

**Suffolk County Shellfish Aquaculture Lease Program
in
Peconic Bay and Gardiners Bay
2010 Annual Report**



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Suffolk County Aquaculture Lease Board

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Introduction

Chapter 425, Laws of New York 2004 amended the Environmental Conservation Law (ECL) by adding §13-0302 under which the State of New York ceded 110,000 acres of underwater land in Peconic Bay and Gardiners Bay to Suffolk County for the purpose of shellfish cultivation, and authorized the County to develop a leasing program that would provide shellfish farmers with access to these waters for this purpose. The Suffolk County Department of Planning (Department) completed the *Suffolk County Shellfish Aquaculture Lease Program in Peconic Bay and Gardiners Bay – Management Plan* report in 2009 after nearly three years of intensive study and evaluation. The Suffolk County Shellfish Aquaculture Lease Program in Peconic Bay and Gardiners Bay (Lease Program) was adopted by the County in 2009 (Local Law No. 25-2009). This local law, filed with the New York Secretary of State on September 1, 2009, established the Lease Program.

Pursuant to Chapter 298, Article II of the Suffolk County Code, the Department is designated as the County entity responsible for implementing the Lease Program. Article II also established the Aquaculture Lease Board, consisting of the Director of Planning, the Commissioner of the Department of Environment and Energy and the Commissioner of the Department of Economic Development and Workforce Housing, or their designees. The Board reviews and considers all lease applications, and by majority vote, determines those sites that are eligible for lease. The Director of Planning is given the explicit authority to execute Shellfish Aquaculture Lease Agreements between the County (lessor) and private shellfish farmers (lessees).

Recent progress and activities that have taken place in 2010 to implement the Lease Program are summarized in this report. Two lease application cycles were completed in 2010, and another was initiated in 2011.

Cycle #1 – Conversion of TMAUAs into Leases

The Department started Lease Application Cycle #1 in November 2009. This first phase of Lease Program implementation addressed the need for New York State Department of Environmental Conservation Temporary Marine Area Use Assignment (TMAUA) holders currently operating in Peconic Bay to obtain leases from the County. The Department met with 27 potential lease applicants, and received 25 lease applications by the close of the application period. Subsequent to the two-month public notice period and two meetings of the Aquaculture Lease Board, 21 lease applicants decided to proceed with the execution of a Lease Agreement on their selected and approved lease site locations. A total 195 acres (18, 10-acre areas and three, 5-acre areas) will be leased in this cycle. Lease applicant names (private individual or corporate entity), corresponding lease site identification number as shown on *Map 2: Aquaculture Lease Sites*, approved lease acreage, and the status of Shellfish Aquaculture Lease Agreement execution for all leases under Cycle #1 are shown in Table 1. Entries labeled with “Pending” await the preparation of lease boundary survey maps, and Lease Agreement documents for subsequent execution.

Table 1. Lease Application Cycle #1 - TMAUAs

Applicant	Lease Site Map ID	Approved Acreage	Lease Status
Thomas M. Cornell	500	10	Leased
Twin Fork Oyster, Inc. (David Lessard)	1	10	Leased
Rocky Point Fisheries Inc. DBA East End Oysters (Michael Craig)	313	10	Leased
John Fudjinski	483	10	Leased
Harbor Lights Oyster Company LLC (Theodore J. Bucci)	544	10	Leased
Coastal Farms, Inc. (Wallace C. Steidle)	520	10	Pending
Roger C. Cornell	530	10	Pending
Howard Pickerell	632	10	Pending
The Great Peconic Bay Oyster Co., LLC (Gary A. Crowther)	9	10	Pending
Stephen Gauger	709	10	Pending
Peconic Bay Oyster Company, LLC (Eugene Altman)	11	5	Pending
Kerrin Craig	62	10	Pending
Brian Mastaglio	13	10	Pending
Ian Burliuk	413	10	Pending
Peconic Bay Prime (William R. Blanchard, Jr.)	A-10	2.5 Circular Plot	Pending
	A-11	2.5 Circular Plot	
Westhampton Aquaculture LLC (Michael Moskowitz)	596	10	Pending
Wickatuck Oyster Company LLC (Mark Terry)	A-27	5 Circular Plot	Pending
Scott Gregory	18	10	Pending
George Braun Oyster Co., Inc. (Kenneth Homan)	406	10	Pending
North Sea Shellfish Farm Inc. (Kevin Greene)	378	10	Pending
Thomas Gili	436	10	Pending

