

**Suffolk County Aquaculture Lease Program Advisory Committee
Public Meeting**

**MEETING SUMMARY
September 26, 2007
Meeting Number 9**

Location: Cornell Cooperative Extension, Kermit W. Graf Building,
423 Griffing Avenue, Riverhead, New York – First Floor Conference
Room

Start/End: 4:00 p.m. / 6:15 p.m.

Attending: *Members*
John Aldred, Debra Barnes, Edward Bausman, Stuart Heath, Tom Isles,
Arnold Leo, Gregg Rivara, Karen Rivera, Cornelia Schlenk, Todd
Stebbins, Martin Trent, Robert Whelan, William Wise, Vivian Vilorio-
Fisher

Staff
DeWitt Davies, Laretta Fischer, Jennifer Kohn, Michael Mulé, Barbara
DelGiudice

Others
Gregory Greene, Keith Brewer, Kimberly Somers, Robert Nuzzi, Frank
P. Flanagan, Scott Gillis, Matthew Crane, Robert A. Smith, Floyd
Carrington, Greg de Bruin, Dean Yaxa, Robert J. Link, John
Catrambone, Peter Wenczel, Rebecca Packard, Joe Gergela, John Dunne,
Michael Kujawa, Steven Lang, Sumner Pingree

Materials

Distributed: Final meeting agenda; June 21, 2007 Public Meeting Summary;
Correspondence (June 13, 2007 letter from Gregory J. de Bruin, Nassau-
Suffolk Civil Engineers and August 8, 2007 response from S.C. Dept. of
Planning [Attachment #1]; July 16, 2007 letter from Arnold Leo, Town of
East Hampton and August 2, 2007 response from S.C. Dept. of Planning
[Attachment #2]; July 18, 2007 letter from Arnold Leo, Town of East
Hampton [Attachment #3]; July 10, 2007 letter to Mr. Richard Tomer,
U.S. Army Corps of Engineers from S.C. Dept. of Planning [Attachment
#4]); References – *Benthic Mapping and Habitat Classification in the
Peconic Estuary, Phase II* report (SCDHS); ALPAC January 31, 2007
Project Kickoff Meeting transcript; the *Final Scoping Document* for
DGEIS; reports from Cashin Associates (CA) on Task 1.3 - Interviews
(Southold Town of Trustees; Robert Hamilton; Cornell Cooperative
Extension - Chris Pickerell and Steve Schott; Peter Wenczel and other

baymen; David Relyea; Skip Tollefsen; East Hampton Commercial Fishing Advisory Committee - amended); Task 1.3B - *Existing Aquaculture Programs within Peconic and Gardiners Bays*; Task 1.4 - Draft Environmental Resource Conditions Map.

Chairman Tom Isles began the meeting by giving a quick overview of the agenda. A brief summary of the preceding meetings and what has transpired to date was provided. There were no comments on the summary of the June 21, 2007 ALPAC meeting.

DGEIS Scoping

The Final DGEIS Scoping Document was distributed. The scope was approved by the County via Res. No. 780-2007, a copy of which is in the document.

Oyster Grant Title Search

Mr. Michael Mulé gave a brief overview of the status of the oyster grant title search that the Division of Real Property Acquisition and Management is conducting for the underwater lands throughout the Peconic estuary. He stated that 50 private grant parcels have been identified to date, which encompass about 4,500 acres. Searches remain to be completed on 16 oyster lots.

Cashin Associates (CA) Progress Report

Mr. Greg Greene, CA, gave a brief overview of the status of the DGEIS. He also gave an update on project personnel changes, stating that Dr. Robert Nuzzi has joined CA, and will be assisting in the development of the DGEIS. G. Greene also informed the group that a new legal subcontractor will be participating in the project. Jaspan Schlesinger Hoffman, LLP of Garden City, NY will be used in place of Germano and Cahill, who had a potential conflict of interest and withdrew from the assignment.

Mr. Keith Brewer, CA, gave a presentation on the stakeholder meetings that had taken place to date and discussed and highlighted the main issues raised by each stakeholder.

Mr. Arnold Leo stated that a correction should be made in the record for the interview with Mr. Robert Hamilton. He suggested that eelgrass beds are not found west of Shelter Island, not Gardiners Island, as it reads in the memo. K. Brewer stated that the memo will be corrected to reflect this change.

Noting the recommendations provided by the East Hampton Commercial Fisheries Advisory Committee, Mr. William Wise asked if the other towns would be asked to provide input. CA stated that letters have been sent to the four remaining east-end towns (Southampton, Riverhead, Shelter Island and Southold) requesting information on whether the towns would like to outline areas that they believe may be suitable for the County's shellfish lease program.

