

Commonwealth of Massachusetts

Division of Marine Fisheries

1213 Purchase St. 3rd Floor

New Bedford, MA 02740

(508)990-2860

fax (508)990-0449



David E. Pierce
Director



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

George N. Peterson, Jr.
Commissioner

Mary-Lee King
Deputy Commissioner

July 6, 2016

Board of Selectmen
401 Middle Rd.
Chilmark, MA 02535

Ladies and Gentlemen:

Under authority of Chapter 130, § 57 of the Massachusetts General Laws (MGL), an on-site inspection of an approximately one and a third (1.3.) acre shellfish aquaculture license site proposed by the Town of Chilmark, MA was conducted by personnel from the Division of Marine Fisheries (DMF) and the Chilmark Shellfish Department on Tuesday, November 12, 2015. This was part of a larger area i.e. an Aquaculture Development Site (ADA) consisting of about 5.2 acres to be subdivided into four (4) individual sites. In the fall of 2015, DMF made a policy change that certification of shellfish aquaculture sites would require an actual applicant, application, plans, notice of public hearing, etc as required by § 57 prior to DMF certification of a project and license site. We were no longer approving ADAs or any individual sites without specific applicants and project plans. Because it was late in the season and we had an opportunity, we conducted the site inspection and shellfish survey. In correspondence dated February 18, 2016 DMF requested additional information related to individual applicants, project plans, and notification of public hearings prior to DMF certification of the license site. On May 19, 2016, DMF received the required documentation from the Town of Chilmark requesting certification of an aquaculture license at the site for Elsha Weisner of the Town of Chilmark. Thus, we were able to proceed with the DMF certification process.

The proposed license site is located in the Town of Chilmark within the waters of Menemsha Pond (DMF designated growing area V:2). Water quality at and adjacent to the site is classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program and the surrounding area has additional permitted aquaculture license sites. The proposed site is situated in a sub-tidal zone. Substrate throughout this site consists of soft fine grained silt. The applicant is proposing the deployment of bottom cages and floating cages for oyster (*C. virginica*) culture.

A shellfish survey of the entire 5.2 acre site was conducted by DMF divers. A total of thirty (30) ft² quadrates were sampled each at forty (40) foot intervals along two (2) transects across the site. A total of four (4) quahogs were observed for an average density of 0.13 quahogs per ft². This level is not considered significant by the Division of Marine Fisheries in assessing sites for private shellfish aquaculture licenses (1 quahog/ft² or 3 soft shell clams or 3 oysters/ ft²). No eelgrass (*Z. marina*) or other submerged aquatic vegetation was observed on or within twenty-five (25) feet of the proposed site. No other significant marine resources or existing wild fisheries were noted at the time of the survey.

It is our opinion that issuing an aquaculture license under provisions of MGL Chapter 130, § 57 and operation thereunder at this site would have no substantial adverse impact on shellfish or other natural resources of Menemsha Pond in the Town of Chilmark. Consequently, the Board of Selectmen may issue the license. A copy of the license must be sent to this office at the time of issuance by the Selectmen.

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 Title 322, Code of Massachusetts Regulations (CMR) 7:00 Permits, 15:00 Management of Marine Aquaculture, 16:00 Shellfish Harvesting and Handling; and Department of Public Health, Food Protection Program regulations at 105 CMR 533.007: (I). Marine Fisheries reserves the right to further condition this private aquaculture license at any time, under provisions of MGL Chapter 130, § 57 if deemed necessary to protect shellfish and other natural resources.

All holders of a local private shellfish aquaculture license from a municipality allowing exclusive use of an area to grow shellfish are also **required to obtain an aquaculture permit and a state commercial shellfish permit** under authority of Chapter 130, § 69 and 80 MGL and 322 CMR: 7:00 and 15:00 from the Division of Marine Fisheries. The aquaculture permit authorizes the possession and growing of seed shellfish from an approved source and is required annually regardless of whether seed is purchased from a hatchery or is acquired from a natural set. The commercial permit allows harvesting, possession and landing of shellfish for sale to wholesale dealers authorized to purchase shellfish.

