

Record of Decision

Contents (*documents linked, click to view document*):

- Shellfish Lease application, date stamped April 19, 2022
- October 20, 2022 Proposed Lease Memo summarizing Internal Review and Bio Site Investigations
- Shellfish Lease Internal Review Process comments received from five review agencies
- Biological Site Investigations Documents
- Comments received during public comment period- nine written comments, including from Pike
- Minutes from the February 15, 2023 public hearing
- February 22, 2023 Lease Decision Memo
- April 6, 2023 letter from DMF to Mr. Allen with notice of lease decision
- April 6, 2023 email from Mr. Mulvey-McFerron to Petitioner's Counsel with notice of lease decision

Pd CKH [Redacted]

\$360⁰⁰



North Carolina Shellfish Lease Application

Section 1: Primary Applicant Information
(If applying as a business, list business agent information in this section)

| | | | | | |
|--|------------------|--|------------|-------|--|
| First Name | MI | Last Name | Suffix | | |
| Charles | C | Allen | | | |
| Mailing Address | PO Box | City | State | Zip | |
| [Redacted] | | MOREHEAD CITY | NC | 28557 | |
| Physical Address | PO Box | City | State | Zip | |
| SAME | | | | | |
| Day Phone: | [Redacted] | Alt Phone: | [Redacted] | | |
| Email Address: | [Redacted] | <input checked="" type="checkbox"/> Check to opt-in for email receipt of all paperwork | | | |
| Race: W | Height: 5'8" | Weight: 210 | | | |
| Gender: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female | Eye Color: BROWN | Hair Color: RED | | | |
| Have you been a legal resident of the state of North Carolina for at least 6 months? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes | | | | | |
| Check One: Driver's License <input checked="" type="checkbox"/> State I.D. <input type="checkbox"/> Military I.D. No. <input type="checkbox"/> Resident Alien I.D. No. <input type="checkbox"/> Passport No. <input type="checkbox"/> | | | | | |
| Number: | [Redacted] | Expiration Date: 4/15/24 | | | |
| Are you related by blood or marriage to any person now working for DMF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes* *(Name and Relationship: _____) | | | | | |
| Do you hold a Standard Commercial Fishing License? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (SCFL #): | | | | | |
| Do you currently own a vessel with current registration? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (Vessel ID#): [Redacted] | | | | | |
| Do you have four or more convictions of DMF fisheries violations in the past three years? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes* <i>* If Yes, you will not be approved for permits to work a shellfish lease, other than cultch on bottom</i> | | | | | |
| Do you, anyone in your household, or business you are a part of, currently have or hold any other shellfish leases or subleases? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes* *If Yes, list the lease numbers of leases you are associated with: | | | | | |
| [G.S. 113-202 (c): no person, family or business may hold more than 50 acres of leased public bottom] | | | | | |

Applicant Initials CA
MA

| Co-Applicant Information (if applicable) | | | | |
|--|----|--|--------------------|--------------------------|
| First Name | MI | Last Name | Suffix | |
| MASON | H | ALLEN | | |
| Mailing Address | | PO Box | City | State |
| [Redacted] | | | Moriches City | NL |
| Zip | | | | |
| 28557 | | | | |
| Physical Address | | PO Box | City | State |
| Same | | | | |
| Day Phone: [Redacted] | | Alt Phone: [Redacted] | | |
| Email Address: [Redacted] | | <input checked="" type="checkbox"/> Check to opt-in for email receipt of all paperwork | | |
| Check One: Driver's License <input checked="" type="checkbox"/> | | State I.D. <input type="checkbox"/> | Number: [Redacted] | Expiration Date: 1/26/22 |
| Are you related by blood or marriage to any person now working for DMF? <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Yes* | | | | |
| *(Name and Relationship): _____ | | | | |
| Do you hold a Standard Commercial Fishing License? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (SCFL #): [Redacted] | | | | |
| Do you currently own a vessel with current registration? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Vessel ID#): _____ | | | | |
| Do you have four or more convictions of DMF fisheries violations in the past three years? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes* | | | | |
| *If Yes you will not be approved for permits to work a shellfish lease other than cultch on bottom | | | | |
| Do you currently have or hold an interest in any other shellfish leases? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes* | | | | |
| *If Yes, list the lease numbers of leases you are associated with: _____ | | | | |
| [G.S. 113-202 (c): no person or business may hold more than 50 acres of leased public bottom] | | | | |