Ms. Kimberly Somers, CA, gave a presentation of the findings of the *Draft Existing Aquaculture Programs within the Peconic and Gardiners Bays* report. K. Somers stated there are information gaps regarding the extent of active shellfish culture occurring on the NYSDEC Temporary Marine Area Use Assignments.

In response to K. Somers' comment, Ms. Debra Barnes stated that NYSDEC is currently contacting all of the aquaculture permit holders (marine hatcheries will be contacted first) to determine whether the assignments are active. She did not know when the information would be available, but stated that it would not be available soon. D. Barnes stated that there is no requirement for an assignment holder to use the site. She also added that the number of applications for assignments had grown earlier in the program, but has become steady over the past few years. D. Barnes informed the group that the spacing for the assignments in the beginning of the program was two miles apart; now the separation distance is one mile. Issuing assignments for locations desired by applicants has become increasingly difficult.

Ms. Karen Rivara requested that information on shellfish species cultivated on private oyster grants parcels be added to Table 1 in the draft report.

Leg. Vivian Viloría-Fisher asked how the Winery site would be addressed in the DGEIS. K. Brewer informed Ms. Viloría-Fisher that the site would most likely be discussed and addressed in *Section 3 – Underwater and Surface Water Uses* in the DGEIS. V. Viloría-Fisher suggested that CA research aquaculture lease programs in other states. CA informed her that they are currently reviewing existing aquaculture programs in other states.

K. Brewer gave a brief overview of the new data that has been added to the Draft Environmental Resource Conditions Map. Since the last meeting, the maps have been revised to show current hard clam harvest areas and scallop harvesting areas (recent, historic, and recent/historic) and multiple commercial fishery areas based on stakeholder interviews. Several fish trap locations were also added based on information received from the NYSDEC and USACOE.

Mr. John Aldred asked that Town boundaries be shown on the Draft Environmental Resource Conditions Map. K. Brewer replied that Town boundaries will be added to the map.

M. Wise inquired about the potential existence of resources in areas shown on the map that had no designation as active or recent fisheries. G. Green stated that site investigations would be useful only in those areas subject to leasing, and that other states require ground verification by prospective lease holders.

Ms. Cornelia Schlenk asked why the Draft Environmental Resource Conditions Map showed potential lease areas for East Hampton only. CA explained this information was provided by the East Hampton Commercial Fisheries Advisory Committee (EHCFAC). A. Leo stated that the vast majority of Town of East Hampton's waters are naturally

productive for shellfish and/or finfish, and that it would be easier to depict the areas that are not productive for any fishery, and have those areas shown as available for leasing.

J. Aldred stated that groundtruthing is being planned for the areas identified by EHC FAC as potential lease areas in East Hampton to collect data on physical characteristics, presence/absence of shellfish beds, etc.

R. Nuzzi, CA, gave a presentation on carrying capacity and water quality issues of the Peconic estuary system. Four types of carrying capacity were discussed:

1. physical carrying capacity (space issues – water column, bottom, shoreside)
2. social carrying capacity (competition of interest groups; how shellfish farms fit with other uses)
3. production carrying capacity (shellfish stock density issues; population dynamics; hydrodynamics; nutrient availability and food supply)
4. ecological carrying capacity (shellfish farm effects on rest of the system)

He gave a brief overview of water quality trends associated with the Peconic estuary from data that the County has been collecting since 1986, and how these trends could be affected by a County aquaculture lease program.

The question was asked if carrying capacity can be quantified or projected. R. Nuzzi responded that this may not be done for the system as a whole given the available information. CA will investigate existing carrying capacity models to address this issue.

Mr. Ed Bausman expressed concerns about the potential impacts associated with aquaculture activities, i.e., the creation of a monoculture, on diversity of other species in the surrounding area. CA advised that potential impacts on diversity associated with this program are being analyzed as part of the GEIS process.

Public Comments

1. Mr. Greg de Bruin, L.S., representing Nassau-Suffolk Civil Engineers, Inc. stated that lease area boundaries need to be identified through the use of a licensed surveyor. Mr. Isles advised Mr. Bruin that the County has a licensed surveyor who is providing input into plan development, and that the entire program will be reviewed by the County Attorney's Office. Mr. Isles stated that surveying issues will be done in accordance with the requirements of the NYS Education Law.
2. Mr. Dean Yaxa (oyster grant holder) addressed his concerns regarding the acreage of the oyster grants as listed in the *Draft Existing Aquaculture Programs* report. He stated that the acreage of his two oyster grants in Pipes Cove is underestimated and should be reported as 20 acres, not 15 acres. Mr. Yaxa also stated his concerns of foreign investors becoming involved in the lease program and taking product out. Mr. Yaxa stated that he is not in favor of multiple lease ownership, and opposes the