The licensee 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, § 40 (Wetlands Act) and their regulations. It is mandatory the licensee 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 Rd., 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 licensee by one or more of these agencies. Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the licensee from the above mentioned obligations.

Any questions or comments should be directed to Christopher Schillaci, Aquaculture Specialist at the above address and by phone at extension 135.

Sincerely,



J. Michael Hickey
Assistant Director
Shellfish Program Manager

cc: D. McKiernan, T. Shields, C. Schillaci, DMF
Elsha Weisner, Applicant
J. Hobill, DEP/SERO
I. Scheffer Shellfish Constable
C. Renzoni, U.S. Army Corp of Engineers

Commonwealth of Massachusetts

Division of Marine Fisheries

1213 Purchase St. 3rd Floor

New Bedford, MA 02740

(508)990-2860

fax (508)990-0449



David E. Pierce
Director



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

George N. Peterson, Jr.
Commissioner

Mary-Lee King
Deputy Commissioner

July 6, 2016

Board of Selectmen
401 Middle Rd.
Chilmark, MA 02535

Ladies and Gentlemen:

Under authority of Chapter 130, § 57 of the Massachusetts General Laws (MGL), an on-site inspection of an approximately one and a third (1.3.) acre shellfish aquaculture license site proposed by the Town of Chilmark, MA was conducted by personnel from the Division of Marine Fisheries (DMF) and the Chilmark Shellfish Department on Tuesday, November 12, 2015. This was part of a larger area i.e. an Aquaculture Development Site (ADA) consisting of about 5.2 acres to be subdivided into four (4) individual sites. In the fall of 2015, DMF made a policy change that certification of shellfish aquaculture sites would require an actual applicant, application, plans, notice of public hearing, etc as required by § 57 prior to DMF certification of a project and license site. We were no longer approving ADAs or any individual sites without specific applicants and project plans. Because it was late in the season and we had an opportunity, we conducted the site inspection and shellfish survey. In correspondence dated February 18, 2016 DMF requested additional information related to individual applicants, project plans, and notification of public hearings prior to DMF certification of the license site. On May 19, 2016, DMF received the required documentation from the Town of Chilmark requesting certification of an aquaculture license at the site for Walter Lodyka of the Town of Chilmark. Thus, we were able to proceed with the DMF certification process.

The proposed license site is located in the Town of Chilmark within the waters of Menemsha Pond (DMF designated growing area V:2). Water quality at and adjacent to the site is classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program and the surrounding area has additional permitted aquaculture license sites. The proposed site is situated in a sub-tidal zone. Substrate throughout this site consists of soft fine grained silt. The applicant is proposing the deployment of bottom cages and floating cages for oyster (*C. virginica*) culture.

A shellfish survey of the entire 5.2 acre site was conducted by DMF divers. A total of thirty (30) ft² quadrates were sampled each at forty (40) foot intervals along two (2) transects across the site. A total of one (1) quahogs were observed for an average density of 0.13 quahogs per ft². This level is not considered significant by the Division of Marine Fisheries in assessing sites for private shellfish aquaculture licenses (1 quahog/ft² or 3 soft shell clams or 3 oysters/ ft²). No eelgrass (*Z. marina*) or other submerged aquatic vegetation was observed on or within twenty-five (25) feet of the proposed site. No other significant marine resources or existing wild fisheries were noted at the time of the survey.

It is our opinion that issuing an aquaculture license under provisions of MGL Chapter 130, § 57 and operation thereunder at this site would have no substantial adverse impact on shellfish or other natural resources of Menemsha Pond in the Town of Chilmark. Consequently, the Board of Selectmen may issue the license. A copy of the license must be sent to this office at the time of issuance by the Selectmen.