| Section 2: Business Information (if applicable) | | | | |
|---|--|--|---------------|----|
| Business Name: <u>Changing Tide Renovations LLC</u> | | | | |
| Type of Business Entity: | | | | |
| <input type="checkbox"/> Corporation (Please attach copy of current articles of incorporation and list of corporate officers) | | | | |
| <input type="checkbox"/> Partnership (Please attach a current copy of your partnership agreement) | | | | |
| <input type="checkbox"/> Sole Proprietorship | | | | |
| <input checked="" type="checkbox"/> LLC | | | | |
| Business Mailing Address | | PO Box | City | ST |
| [Redacted] | | | Moriches City | NL |
| Zip | | | | |
| 28557 | | | | |
| Business Physical Address | | PO Box | City | ST |
| | | | | |
| Day Phone: [Redacted] | | Alt Phone: _____ | | |
| Email Address: [Redacted] | | <input checked="" type="checkbox"/> Check to opt-in for email receipt of all paperwork | | |

Applicant Initials MA

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Section 3: Applicant Qualifications

Describe your capability to conduct the proposed aquaculture activities (including training, experience, and education that you have obtained or will obtain):

Wild oyster harvesting for several seasons. Received informal training from Sammy Boyd and David Osbourne. Starting fall of 2023 will take the Aquaculture Tech Course for two years at the Carteret Community College. Also participate in many continuing education courses offered

We are self employed which allows us the flexibility to merge oysters as needed

Section 4: Shellfish Lease Site Information

Check the box(es) you are applying for (The designated, **nonrefundable or nontransferable**, application fee must accompany each application.):

Bottom Shellfish Lease (\$200.00): A bottom lease primarily uses cultch, or low-profile structures to cultivate shellfish. Cages and gear are limited to a maximum height of 18" above the bottom. Rent: \$10/acre per year.

First rent payment will be due upon receipt of a contract to be signed.

Water Column Shellfish Lease/Amendment (\$100.00): A water column lease amends all or part of an existing bottom lease footprint. Floating bags, cages greater than 18" above the bottom or any other use of the water column will require this type of lease. Rent: \$100/acre per year.

First rent payment will be due upon receipt of a contract to be signed

| | | |
|----------------------------|---------------|------------|
| Shellfish Lease County: | Closest Town: | Waterbody: |
| CARTERET | BRAUFORT | S RIVER |
| Estimated acreage: 2.5 - 4 | | |

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Note: Acreage allowed must be consistent with the Shellfish Lease Management Plan, prior lease production history, public trust use of the area, etc. **Single lease acreage is limited to between 0.5 and 10 acres.** If you currently hold more than 5 acres of leases, they must meet production before a new application may be accepted.

Does the shellfish lease site contain known sea grasses or Submerged Aquatic Vegetation (SAV)?
 No Yes (*Leases are prohibited on sites with greater than 15% seabed cover of SAV*)

Approximate closest distance to existing shellfish bed or oyster rock? ~~2000~~ ft.
Shellfish leases may not be located on or within 10 ft. of existing natural shellfish beds (>10 bushels of shellfish/ acre).

Approximate minimum distance of proposed shellfish lease from shoreline? ~~250~~ 250 ft.

Does the applicant or co-applicant own all the shoreline adjacent to the proposed shellfish lease?
 No Yes
Shellfish leases must be at least 250 feet from a developed shoreline unless a) the applicant or co-applicant are the sole riparian owner, or b) a signed and notarized riparian owner consent form has been completed and attached (Appendix VII)

Approximate distance from the closest existing shellfish lease? 2000 ft.
Shellfish leases must be at least 250 feet from any existing or proposed shellfish leases.