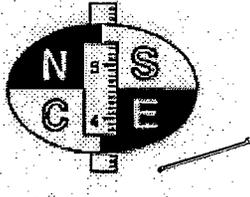
use of hydraulic dredging. Mr. Yaxa further stated that in the August 2007 edition of *National Fisherman*, an article discusses that hydraulic dredging has been banned in the state of Maryland. He praised the dredging operations of Dave Relyea (Frank M. Flowers & Oyster Company), stating that he believes that his dredging operation is an exception and that he is a steward of the bay. Mr. Yaxa stated that his own aquaculture operations have never had conflicts with conchmen, or with the public's use of water. Mr. Yaxa was advised that the status of grants is still being evaluated, and that hopefully all apparent conflicts will be resolved and explained once the process is completed.

3. Mr. Robert Link questioned what the fee would be for a lease applicant to obtain a lease. T. Isles responded that the direct economic return to Suffolk County from lease fees is not driving the decision process. CA advised R. Link that lease requirements are still being developed, and will be presented at the December 2007 ALPAC meeting. R. Link also stated that adult clam populations can keep brown tide in check.
4. K. Rivara spoke on behalf of Mr. Mike Craig, a member of the East End Farmers Association and a temporary assignment holder. R. Rivara stated that M. Craig was a former lobster fisherman and is currently growing oysters productively and does not want to be displaced from his current location. K. Rivara suggested that better communication is necessary to inform the public that the proposed program will not take over the whole bay, and that existing aquaculture operations will be given a sense of security that they will not be forced out of their current locations, and will be assured that they will be able to continue harvest of clams planted in the bottom. K. Rivara also added her opinion that hydraulic dredging should not be banned. Any decision concerning hydraulic dredging should be science-based and distinguish between harvest of wild shellfish stocks on public bottom vs. planted shellfish on private aquaculture beds. CA told her that the conversion of the temporary assignments into the program is being evaluated. M. Wise mentioned that the intent of the program was to promote shellfish aquaculture in a fair and balanced way where existing interests would be protected.
5. Mr. John Catrambone, temporary assignment holder and oyster grant holder, stated that he does not want all of the available leases taken up by current growers. He said that he had been informed by NYSDEC that no more temporary assignments are available. D. Barnes stated that there currently is no moratorium on the NYSDEC assignment program, and that the burden of proposing sites is on the applicant. M. Wise believed that areas identified by CA as potentially leasable should be subject to scrutiny by the aquaculture industry to see if such areas are, in fact, usable for shellfish culture.

"For the advancement of the Professions of Professional Engineering and Land Surveying"

Nassau-Suffolk Civil Engineers, Inc.

A Membership Association of Practicing Engineers and Land Surveyors founded in 1916
Member of the New York State Association of Professional Land Surveyors
Member of the American Congress on Surveying and Mapping



07 JUN 15 AM 11:07

June 13, 2007

OFFICE OF THE
SUFFOLK COUNTY
EXECUTIVE
HAUPPAUGE NY

Officers

President

Gregory deBruin, PLS, PE 2010

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Scott Gillis, PLS 2010

Secretary

John C. Mayer, PLS 2008

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David A. Weaver, PLS 2009

Tracy L. Pollak
Principal Research Analyst
Suffolk County Purchasing Office
360 Yaphank Avenue
Yaphank, NY 11980

RE: Shellfish Aquaculture Leasing Program

Dear Ms. Pollak:

Directors

Matthew D. Crane, PLS 2008

Frank Flanagan, PLS 2010

Rodger Hess, PLS 2010

John Robinson, PLS 2008

Malcolm Shaw, PLS 2009

Robert Smith, PLS 2009

Vito Valente, PLS 2009

Thomas Wolpert, PE 2008

I am writing to you as a representative of the regional branch of the New York State Association of Professional Land Surveyors in reference to your current Shellfish Aquaculture Leasing Program.

It has come to our attention that it may be the intent of this project to describe and set boundaries of underwater leases without the services of a licensed professional land surveyor. Please be advised that this would be in conflict with New York State Education Law. Only licensed land surveyors may set and describe property boundaries. Possession of a GPS unit does not make one qualified to interpret deeds or leases; resolve conflicts with physical evidence; or resolve conflicts with adjacent parcels. In addition, it should cost the County less to have the work done by a licensed professional than it would to have it done wrong by an unlicensed person.

I ask that you respond to me in writing to confirm that Suffolk County intends to comply with New York State law by using a licensed land surveyor to interpret, describe, and layout any lease boundaries contemplated under this project. Of course, I am available to discuss this in person, at your convenience. My cell number is 516-805-4118.