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 Title 322, Code of Massachusetts Regulations (CMR) 7:00 Permits, 15:00 Management of Marine Aquaculture, 16:00 Shellfish Harvesting and Handling; and Department of Public Health, Food Protection Program regulations at 105 CMR 533.007: (I). Marine Fisheries reserves the right to further condition this private aquaculture license at any time, under provisions of MGL Chapter 130, § 57 if deemed necessary to protect shellfish and other natural resources.

All holders of a local private shellfish aquaculture license from a municipality allowing exclusive use of an area to grow shellfish are also **required to obtain an aquaculture permit and a state commercial shellfish permit** under authority of Chapter 130, § 69 and 80 MGL and 322 CMR: 7:00 and 15:00 from the Division of Marine Fisheries. The aquaculture permit authorizes the possession and growing of seed shellfish from an approved source and is required annually regardless of whether seed is purchased from a hatchery or is acquired from a natural set. The commercial permit allows harvesting, possession and landing of shellfish for sale to wholesale dealers authorized to purchase shellfish.

The licensee 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, § 40 (Wetlands Act) and their regulations. It is mandatory the licensee 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 Rd., 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 licensee by one or more of these agencies. Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the licensee from the above mentioned obligations.

Any questions or comments should be directed to Christopher Schillaci, Aquaculture Specialist at the above address and by phone at extension 135.

Sincerely,



J. Michael Hickey
Assistant Director
Shellfish Program Manager

cc: D. McKiernan, T. Shields, C. Schillaci, DMF
Walter Lodyka, Applicant
J. Hobill, DEP/SERO
I. Scheffer Shellfish Constable
C. Renzoni, U.S. Army Corp of Engineers

Commonwealth of Massachusetts

Division of Marine Fisheries

1213 Purchase St. 3rd Floor

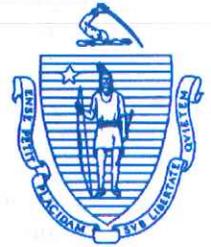
New Bedford, MA 02740

(508)990-2860

fax (508)990-0449



David E. Pierce
Director



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

George N. Peterson, Jr.
Commissioner

Mary-Lee King
Deputy Commissioner

July 6, 2016

Board of Selectmen
401 Middle Rd.
Chilmark, MA 02535

Ladies and Gentlemen:

Under authority of Chapter 130, § 57 of the Massachusetts General Laws (MGL), an on-site inspection of an approximately one and a third (1.3.) acre shellfish aquaculture license site proposed by the Town of Chilmark, MA was conducted by personnel from the Division of Marine Fisheries (DMF) and the Chilmark Shellfish Department on Tuesday, November 12, 2015. This was part of a larger area i.e. an Aquaculture Development Site (ADA) consisting of about 5.2 acres to be subdivided into four (4) individual sites. In the fall of 2015, DMF made a policy change that certification of shellfish aquaculture sites would require an actual applicant, application, plans, notice of public hearing, etc as required by § 57 prior to DMF certification of a project and license site. We were no longer approving ADAs or any individual sites without specific applicants and project plans. Because it was late in the season and we had an opportunity, we conducted the site inspection and shellfish survey. In correspondence dated February 18, 2016 DMF requested additional information related to individual applicants, project plans, and notification of public hearings prior to DMF certification of the license site. On May 19, 2016, DMF received the required documentation from the Town of Chilmark requesting certification of an aquaculture license at the site for Jesse N. Burton of the Town of Chilmark. Thus, we were able to proceed with the DMF certification process.

The proposed license site is located in the Town of Chilmark within the waters of Menemsha Pond (DMF designated growing area V:2). Water quality at and adjacent to the site is classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program and the surrounding area has additional permitted aquaculture license sites. The proposed site is situated in a sub-tidal zone. Substrate throughout this site consists of soft fine grained silt. The applicant is proposing the deployment of bottom cages and floating cages for oyster (*C. virginica*) culture.