During the fall of 2010, the Director of Planning executed the first five Shellfish Aquaculture Lease Agreements, and met the statutory deadline of December 31, 2010 for lease execution and filing imposed in NYS Law (ECL §13-0302). Had the County not met the deadline, its authority over and title to the underwater lands in Peconic Bay and Gardiners Bay, which have an order of magnitude value estimated at \$50 million, would have reverted to the State. On December 1, 2010 the Chief Deputy County Executive sent a letter to Governor David A. Paterson informing him that Suffolk County had secured its right to continue leasing underwater lands in these bays ceded to it by the State of New York. The Department will complete the preparation, review, execution and filing of the remaining 16 Lease Agreements under Cycle #1 during 2011.

Cycle #2 – Private Oyster Grants

The second phase of implementation began in March 2010; the Department held an informational meeting for private oyster grant owners who were interested in cultivating species other than oysters on their private grant parcels. Six oyster grant owners submitted 13 lease applications by the close of the application period. After public notice and review, the Aquaculture Lease Board approved lease overlays on three oyster grants without conditions (total area of 275 acres); and approved, with conditions, lease overlays of 20 acres each on nine other oyster grants (total area of 180 acres). At this time, five applicants are proceeding with the process to obtain a lease overlay on their private oyster grant parcels. The Department will work with the lease applicants to address conditional lease requirements, as applicable, and prepare Lease Agreements for execution during 2011.

Lease applicant names, the corresponding oyster grant identification number as shown on *Map 2: Aquaculture Lease Sites*, acreage of lease overlay approved, and status of lease execution under Cycle #2 are shown in Table 2. Eight of the 11 sites have conditions attached to lease approval. Condition 1 requires the conduct of a hard clam population survey to see if the site can be leased. (Proposed lease sites having a mean population density of ≥ 2.0 legal size hard clams/m² cannot be leased.) Under Condition 2, the location of the 20-acre lease overlay within the oyster grant parcel must be determined prior to preparation of the lease boundary survey map.

Cycle #3 – New Leases Subject to Annual Acreage Cap Limit

The Department hosted an informational meeting for shellfish farmers seeking new leases subject to the annual acreage cap limit under Lease Application Cycle #3 in November 2010. In this cycle, 115 acres are available for lease. The application period ran from January 3 to March 4, 2011. The Department anticipates the entire application process (pre-application meetings with prospective lease applicants, lease application submission, public notice and comment review, and Aquaculture Lease Board decision-making) will be conducted during 2011 to determine those sites eligible for lease, and identify the applicants that will be able to proceed in the program. Significant interest has been demonstrated by new, prospective shellfish farmers. Twenty-eight lease applications were received by the Department under Lease Application Cycle #3.

Table 2. Lease Application Cycle #2 - Oyster Grants

Applicant	Lease Site Map ID	Approved/Conditionally Approved Acreage	Lease Status
Aeros Cultured Oyster Co., Inc. (Karen Rivara)	GR 8	30	Pending
Aeros Cultured Oyster Co., Inc. (Karen Rivara)	GR 10	40	Pending
Aeros Cultured Oyster Co., Inc. (Karen Rivara)	GR 43	205	Pending
Split Rock Shellfish, LLC (William Brauning)	GR 3B	20 ^{*(2)}	Pending
John Holzapfel	GR 7	20 ^{*(2)}	Pending
Robert Parrino	GR 6	20 ^{*(1,2)}	Pending
Robert Parrino	GR 38	20 ^{*(1,2)}	Pending
Robert Parrino	GR 26	20 ^{*(1,2)}	Pending
Robert Parrino	GR 27	20 ^{*(1,2)}	Pending
Robert Parrino	GR 49	20 ^{*(2)}	Pending
Peconic Gold Corp. (Grace LaTerza)	GR 3D	20 ^{*(2)}	Pending

* Conditionally Approved - #1 and/or #2

⁽¹⁾ Condition #1 - The lease applicant must arrange and pay for the conduct of a hard clam population survey using a methodology approved by the Suffolk County Department of Planning to determine if the potential lease site meets the threshold criteria for lease eligibility, as stated in the *Lease Program Management Plan, Administrative Guidance* .