Sincerely,

Gregory J. de Bruin, P.E., L.S.
President
Nassau-Suffolk Civil Engineers

Trustees

William Barrett, PLS

Edward Bullock, PLS, PE

Michael Cavoli, PLS

J. Eric Corringham, PLS

Joseph E. Dioguardi, Jr., PLS, PE

George R. Haubenreich, PLS

Joseph Ingegno, PLS

George J. Kaigh, PLS, PE

Fred Meyer, Jr., PLS

John Schnurr, PLS

Albert Tay, PLS

Karl W. Weisenbacher, PLS

✓ cc: Steve Levy, Supervisor

204 Brentwood Road
P. O. Box 5070, Bay Shore, New York 11706
Phone (631) 665-0780 • Fax (631) 665-8314
Cell (631) 834-7036 • E-mail: JCMLS@aol.com

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

August 8, 2007

Mr. Gregory J. de Bruin, P.E., L.S.
President
Nassau-Suffolk Civil Engineers, Inc.
204 Brentwood Road
P.O. Box 5070
Bay Shore, NY 11706

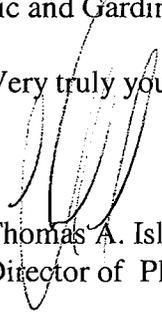
Dear Mr. de Bruin:

County Executive Steve Levy has forwarded your June 13, 2007 letter to Tracy L. Pollak to me for response. This letter contained comments on the Suffolk County Shellfish Aquaculture Lease Program in Peconic and Gardiners Bays.

The development of the Shellfish Aquaculture Lease Program is scheduled to be completed by late summer 2008. All policy and administrative recommendations that are anticipated to be included in the program must be adopted by local law prior to implementation. In the event that the program is officially adopted and the decision is made by Suffolk County to implement it, please be assured that shellfish cultivation lease boundaries will be established by a licensed land surveyor in accordance with all applicable laws.

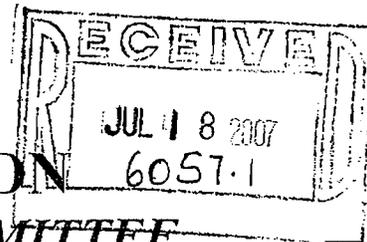
Thank you for your inquiry on shellfish aquaculture in Peconic and Gardiners Bays.

Very truly yours,


Thomas A. Isles, A.I.C.P.
Director of Planning

TAI:DD:bd

cc: Honorable Steve Levy, Suffolk County Executive
Tracy L. Pollak, Suffolk County Purchasing Office
Anthony Abruzzo, L.S., Suffolk County Div. of Real Estate
Jennifer B. Kohn, Assistant County Attorney
Gregory T. Greene, Cashin Associates, P.C.
DeWitt Davies, Ph.D., Suffolk County Dept. of Planning



TOWN OF EAST HAMPTON FISHERIES CONSULTANCY & COMMITTEE

159 Pantigo Road
East Hampton, New York 11937

ARNOLD LEO
Consultant
BRUCE HOEK
Chairman

Tel: (631) 324-3187
Fax: (631) 324-6280

July 16, 2007

Gregory T. Greene
Cashin Associates, P.C.
1200 Veterans Memorial Highway
Hauppauge, NY 11788

Dear Mr. Greene:

Your letter of July 9 to Mark Abramson has been forwarded by him to the Commercial Fisheries Advisory Committee of East Hampton Town. As consultant to that Committee, I've been asked to reply to you.

The Committee is puzzled that you would address a letter to Mr. Abramson in the first place, since he possesses only peripheral knowledge of the Town's shellfisheries. However, his supervisor, Larry Penny (director of the Dept. of Natural Resources), has long-term firsthand acquaintance with all shellfisheries and finfisheries of the region, and would be happy to cooperate with your survey.

As you know, from your meeting with the Commercial Fisheries Advisory Committee on May 21, this group also is glad to provide any additional information you may be seeking. At the May 21 meeting you also heard from John Aldred, director of the Aquaculture Facility of East Hampton Town, who is a member of ALPAC and who is also happy to assist you in the future with any queries regarding the waters surrounding East Hampton Town.

Town Councilman Bradley Loewen also requests that you copy him with all future inquiries about waters surrounding East Hampton Town; he is the Town Board liaison for the Commercial Fisheries Advisory Committee, the Aquaculture Department, and the Department of Natural Resources.

Sincerely yours,

Arnold Leo
Consultant for Commercial
Fisheries, Town of East
Hampton

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

August 2, 2007

Mr. Arnold Leo
Town of East Hampton Fisheries
Consultancy & Committee
159 Pantigo Road
East Hampton, NY 11937

Dear Mr. Leo:

This is in response to your July 16, 2007 letter to Gregory T. Greene, Cashin Associates, P.C., in which you raised the question of why Mr. Mark Abramson, Town of East Hampton Dept. of Natural Resources, was contacted to provide information for the development of the Suffolk County Shellfish Aquaculture Lease Program in Peconic and Gardiners Bays.