A shellfish survey of the entire 5.2 acre site was conducted by DMF divers. A total of thirty (30) ft² quadrates were sampled each at forty (40) foot intervals along two (2) transects across the site. A total of fourteen (14) quahogs were observed for an average density of 0.13 quahogs per ft². This level is not considered significant by the Division of Marine Fisheries in assessing sites for private shellfish aquaculture licenses (1 quahog/ft² or 3 soft shell clams or 3 oysters/ ft²). No eelgrass (*Z. marina*) or other submerged aquatic vegetation was observed on or within twenty-five (25) feet of the proposed site. No other significant marine resources or existing wild fisheries were noted at the time of the survey.

It is our opinion that issuing an aquaculture license under provisions of MGL Chapter 130, § 57 and operation thereunder at this site would have no substantial adverse impact on shellfish or other natural resources of Menemsha Pond in the Town of Chilmark. Consequently, the Board of Selectmen may issue the license. A copy of the license must be sent to this office at the time of issuance by the Selectmen.

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 Title 322, Code of Massachusetts Regulations (CMR) 7:00 Permits, 15:00 Management of Marine Aquaculture, 16:00 Shellfish Harvesting and Handling; and Department of Public Health, Food Protection Program regulations at 105 CMR 533.007: (I). Marine Fisheries reserves the right to further condition this private aquaculture license at any time, under provisions of MGL Chapter 130, § 57 if deemed necessary to protect shellfish and other natural resources.

All holders of a local private shellfish aquaculture license from a municipality allowing exclusive use of an area to grow shellfish are also **required to obtain an aquaculture permit and a state commercial shellfish permit** under authority of Chapter 130, § 69 and 80 MGL and 322 CMR: 7:00 and 15:00 from the Division of Marine Fisheries. The aquaculture permit authorizes the possession and growing of seed shellfish from an approved source and is required annually regardless of whether seed is purchased from a hatchery or is acquired from a natural set. The commercial permit allows harvesting, possession and landing of shellfish for sale to wholesale dealers authorized to purchase shellfish.

The licensee 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, § 40 (Wetlands Act) and their regulations. It is mandatory the licensee 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 Rd., 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 licensee by one or more of these agencies. Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the licensee from the above mentioned obligations.

Any questions or comments should be directed to Christopher Schillaci, Aquaculture Specialist at the above address and by phone at extension 135.

Sincerely,



J. Michael Hickey
Assistant Director
Shellfish Program Manager

cc: D. McKiernan, T. Shields, C. Schillaci, DMF
Jesse N. Burton, Applicant
J. Hobill, DEP/SERO
I. Scheffer Shellfish Constable
C. Renzoni, U.S. Army Corp of Engineers

Commonwealth of Massachusetts

Division of Marine Fisheries

1213 Purchase St. 3rd Floor

New Bedford, MA 02740

(508)990-2860

fax (508)990-0449



David E. Pierce
Director



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

George N. Peterson, Jr.
Commissioner

Mary-Lee King
Deputy Commissioner

July 6, 2016

Board of Selectmen
401 Middle Rd.
Chilmark, MA 02535

Ladies and Gentlemen:

Under authority of Chapter 130, § 57 of the Massachusetts General Laws (MGL), an on-site inspection of an approximately one and a third (1.3.) acre shellfish aquaculture license site proposed by the Town of Chilmark, MA was conducted by personnel from the Division of Marine Fisheries (DMF) and the Chilmark Shellfish Department on Tuesday, November 12, 2015. This was part of a larger area i.e. an Aquaculture Development Site (ADA) consisting of about 5.2 acres to be subdivided into four (4) individual sites. In the fall of 2015, DMF made a policy change that certification of shellfish aquaculture sites would require an actual applicant, application, plans, notice of public hearing, etc as required by § 57 prior to DMF certification of a project and license site. We were no longer approving ADAs or any individual sites without specific applicants and project plans. Because it was late in the season and we had an opportunity, we conducted the site inspection and shellfish survey. In correspondence dated February 18, 2016 DMF requested additional information related to individual applicants, project plans, and notification of public hearings prior to DMF certification of the license site. On May 19, 2016, DMF received the required documentation from the Town of Chilmark requesting certification of an aquaculture license at the site for Lev Lodyka of the Town of Chilmark. Thus, we were able to proceed with the DMF certification process.

