereto. This power of attorney is coupled with an interest and hence is irrevocable.

15. **DESTRUCTION BY CASUALTY:**

If the Premises are partially damaged or destroyed by storm, fire, lightning, earthquake or other casualty, but are still usable by Lessee for the conduct of its business in substantially the same manner as it was conducted immediately prior to such damage or destruction, the rental hereunder shall be adjusted to take into account the value of any leased space lost as a result of the damage or destruction. Said rental adjustment shall apply until the damage is repaired or the destroyed areas land or plot is restored by Lessor (if Lessor opts to effect such repairs or restoration). If the damage or destruction is so extensive as to render the Premises not suitable for the said conduct of Lessee's business, this Lease shall terminate thirty (30) days after the date of such damage or destruction, unless within said thirty (30) days, Lessor, by notice to Lessee, informs Lessee of its intention to repair or restore the Premises, in which event Lessor shall have sixty (60) days measured from the date of the damage or destruction to commence repair or restoration to render the said Premises tenantable. During the period of such repairs or restoration the Basic Rent hereunder shall be abated in its entirety, except to the extent Lessee is able to use the Premises, in which event the Basic Rent shall be adjusted to reflect such use. If the Lessor shall not commence repair or restoration within said sixty (60) days or shall not thereafter diligently pursue such repair or restoration to completion or shall not complete such repairs within one hundred eighty (180) days measured from the date of the damage or destruction, Lessee shall have the right to terminate this Lease by written notice to Lessor within fifteen (15) days after the expiration of either said sixty (60) or said one hundred eighty (180) day period or of the failure (which shall then be continuing) by the Lessor to diligently pursue such repair or restoration as the case may

be. If this Lease is not terminated as provided above, Lessor shall diligently pursue repair and restoration of any such damage.

16. **NOTICE:**

Any and all notices given or required to be given hereunder shall be in writing and delivered in hand or by certified or registered mail, postage prepaid, addressed to the parties as follows (or to such other address as may be substituted):

To Lessor: Town of Aquinnah
 Board of Selectmen
 65 State Road
 Aquinnah, MA 02535

To Lessee: Vernon Welch
 10 Raymonds Hill
 Aquinnah, MA 02535

Any and all notices shall be deemed to have been given when delivered in hand or when deposited in the mail as noted above.

17. **SURRENDER:**

The Lessee shall, at the expiration or other termination of this Lease, remove all Lessee's structures, improvements, personal property, goods and effects from the Premises, and Lessee shall deliver the Premises to the Lessor in the same condition as they were at the Term Commencement Date or as they were put in during the Term hereof, reasonable wear and tear and damage by fire or other casualty only excepted. In the event of the Lessee's failure to remove any of the Lessee's property from the Premises, Lessor is hereby authorized, without liability to Lessee for loss or damage thereto, and at the sole risk of Lessee to remove and store any of the property at Lessee's expense, or to retain same under Lessor's control or to sell at public or private sale, without notice, any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property.

18. **QUIET ENJOYMENT:**

Lessor covenants and agrees with Lessee that, upon Lessee's paying the Basic Rent and observing and performing all the terms, conditions, and covenants on Lessee's part to be observed and performed, Lessee may peaceably and quietly enjoy the Premises hereby demised, subject, nevertheless, to the terms and conditions of this Lease.

19. **INDEMNIFICATION AND LIABILITY:**

Lessee agrees at all times during the Term of this Lease and for such further time as Lessee occupies the Premises or any part thereof, to assume exclusive control of the Premises and all tort liabilities incident to the control or leasing thereof, and to defend, indemnify and save Lessor harmless from all injury, loss, claim or damage to or of any person or property while on the Premises, unless caused by the fault or negligence of Lessor or its agents, to indemnify and save Lessor harmless from all injury, loss, claim or damage, including reasonable attorneys' fees, to or of any person or property anywhere occasioned by any omission, fault, neglect or other misconduct of Lessee or anyone claiming under Lessee, or acting expressly or impliedly at Lessee's direction.

20. **PAYMENTS OF LESSOR'S COST OF ENFORCEMENT:**

Lessee agrees to pay on Lessor's demand all of Lessor's costs and expenses, including reasonable attorneys' fees, incurred in enforcing any obligation of Lessee under this Lease.