Please note that, in response to the discussions held at the June 21, 2007 ALPAC meeting, the Department of Planning requested that Cashin Associates send a letter to all individuals that had requested their names be placed on the Aquaculture Lease Program's "Interested Parties" list, and who had not as of that date provided input on the project. Many people on this list had already met with Cashin Associates staff to provide information prior to the meeting. We wanted to remind those other individuals on the list of the opportunity to provide their input to Cashin Associates. Since Mr. Abramson had attended one of our previous project meetings, and added his name to the list, Cashin Associates sent him a letter.

Thank you for your efforts on behalf of the East Hampton Commercial Fisheries Advisory Committee in informing us about the deep concern that local residents have about protecting the shellfisheries and finfisheries in the Gardiners Bay region. Please be assured that we will continue to keep you, Councilman Loewen, Mr. Larry Penny and Mr. John Aldred apprised as the development of the aquaculture lease program proceeds.

Sincerely,

DeWitt Davies, Ph.D.
Chief Environmental Analyst

P.S. Please note that Councilman Loewen and Larry Penny are both on the "Interested Parties" list.

DD:bd

cc: Thomas A. Isles, Director of Planning
Gregory T. Greene, Cashin Associates, Inc.
Hon. Bradley Loewen, Councilman
Larry Penny, Director, East Hampton Natural Resources Dept.
Mark Abramson, East Hampton Natural Resources Dept.
John Aldred, East Hampton Town Shellfish Hatchery



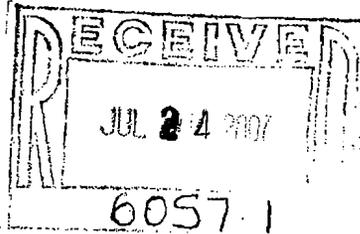
TOWN OF EAST HAMPTON FISHERIES CONSULTANCY & COMMITTEE

159 Pantigo Road
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ARNOLD LEO
Consultant

BRUCE HOEK
Chairman

Gregory Greene
Cashin Associates, P.C.
1200 Veterans Memorial Highway
Hauppauge, NY 11788



Tel: (631) 324-3187
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July 18, 2007

Dear Mr. Greene:

With reference to the documents that were handed out at the ALPAC meeting of June 21, the Commercial Fishing Advisory Committee of East Hampton Town would like to comment on the memo dated 6/20/07, "Re: East Hampton Commercial Fishing Advisory Committee (EHCFAC) Meeting Summary – May 31, 2007."

While the summary prepared by you of this meeting is in general terms accurate, it fails to note that the EHCFAC specifically stressed that the waters of Gardiner's Bay and Cherry Harbor are fully productive areas of finfishing and shellfishing.

This was actually the primary point made by the EHCFAC. This leaves waters in Napeague Bay, specifically from Devon to Hicks Island, as you do note in your summary, where aquaculture might be suitable, since this stretch of bay is considered to be unproductive both at present and historically.

With respect to the Final Scoping Document, dated June 4, 2007, we wish to emphasize our endorsement of the so called "Mitigation Measures" listed on page 6 of the document. We believe these limitations on the impacts of the Shellfish Leasing Program are important to the future of commercial fishing in the Peconic Bay system.

Trusting that the record will be corrected to show that the EHCFAC unanimously opposes leasing of bottomlands in Gardiner's Bay and Cherry Harbor,

Sincerely yours,

Arnold Leo
Consultant for Commercial
Fisheries, Town of East Hampton

COUNTY OF SUFFOLK



STEVE LEVY
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

THOMAS A. ISLES, A.I.C.P.
DIRECTOR OF PLANNING

July 10, 2007

Mr. Richard L. Tomer
Chief, Regulatory Branch
U.S. Army Corps of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090

RE: Public Notice Number: NAN-2005-00367- WMI

Issue date: June 12, 2007

Expiration date: July 12, 2007

Application of Winergy Power LLC to Install a Wind Energy Generating Facility and Submarine Electric Cables, in Gardiner's Bay, Long Island Sound, New York.

Dear Mr. Tomer:

These comments are submitted on behalf of the County of Suffolk, New York ("County").