Approximate minimum distance of proposed lease from vegetated marsh? 500 ft.
Shellfish leases must be at least 20 feet from vegetated marsh if gear is proposed in the management plan.

Approximate distance to marked or unmarked navigational channel? 3-4000 ft.
Shellfish leases cannot block marked or unmarked navigation channels

Please list the coordinates for the proposed shellfish lease. The minimum number of coordinates required is three and the maximum is eight. A survey is not required by law but is suggested as a best management practice. Any costs of a survey are the responsibility of the lease holder. The shellfish lease site must be as compact as possible. Please use decimal degrees (ex: 34.72334896° (N), -76.75634128° (W))
 Corner Coordinates:

| | | | | |
|---------------|----------------|--|---|---|
| 34° 57. 850 N | 076° 34. 263 W | | N | W |
| 34° 57. 822 N | 076° 34. 280 W | | N | W |
| 34° 57. 906 N | 076° 34. 345 W | | N | W |
| 34° 57. 888 N | 076° 34. 382 W | | N | W |

Section 5: Shellfish Lease Management Plan

Applicant Initials CA
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Shellfish Grow-out Method: Please check the grow-out method(s) you propose to use on your shellfish lease and the estimated amount of equipment and effort.

- *Poles or pilings over 4 inches require a permit from DCM, which applicant is responsible for obtaining*
- *Floating Upweller Systems (FLUPSYs) are not permitted on shellfish lease sites*

| Bottom Methods | Year 1 | Years 2-10 |
|----------------|--------|------------|
| | | |

Grow out methods will be specific to the contract. If you plan on changing methods, you must notify DMF for prior approval, and complete another Shellfish Lease Management Plan.

Do you plan to participate in the following DMF permit relay activities?

- Polluted Area Relay
 Seed Oyster Management Area Relay

| | |
|--|---|
| In-state hatchery: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes | Hatchery Name: [REDACTED] Hatchery Phone: [REDACTED] |
| Out of state hatchery <input type="checkbox"/> No <input type="checkbox"/> Yes* * Requires an Introduction Permit (Appendix VI) | Hatchery Name: |
| | Address: |
| | City, State Zip: |
| | Hatchery Phone: |

Applicant Initials MA

Do you plan to harvest oysters anytime during April – September? [redacted] ?
 *Closed oyster season harvest requires a Closed Oyster Harvest Certification.

Will you operate as a Shellfish Dealer? [redacted]
 *Shellfish Dealers must have a certification from Shellfish Sanitation (252) 726-6827, and a DMF Dealer License to operate.

Do you plan to move shellfish from your shellfish lease to another lease prior to harvest? [redacted]
 Do you plan to conduct pre-harvest activities (such as culling) off-site of your lease? [redacted]
 *A Commercial Fishing Vessel Registration will be required annually for boats used to harvest or transport seafood. The registration is separate from the NC Wildlife Resource Commission's registration.

Shellfish Lease Marking
 Shellfish lease corners must be marked and with proper durable signage attached including all **lease numbers, reflective tape, and the name of the leaseholder**. Water column leases must also have **yellow floats** marking each corner. Boundary markers should be every 50 - 150 feet.

Type and number of markers to be used:

Wood post (3-4 inch): size- _____, number- _____
 Plastic/PVC: diameter- 2", number- 4
 Other (composition, size, quantity): _____
-Posts greater than 4"x4" or 4" in diameter require a permit from DCM
-DMF has no duty to protect any shellfish lease or franchise that is not properly marked

Land/Dock Based Facilities: (check all that apply) and indicate if these are shellfish lease or land based. *NOTE: These structures, if proposed, may require a permit from DCM*