21. **RIGHT TO RENEW:**

At Lessor's option, and provided that Lessee shall not then be in default Hereunder, Lessor may offer Lessee the right to renew this lease for one or more successive additional terms of up to five (5) years (the decision as to whether one or more lease terms shall be offered being that of the Lessor, which decision shall be at the Lessor's sole discretion), each subject to the following conditions:

(a) The new lease shall provide that the Lessee shall pay to the Lessor Base Rent at a rate to be set and determined by the Lessor, in Lessor's sole discretion, at the time that each such renewal term is offered and;

(b) Lessee shall be obligated to request a renewal of the Lease in each instance, and a new lease must be signed by the parties before the expiration of the preceding lease Term.

22. **MAINTENANCE:**

Lessee shall, at Lessee's expense maintain and keep the structures and improvements located on the Premises in good repair, order and condition.

23. **CONSTRUCTION:**

In construing this Lease, feminine or masculine pronouns may be substituted for those for neuter form and vice versa, and the plural for singular and singular for plural in any place where the context may require.

24. **GOVERNING LAW AND SEVERABILITY:**

This Lease shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. In the event any provision of this Lease shall be determined to be invalid or unenforceable under applicable law, such provision, shall, insofar as possible, be construed or applied in such a manner as will permit enforcement; otherwise this Lease shall be construed as if such provision had never been made part hereto.

25. **HEADINGS:**

The headings used herein are used only for convenience of reference and are not to be considered a part of this Lease or to be used in determining the intent of the parties hereto.

26. **BINDING EFFECT:**

This Lease shall be binding upon and inure to the benefit of all administrators, executors, personal representatives, heirs, successors and permitted assigns, including all

permitted sub-tenants of the parties hereto. Each permitted sub-tenant or assignee shall as a precondition to Lessor's Lease, execute such written instrument(s) as Lessor shall reasonably require evidencing his agreement to be bound by each and every term of this Lease, provided that such an agreement shall not, unless specifically provided, operate to release Lessee from his obligations hereunder.

27. **ENTIRE AGREEMENT:**

This Lease consisting of Sections One through Twenty-Six, including any attachments hereto, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by Lessor and Lessee.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, as of the day and year first written above.

LESSOR: THE TOWN OF AQUINNAH

By:

Sueley M Wright
Selectman

By:

J. New
Selectman

By:

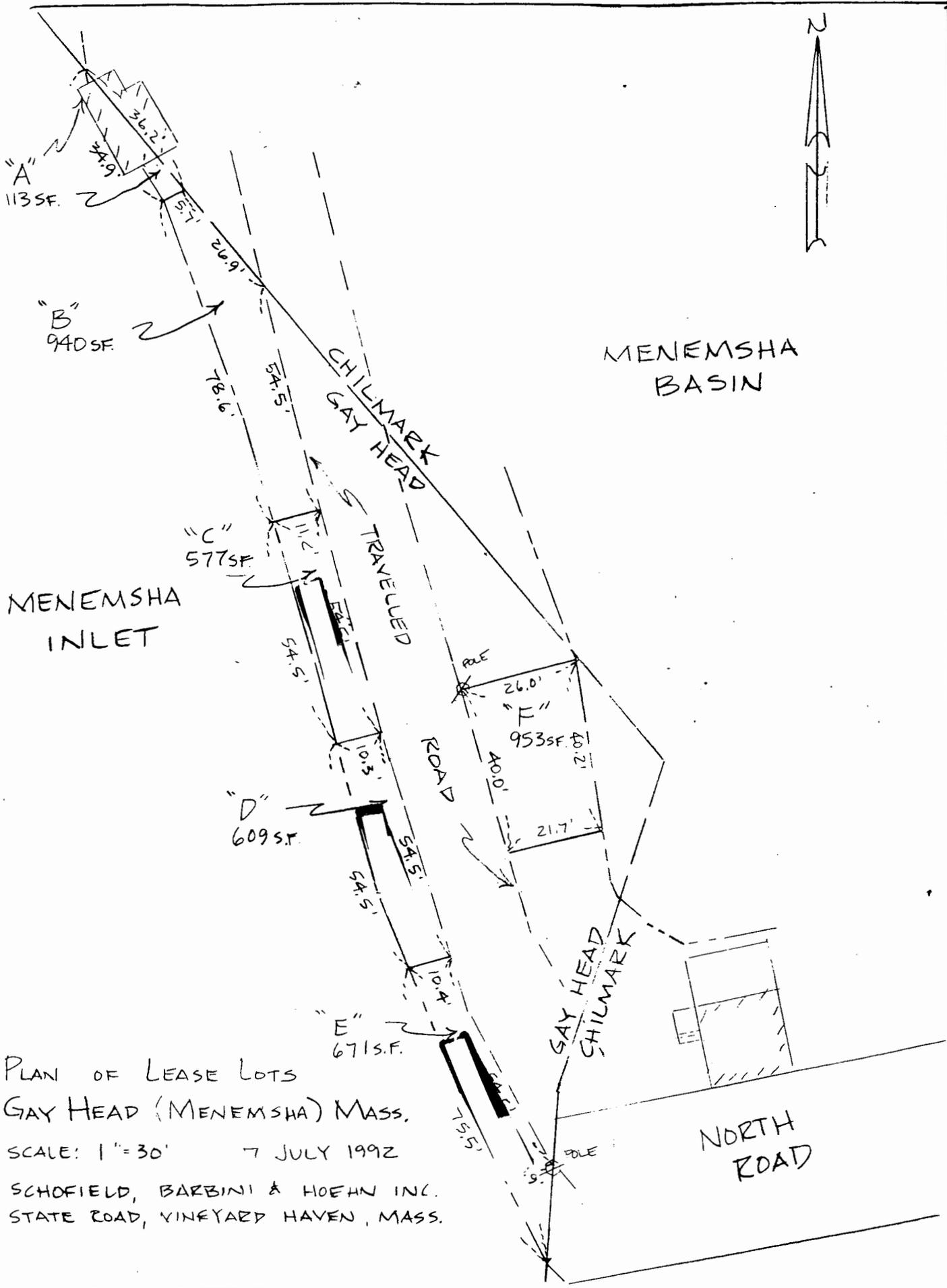
Spencer Booker
Selectman

LESSEE:

By:

Norm E. Welch

By:



PLAN OF LEASE LOTS
 GAY HEAD (MENEMSHA) MASS.
 SCALE: 1" = 30' 7 JULY 1992
 SCHOFIELD, BARBINI & HOEHN INC.
 STATE ROAD, VINEYARD HAVEN, MASS.

PREVIOUS PERMIT



Commonwealth of Massachusetts
Dept Fisheries, Wildlife & Env Law Enforcement
DIVISION OF MARINE FISHERIES

NON-COMMERCIAL LOBSTER PERMIT

SPORT ID: [REDACTED] EXPIRES: 12-31-2000
VERNON E. WELCH DOB: [REDACTED]
[REDACTED] ISSUED [REDACTED]
CHILMARK, MA 02535 (508) [REDACTED]

Signature: *Vernon E. Welch*

The two sections above are your Division of Marine Fisheries permit. Do not tear the top two pieces apart. You may separate the top two sections from the rest of the form, and fold it in half. If you choose to laminate your permit, be sure to fold the two halves together so that all your permit information faces out. Your permit is not valid until you sign the Signature line above. You must carry your permit while engaged in the activity that this permit authorizes.

NON-COMMERCIAL LOBSTER PERMIT

VERNON E. WELCH
ENDORSEMENT: DIVING TEN POT
BUOY COLOR: BLUE GREEN WHITE

Fold Here

DIRECTOR: *Phillip G. Costes*
Phillip G. Costes

CUSTOMER RECEIPT

This is your receipt. Retain and store in a safe place.

VERNON E. WELCH FTN: [REDACTED]
[REDACTED] SSUE: [REDACTED]
CHILMARK, MA 02535 PAY TYPE: [REDACTED]

BOSTON-PORTLAND STREET, BOSTON
NON-COMMERCIAL LOBSTER PERMIT RESIDENT \$ 40.00
FEES PAID THIS PAGE \$ 40.00

Note: The fees listed above apply to this page only. If you purchased additional items, they will appear on supplemental pages with fees listed on those pages.