The County takes no position on the merits of the proposal at this time because insufficient information is available to evaluate the application. However, the County's preliminary review indicates the following concerns:

1. Pursuant to N.Y. Environmental Conservation Law §13-0302 (copy attached), the County owns the land underneath the water of Gardiner's and Peconic Bays, in the County of Suffolk, with some exceptions. N.Y. Environmental Conservation Law §13-0302(1) provides that:

Underwater lands ceded to County of Suffolk. All the right, title and interest in which the people of the state of New York have in and to the lands under water of Gardiner's and Peconic Bays in the County of Suffolk, except underwater lands within one thousand feet of the high water mark is hereby ceded to such county, for the purposes of shellfish cultivation, to be managed and controlled by such county, provided that such lands shall revert to the state when they shall cease to be used for shellfish cultivation. For the

purposes of this section, the term "Gardiner's and Peconic Bays" shall mean the waters of Gardiner's and Peconic Bays and the tributaries thereof between the westerly shore of Great Peconic Bay and an easterly line running from the most easterly point of Plum Island to Goff Point at the entrance of Napeague Harbor.

The proposed Winergy project would utilize bay bottoms owned by the County and affect use of the lands and water thereon for shellfish cultivation. The attached map identifies the shellfish aquaculture planning area within which Suffolk County has ownership and jurisdiction interests. Superimposed on this map is the location of the Winergy Power LLC site and its proposed wind turbines, whose coordinate locations were obtained from documentation provided by the above-referenced U.S. Army Corps of Engineers Public Notice. It is apparent that the location of this proposed activity falls well within the area owned by Suffolk County for shellfish cultivation purposes. No action should be taken on the project without the express written consent of the County, as the owner.

2. Suffolk County has been authorized by the State of New York to develop and implement a shellfish aquaculture lease program for the underwater lands in Peconic and Gardiner's Bays pursuant to N.Y. Environmental Conservation Law §13-0302. This shellfish aquaculture planning area is to be managed and controlled by the County of Suffolk. Under Suffolk County Capital Project 7180.110, the Suffolk County Department of Planning is developing a shellfish aquaculture lease program in Peconic and Gardiners Bays. The shellfish aquaculture lease program will, in part, identify cultivation zones inside the planning area within which shellfish aquaculture can take place on leases issued by the County. This area is already subject to many multiple use marine resource conflicts, which must be resolved in an equitable fashion in order to proceed with the implementation of the shellfish aquaculture leasing program. The proposed Winergy LLC project must be evaluated in conjunction with the conflicts that already exist.

3. County of Suffolk, as an owner, is an involved, decision-making agency pursuant to the State Environmental Quality Review Act ("SEQRA"), N.Y. Environmental Conservation Law Article 8.6 NYCRR § 617.2. Several New York State departments are also involved agencies. The National Environmental Policy Act ("NEPA") mandates that federal agencies cooperate with State and local agencies to the full extent possible, to reduce duplication between NEPA and State and local requirements, unless barred by other law (40 C.F.R. § 1506.2). Accordingly, the Federal and State environmental review procedures should be coordinated to lessen duplication and delay.

The County requests that a public hearing be held to collect information necessary to consider this application.

The County as an owner and an involved, decision-making agency, requests a full copy of the application for this project and, all other documents generated as a result of the NEPA process.

The County reserves the right to submit further comments concerning any factors relevant to the proposal, including, but not limited to, conservation, economics, aesthetics, vistas, general environmental concerns, wetlands, fish, shellfish, birds and other wildlife values, endangered species, land use, navigation, shoreline erosion and accretion, recreation, water quality, energy needs, safety, food production, historic sites, considerations of property ownership, consideration of the County's ownership rights under N.Y. Environmental Conservation Law §13-0302, potential effects of the Winery project on the County's shellfish aquaculture leasing program (presently being developed), potential effects of the Winery project on other bay users, security concerns, and in general, the needs and welfare of the people.

Very truly yours,



Thomas A. Isles, A.I.C.P.
Director of Planning

TAI:bd

Enc.

cc: Rebecca Madlin, Coastal Coordinator
New York State Department of State
41 State Street, 8th floor
Albany New York 12231

cc: John A. Wieland, Deputy Regional Permit Administrator
Division of Environmental Permits, Region 1
New York State Department of Environmental Conservation
50 Circle Road
State University of New York at Stony Brook
Stony Brook, N.Y 11790-3409

McKinney's ECL § 13-0302

▷

Effective: September 14, 2004

MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK ANNOTATED
ENVIRONMENTAL CONSERVATION LAW
CHAPTER 43-B OF THE CONSOLIDATED LAWS
ARTICLE 13--MARINE AND COASTAL RESOURCES
TITLE 3--MARINE FISHERIES
→§ 13-0302. Lands underwater of Gardiner's and Peconic bays

1. Underwater lands ceded to county of Suffolk. All the right, title and interest in which the people of the state of New York have in and to the lands under water of Gardiner's and Peconic bays in the county of Suffolk, except underwater lands within one thousand feet of the high water mark is hereby ceded to such county, for the purposes of shellfish cultivation, to be managed and controlled by such county, provided that such lands shall revert to the state when they shall cease to be used for shellfish cultivation. For the purposes of this section, the term "Gardiner's and Peconic bays" shall mean the waters of Gardiner's and Peconic bays and the tributaries thereof between the westerly shore of Great Peconic bay and an easterly line running from the most easterly point of Plum island to Goff point at the entrance of Napeague harbor.