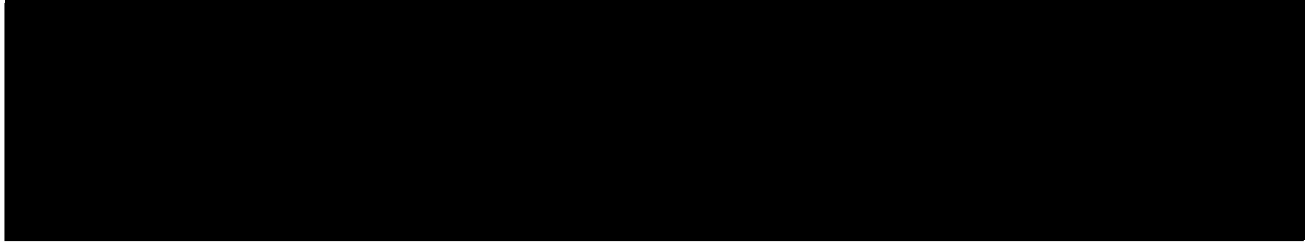
[redacted]

Other (specify):
 If you propose floating gear or intertidal gear, describe the mitigation or deterrent measures you will take to minimize the potential pollution impact of birds and/or mammal waste. Please be as specific and detailed as possible. **This section must be completed, or your application will be denied.**

[redacted]

Applicant Initials CM
MA

All shellfish lease applications for 2022 must be accompanied by a storm preparedness and gear debris management plan. Please use the space below to describe your plan (or attach your plan to the end of the application), using the template outlined in Appendix VIII.



A series of horizontal lines for writing, spanning the width of the page below the redaction box.

Applicant Initials

Handwritten initials: 
MA


Section 6: Shellfish Lease Cleanup Provisions

Shellfish Lease Cleanup Provisions:

If your shellfish lease is surrendered, cancelled, terminated for lack of production or failure to pay rent, or you simply choose to relinquish the lease, the leaseholder is responsible for removing all markers, posts, and aquaculture gear except planted cultch. **You will be given a 30-day notice to remove all posts, markers, and aquaculture gear and must notify DMF after gear has been removed.** If you do not remove the markers, posts, and gear after the 30-day notification, DMF may pursue legal action to have it removed at your cost. These provisions will be included in the lease contract.

The leaseholder is also responsible for collecting any gear that is displaced due to storm events. It is highly recommended that all shellfish lease equipment is labeled with your contact information to facilitate collection in case of storm loss.

By signing I agree that I have read and understand the Shellfish Lease Cleanup Provisions.

Signature:  Date: ~~3/10/22~~ 4/18/22

Section 7: Proposed Shellfish Lease Site Diagrams

On the following pages, or separate pieces of 8 1/2 x 11 paper, please provide accurate drawings or maps showing the following three diagrams:

- 1. LOCATION MAP:** Map must show North arrow; proximity to identifiable markers or landmarks, corner markers of the shellfish lease, and water body width in relation to the lease. The base map may not be hand drawn; however, your proposed lease location may be hand drawn. Consider using screenshots of Google Earth, the DMF Shellfish Leasing Tool, or NOAA online navigational charts. Must show approximate distance to shoreline.
- 2. TOP VIEW DIAGRAM:** Must show North arrow; indicate shellfish lease corners with approximate boundary distance measurements; proposed configuration and alignment of any aquaculture gear such as floating cages or bottom cages. **This diagram may be hand drawn in black or blue ink, or made on a computer and printed.**
- 3. SIDE VIEW DIAGRAM:** Must indicate minimum and maximum water depth at mean low water; maximum height in inches of any bottom structure including shell, cages, rack and bags; clearance in feet above such structures at the shallowest and deepest part of the lease at mean low water. **This must be drawn in black or blue ink or made on a computer and printed.**


Diagrams and maps do not have to be drawn to scale but must be clear and easy to understand. Maps that are incomplete will delay the application process or result in a denied application. **Any modifications made to the original maps or diagrams will require the applicant to resubmit diagrams.** These are submitted to the Army Corps as part of the joint process to issue a Prior Construction Notice (PCN)

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Location Map
(Insert on a separate piece of paper)