⁽²⁾ Condition #2 - The lease applicant, in consultation with the Suffolk County Department of Planning, will identify the specific location(s), consisting of a total area of 20 acres, within the boundary of the lease site, that will be leased.

Lease Boundary Surveys

All Shellfish Aquaculture Lease Agreements for sites approved by the Aquaculture Lease Board must include a survey map of each lease plot that is prepared by a licensed land surveyor. The Department uses the existing mechanism employed by the Division of Real Property Acquisition and Management in the Department of Environment and Energy, i.e., surveyor services contract agreements, to procure surveyor expertise.

Orders for surveys are processed by the County Land Surveyor for eligible lease plots. The work includes locating shellfish cultivation lease site boundaries on the water, installing an appropriate marker buoy(s) to identify the location of said boundaries, and drafting survey maps showing the boundaries of the lease site that will be included in Lease Agreements. Payments for surveyor services are made by the Department using funds available under Capital Project No. 7180.111 - Survey of Shellfish Aquaculture Leases.

The Department has received 14 final survey maps from the Land Surveyor for sites approved under Cycle #1. The bid process for the remaining seven lease sites in the cycle will be conducted in 2011. Delivery of final survey maps will enable the Department to proceed with preparation and execution of the remaining Lease Agreements under Cycle #1.

It is expected that survey maps for up to 11 grant parcels under Cycle #2 will be ordered during 2011. The exact number of such surveys remains to be determined based on the need to resolve the locations of 20-acre leases sited within grant boundaries. This will be subject to discussions with the applicant, NYS Department of Environmental Conservation staff and the Department, as well as the results of hard clam productivity surveys, as required.

To summarize, additional surveys will be ordered during 2011 to complete Cycle #1 leases, and to initiate those required under Cycle #2. The extent to which orders are placed in the future for survey maps under Cycle #3 is not yet clear, given that the decisions on lease site eligibility under this cycle remain to be made by the Aquaculture Lease Board.

Lease Program Outlook

It has been very encouraging to see the strong interest in the Lease Program as evidenced by the 66 lease applications submitted to the Department under Lease Application Cycles #1, 2, and 3. Existing shellfish farmers want to expand their current businesses. Other interested parties would like the opportunity to establish new shellfish farms in Peconic Bay and Gardiners Bay. The applicant pool includes young people – some with technical training in shellfish cultivation – just starting out after college, people working for other shellfish farmers that want to establish their own business, retirees seeking new careers, baymen wanting to supplement their incomes on the water, entrepreneurs, restaurateurs, chefs and others.

In the spring of 2011, the Department will issue the public notice for lease sites identified in the 28 lease applications received under Cycle #3. Two meetings of the Aquaculture Lease Board will then be scheduled after the end of the required 60-day public comment period. The first meeting will be devoted to the review of written comments received and receipt of additional

testimony from the public and lease applicants. The Board will make its decision on those sites that are eligible for lease at its second meeting.

During the coming months, the Department staff will continue work on implementing the Lease Program, completing the lease execution process, advocating for shellfish aquaculture in New York State, and identifying opportunities to improve the program. Initiatives include the following:

- responding to unanticipated events and refining Lease Program procedures
- coordinating with the NYS Department of Environmental Conservation – Bureau of Marine Resources to resolve differences in opinion on lease site review, permitting issues, and programmatic policies; and to share natural resource data sets and information
- developing a monitoring program to assess potential beneficial and adverse impacts on the Peconic Estuary that are associated with shellfish farms on plots leased by the County
- resolving title conflicts on oyster grant lands in Peconic Bay and Gardiners Bay, and simplifying the Suffolk County Tax Map in its depiction of underwater land parcels in this region
- maintaining and updating the Lease Program website (www.suffolkcountyny.gov/aquaculture).

All of the above will be done to encourage the growth of diverse, sustainable and profitable shellfish farming activities in the future on lands leased by Suffolk County.