2. Ratification. The grant of lands under the waters of Gardiner's and Peconic bays, by the commissioners of shell fisheries, in accordance with the provisions of chapter 385 of the laws of 1884, as amended, subsequently held and used by the grantees, heirs, successors, and assigns on which all taxes and assessments have been paid, are hereby ratified and confirmed. Any underwater lands in Gardiner's and Peconic Bays previously granted that revert or escheat to the state or are subject to tax deed by the county of Suffolk shall be available to the county for leasing pursuant to this section. All other lands under such waters, which pursuant to such chapters, have escheated or reverted to the state, are hereby ceded to Suffolk county for the purposes of the cultivation of shellfish, subject to existing valid grants and easements; provided however, that nothing in this section shall interfere with the right of the commissioner of general services to grant lands and easements under water to owners of adjacent uplands, pursuant to the provisions of the public lands law, or of the legislature to make such grants without regard to upland ownership, and to grant franchises to utilities, municipalities and governmental, educational, or scientific bodies for cables, outfalls, ecological studies, and experimentation with controlled marine life.

3. Leases. Suffolk county may lease lands under water ceded to it by the state for the purpose of shellfish cultivation. Provided if no such leases have been executed by December thirty-first, two thousand ten, such authority to lease pursuant to this section shall terminate.

a. Leases may be issued only within areas designated as shellfish cultivation zones on a map or maps to be prepared and approved by the county of Suffolk.

b. No lease shall be granted except upon written application on forms furnished by the county of Suffolk, and properly executed and signed by the applicant.

c. Before a lease is approved, notice shall be provided for at least two months by posting such notice at the bureau of marine resources in the department, the office of the county clerk, and the office of the town clerk in which all or any part of the lands to be leased are located. Such notice shall also be published in the official newspaper of the county. The notice shall include the name of the lessee, the boundaries of the lease, and the area of the lease. A

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copy of the proposed lease shall be available for public inspection and copying in the office of the county clerk.

4. Establishment of shellfish cultivation zones. Before leasing or using the lands hereby ceded to it, the county of Suffolk shall cause an accurate survey to be made of such lands, and a map or maps to be prepared therefrom. Such map or maps shall establish shellfish cultivation zones within Gardiner's and Peconic bays. Such map or maps shall be approved by local law. After such map or maps have been adopted, the county shall have the authority to issue leases for shellfish cultivation within the shellfish cultivation zones, as provided herein. Such map or maps shall be updated by the county of Suffolk every five years.

a. Underwater lands within one thousand feet of the high water mark shall not be included in a shellfish cultivation zone.

b. Underwater lands where bay scallops are produced regularly and harvested on a commercial basis shall not be included in a shellfish cultivation zone.

c. Underwater lands where there is an indicated presence of shellfish in sufficient quantity and quality and so located as to support significant hand raking and/or tonging harvesting shall not be included in a shellfish cultivation zone.

d. Underwater lands where the leasing will result in a significant reduction of established commercial finfish or crustacean fisheries shall not be included in a shellfish cultivation zone.

5. Regulations. The county shall, by local law, before leasing any such underwater lands, adopt regulations governing:

a. applications for leases;

b. notices to be given;

c. the form and terms of leases;

d. standards for the approval or denial of leases;

e. administration of leases;

f. the transfer or renewal of leases;

g. marking grounds and testing;

h. fees;

i. recording of leases;

j. bonds; and

k. such other matters as are appropriate to the leasing program.

6. Department authority. Notwithstanding any of the provisions of this section:

a. any person engaging in the cultivation or harvesting of shellfish in a shellfish cultivation zone pursuant to this section shall obtain a permit in accordance with section 13-0316 of this title; and

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b. the department shall regulate and control the use of certain types of vessels and equipment for harvesting shellfish, requirements for reseeding, the right to enter upon such leased lands for reseeding or making shellfish population surveys, and enforce all other applicable state laws relating to said underwater lands.

7. Duties of the county clerk. Leases issued pursuant to this section shall be recorded in the office of the county clerk in the manner and form to be determined by local law as provided in subdivision five of this section.