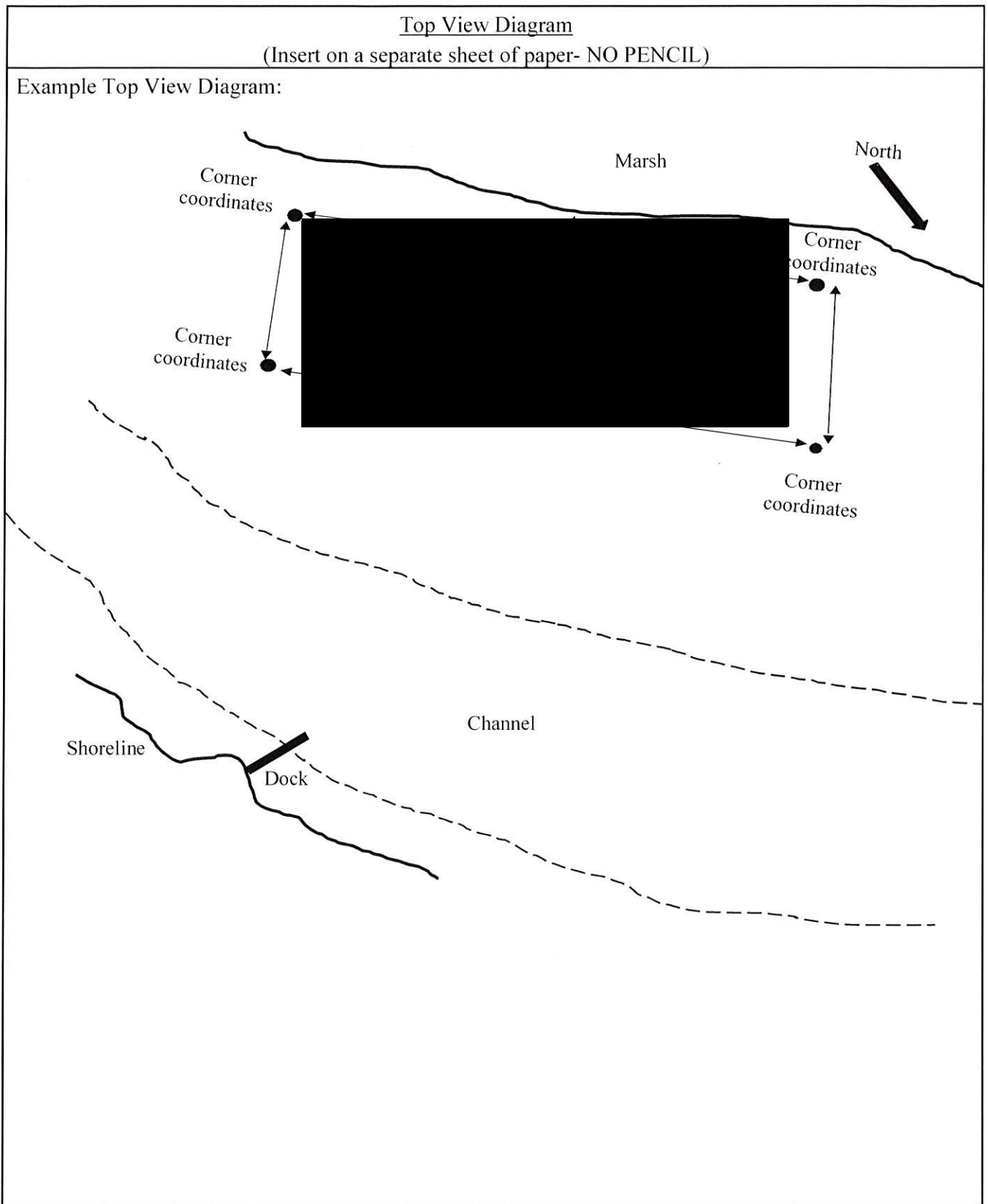
Example Shellfish Lease Site Location Map using Google Earth:



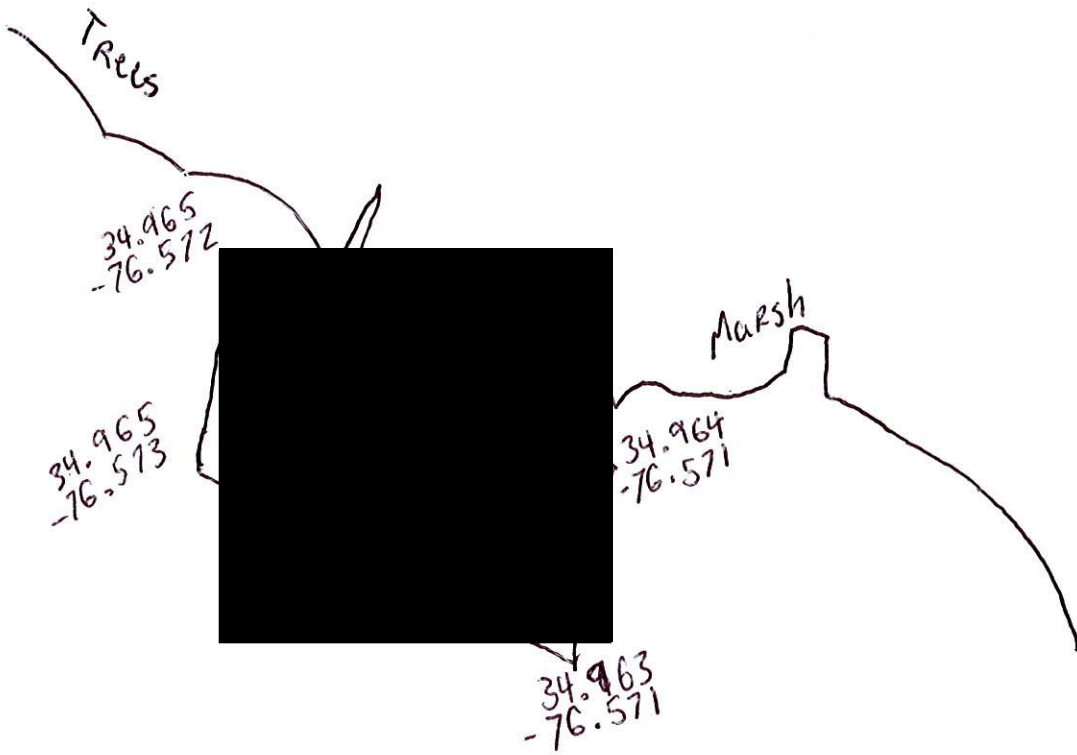
Applicant Initials 



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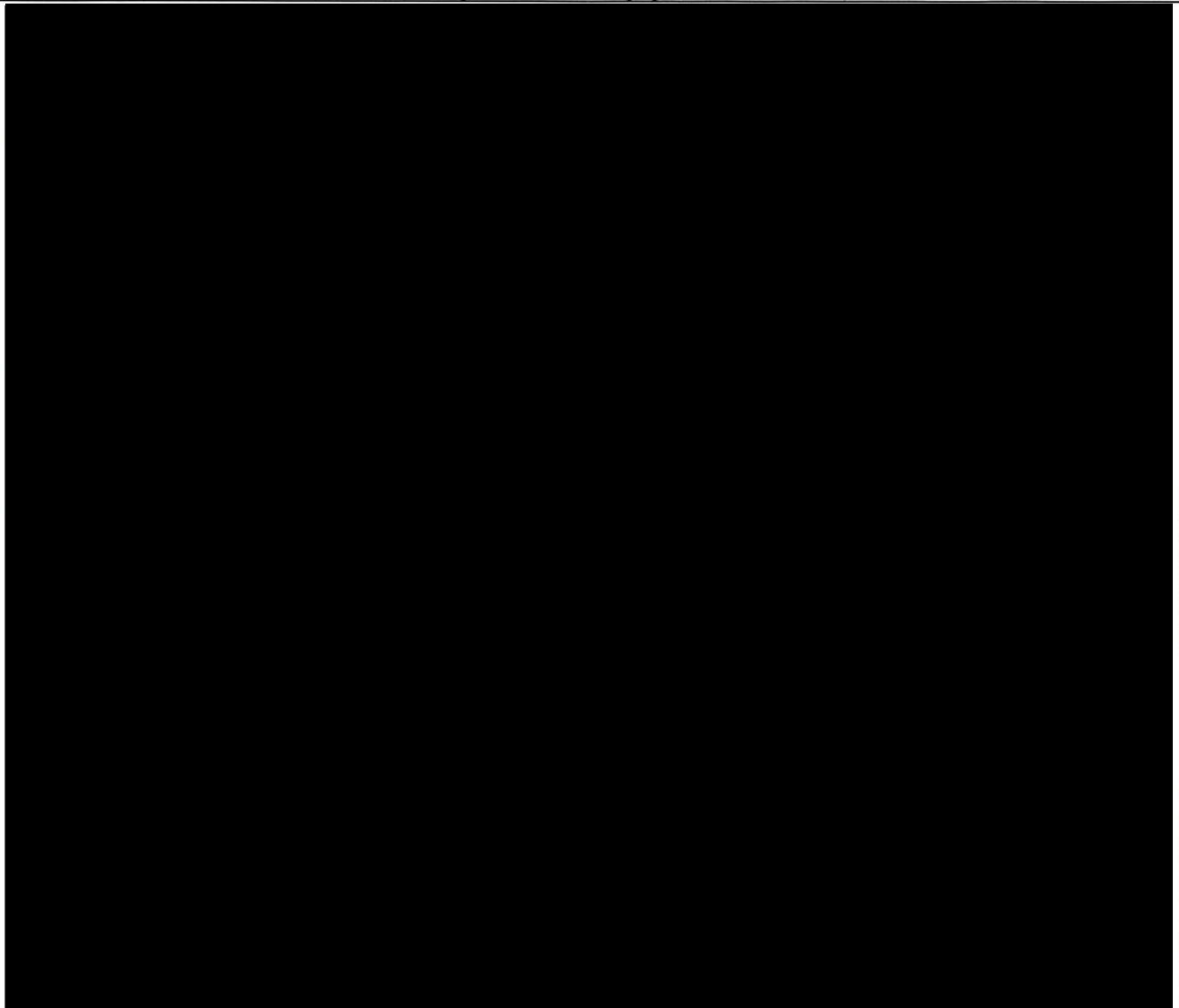