Department of Fisheries, Wildlife & Environmental Law Enforcement
DAVID M. PETERS, COMMISSIONER





TOWN OF AQUINNAH SCALLOP LICENSE

Check one: Family Commercial Non-Resident

- Scallops may only be taken between the hours of 7:30 A.M. and 4:00 P.M.
- There shall only be scalloping when the temperature is 30° F or above. There shall be no scalloping on days when the temperature has not reached 30° F or above by 10:00 A.M. If the temperature goes down below 30° F before 12:00 Noon, scalloping will cease. If scalloping is cancelled due to low temperature, a make-up day is allowed the following Saturday.
- There shall be no scuba diving for scallops in Menemsha Pond.
- Scallop licensees entitled the holders to the following maximum quantities of shellfish:
A) FAMILY: 1 bushel per week B) COMMERCIAL: 3 struck level C) NON-RESIDENT: 1 bushel per week
- There are no lead rollers or teeth allowed to be used on scallop drags.
- Scallops may be harvested by hand or drags hoisted by mechanical power.
- No one may possess any seed shellfish or soft clams less than two inches in length or any seed oysters less than three inches in length. This paragraph does not apply to people who hold a special permit from the State of Massachusetts to move seed under the supervision of the Shellfish Constable.
- If a person catches starfish, green crabs, whelks or moon snails, they may not return them to the waters. They must be placed on the shore above the high water mark.
- 8.1 All boats which take on board codium while commercial fishing in Menemsha Pond shall bring to beach and deposit above the high tide mark as much codium as possible in an effort to reduce occurrence of codium within Menemsha Pond.

ENFORCEMENT AND PENALTIES

Anyone who violates the foregoing regulations shall be punished by a fine of not less than ten dollars nor more than one thousand dollars and by suspension or revocation of his license or permit at the discretion of the Board of Selectmen. The penalty for conviction of poaching or stealing shellfish shall be the loss of license or permit for six months for the first offense.

PREVIOUS LIC'S FAMILY

NO 00001 VERN

[Signature]
AQUINNAH SHELLFISH CONSTABLE

penalty for conviction of poaching or stealing shellfish shall be the loss of license or permit for six months for the first offense.

NO 00002 BERTHA

[Signature]
AQUINNAH SHELLFISH CONSTABLE

penalty for conviction of poaching or stealing shellfish shall be the loss of license or permit for six months for the first offense.

NO 00003 GILES

[Signature]
AQUINNAH SHELLFISH CONSTABLE

thousand dollars and by suspension or revocation of his license or permit at the discretion of the Board of Selectmen. The penalty for conviction of poaching or stealing shellfish shall be the loss of license or permit for six months for the first offense.

NO 00004 SOPHIA

[Signature]
AQUINNAH SHELLFISH CONSTABLE

#60007CA

TOWN OF AQUINNAH

SHELLFISH PERMIT

COMMERCIAL



Date 1/24/13

Permission is hereby granted Vernon Welch
to take from the waters of this town daily between sunrise and sunset Clams and Quahaugs
for commercial use.

Not more than 12 bushels of Clams or 36 bushels of Quahaugs shall be taken in any week,
of which not more than 2 weeks bushels shall be taken in any one day. The minimum legal
size for Quahaugs and clams is 2 inches in diameter.

The holder of this permit is subject to any additional regulations which the Shellfish Warden
may hereafter make and post.

This permit will expire April 1, 2013 unless sooner revoked.

NO 104

**LICENSE MUST BE CARRIED
WHILE SHELLFISHING**

Shellfish Constable
Town of Aquinnah

per [Signature]
Clerk of Board

RECEIVED
MAY - 9 2013
CURRENT
LIC.'S BOARD OF SHELLFISH
PERMITS



Commonwealth of Massachusetts
Department of Fish and Game
DIVISION OF MARINE FISHERIES
COMMERCIAL PERMIT
SHELLFISH & SEAWORMS

Permit ID: [REDACTED] EXPIRES: 12-31-2013

VERNON E. WELCH DOB: [REDACTED]
10 RAYMONDS HILL ISSUED: 02-07-2013
AQUINNAH, MA 02535 (508) 645-[REDACTED]

Signature: [Signature]

The two sections above are your Division of Marine Fisheries
permit. Do not tear the top two pieces apart. You may
separate the top two sections from the rest of the form, and
fold it in half. If you choose to laminate your permit, be sure to
fold the two halves together so that all your permit information
faces out. Your permit is not valid until you sign the Signature
line above. You must carry your permit while engaged in the

SHELLFISH & SEAWORMS
VERNON E. WELCH

ENDRSMNTS: PTL,SHELLFISH

DIRECTOR: [Signature]
Paul J. Diodati

CUSTOMER RECEIPT
This is your receipt. Retain receipt and store in a safe place.