The proposed license site is located in the Town of Chilmark within the waters of Menemsha Pond (DMF designated growing area V:2). Water quality at and adjacent to the site is classified as "Approved" for shellfish harvesting in accordance with provisions of the National Shellfish Sanitation Program and the surrounding area has additional permitted aquaculture license sites. The proposed site is situated in a sub-tidal zone. Substrate throughout this site consists of soft fine grained silt. The applicant is proposing the deployment of bottom cages and floating cages for oyster (*C. virginica*) culture.

A shellfish survey of the entire 5.2 acre site was conducted by DMF divers. A total of thirty (30) ft² quadrates were sampled each at forty (40) foot intervals along two (2) transects across the site. A total of four (4) quahogs were observed for an average density of 0.13 quahogs per ft². This level is not considered significant by the Division of Marine Fisheries in assessing sites for private shellfish aquaculture licenses (1 quahog/ft² or 3 soft shell clams or 3 oysters/ ft²). No eelgrass (*Z. marina*) or other submerged aquatic vegetation was observed on or within twenty-five (25) feet of the proposed site. No other significant marine resources or existing wild fisheries were noted at the time of the survey.

It is our opinion that issuing an aquaculture license under provisions of MGL Chapter 130, § 57 and operation thereunder at this site would have no substantial adverse impact on shellfish or other natural resources of Menemsha Pond in the Town of Chilmark. Consequently, the Board of Selectmen may issue the license. A copy of the license must be sent to this office at the time of issuance by the Selectmen.

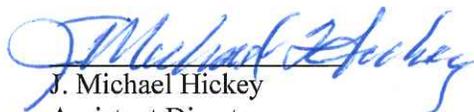
All activities in connection with this license must be conducted in accordance with all applicable state statutes and regulations governing shellfish and in accordance with provisions of Title 322, Code of Massachusetts Regulations (CMR) 7:00 Permits, 15:00 Management of Marine Aquaculture, 16:00 Shellfish Harvesting and Handling; and Department of Public Health, Food Protection Program regulations at 105 CMR 533.007: (I). Marine Fisheries reserves the right to further condition this private aquaculture license at any time, under provisions of MGL Chapter 130, § 57 if deemed necessary to protect shellfish and other natural resources.

All holders of a local private shellfish aquaculture license from a municipality allowing exclusive use of an area to grow shellfish are also **required to obtain an aquaculture permit and a state commercial shellfish permit** under authority of Chapter 130, § 69 and 80 MGL and 322 CMR: 7:00 and 15:00 from the Division of Marine Fisheries. The aquaculture permit authorizes the possession and growing of seed shellfish from an approved source and is required annually regardless of whether seed is purchased from a hatchery or is acquired from a natural set. The commercial permit allows harvesting, possession and landing of shellfish for sale to wholesale dealers authorized to purchase shellfish.

The licensee 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, § 40 (Wetlands Act) and their regulations. It is mandatory the licensee 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 Rd., 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 licensee by one or more of these agencies. Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the licensee from the above mentioned obligations.

Any questions or comments should be directed to Christopher Schillaci, Aquaculture Specialist at the above address and by phone at extension 135.

Sincerely,


J. Michael Hickey
Assistant Director
Shellfish Program Manager

cc: D. McKiernan, T. Shields, C. Schillaci, DMF
Lev Lodyka, Applicant
J. Hobill, DEP/SERO
I. Scheffer Shellfish Constable
C. Renzoni, U.S. Army Corp of Engineers