8. Summary proceedings. Upon the failure of a lessee to pay the rental on any date due under the terms of the lease or upon revocation as provided for by local law pursuant to subdivision five of this section, the county may, after written notice to the lessee declare the lease cancelled as of the date set forth in such notice, and may immediately thereafter evict the lessee from such lands. The provisions of article seven of the real property actions and proceedings law shall apply and govern the procedure in such case.

9. Disposition of fees and rents. All fees and rents received shall be deposited into the general fund of the county. However, in the alternative, nothing shall prohibit the county of Suffolk, by local law, from establishing a special fund for the promotion of aquaculture where such fees and rents shall be deposited.

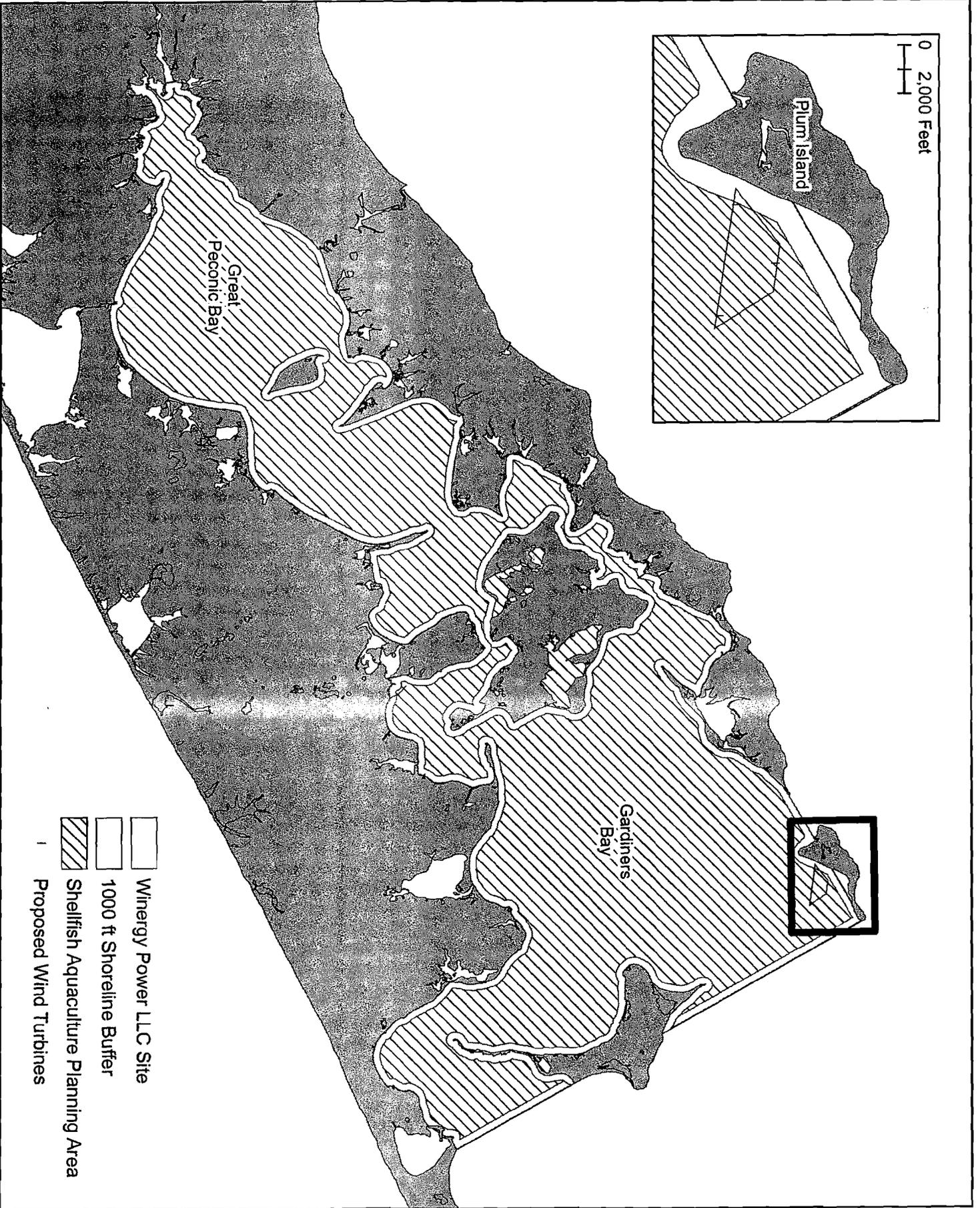
<Laws 1972, Chapter 664>

Current through L.2007, chapters 1 to 79.

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-  Winergy Power LLC Site
-  1000 ft Shoreline Buffer
-  Shellfish Aquaculture Planning Area
-  Proposed Wind Turbines

0 2,000 Feet

Plum Island

Gardiners Bay

Great Peconic Bay