VERNON E. WELCH
10 RAYMONDS HILL
AQUINNAH, MA 02535

FTN: [REDACTED]
ISSUED: [REDACTED]
PAY TYPE: CHECK

isheries (617) 626-1520
DIRECTOR

PREVIOUS COMM. PERMIT

Commonwealth of Massachusetts
Dept Fisheries, Wildlife & Env Law Enforcement
DIVISION OF MARINE FISHERIES
COMMERCIAL PERMIT
BOAT 0 FT-59 FT

0122 DMF ID: [REDACTED] EXPIRES: 12-31-2001

VERNON E. WELCH

DOB:

ISSUED: 07-12-2001

GAY HEAD, MA 02535

(508) 64 [REDACTED]

BOAT NAME: BERTITA

BOAT LENGTH: [REDACTED]

MS/DOC#: [REDACTED]

HOMEPORT: UNKNOWN

Signature: _____

The two sections above are your Division of Marine Fisheries permit. Do not tear the top two pieces apart. You may separate the top two sections from the rest of the form, and fold it in half. If you choose to laminate your permit, be sure to fold the two halves together so that all your permit information faces out. Your permit is not valid until you sign the Signature line above. You must carry your permit while engaged in the activity that this permit authorizes.

BOAT 0 FT-59 FT
VERNON E. WELCH

0122

GEAR TYPE: ROD AND REELHAND RAKES

ENDRSMNTS: SHELLFISH, STRIPED BASS

DIRECTOR: Paul J. Diodati

Paul J. Diodati

CUSTOMER RECEIPT

This is your receipt. Retain receipt and store in a safe place.

VERNON E. WELCH

FTN: 0000 [REDACTED]

GAY HEAD, MA 02535

ISSUED: 07 [REDACTED]

PAY TYPE: [REDACTED]

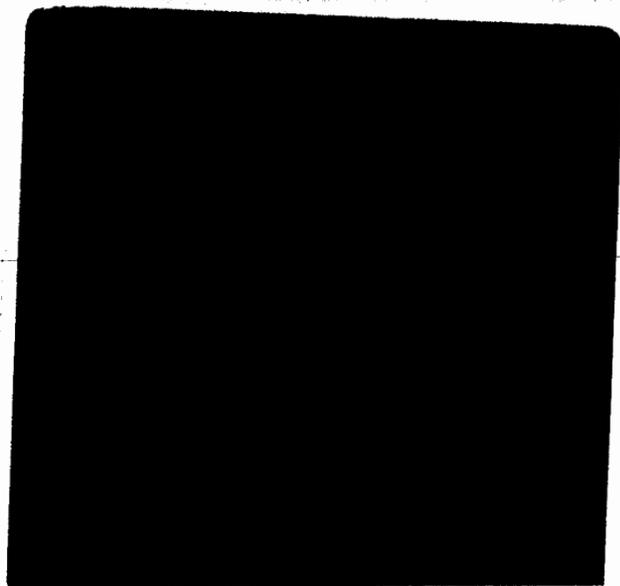
DMF - CAUSEWAY STREET, BOSTON

BOAT0-59FT, RESIDENT	\$ 130.00
STRIPED BASS, RESIDENT	\$ 30.00
SHELLFISH, RESIDENT	\$.00
FEES PAID THIS PAGE	\$ 160.00

Note: The fees listed above apply to this page only. If you purchased additional items, they will appear on supplemental pages with fees listed on those pages.

Department of Fisheries, Wildlife & Environmental Law Enforcement
DAVID M. PETERA, COMMISSIONER

CURRENT VESSEL REG.



RECEIVED
MAY - 2 2013

May 2, 2013

Dear Selectmen, BOARD OF SELECTMEN

I am adding an addendum to my letter of May 1, 2013 as I want you to be aware of my upstart fishing venture.

Currently I hold multiple shellfish license with the town of Aquinnah and the state of Massachusetts. I am proposing to use this lease to propagate and fish shellfish to sell to local markets. I also intend to expand my license to buy shellfish from other local aquaculture fishermen. I feel it is important to provide a reliable outlet for local fishermen to do business; which has been lacking for years.

If given the opportunity, I would like to purchase the shack which sits on this property at a fair market value to further create seed and immature shellfish to broadcast on town aquaculture sites. This would further year round commercial business.

Thank you for this opportunity

Vernon Welch