Applicant Initials *CA*
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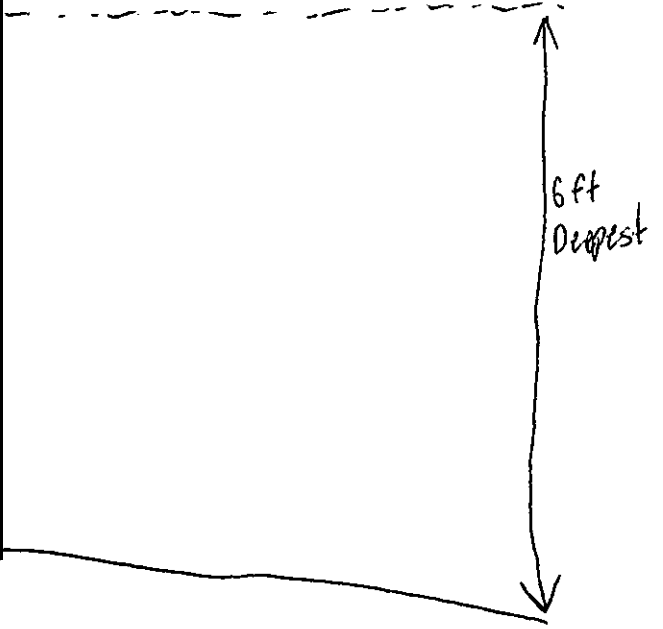
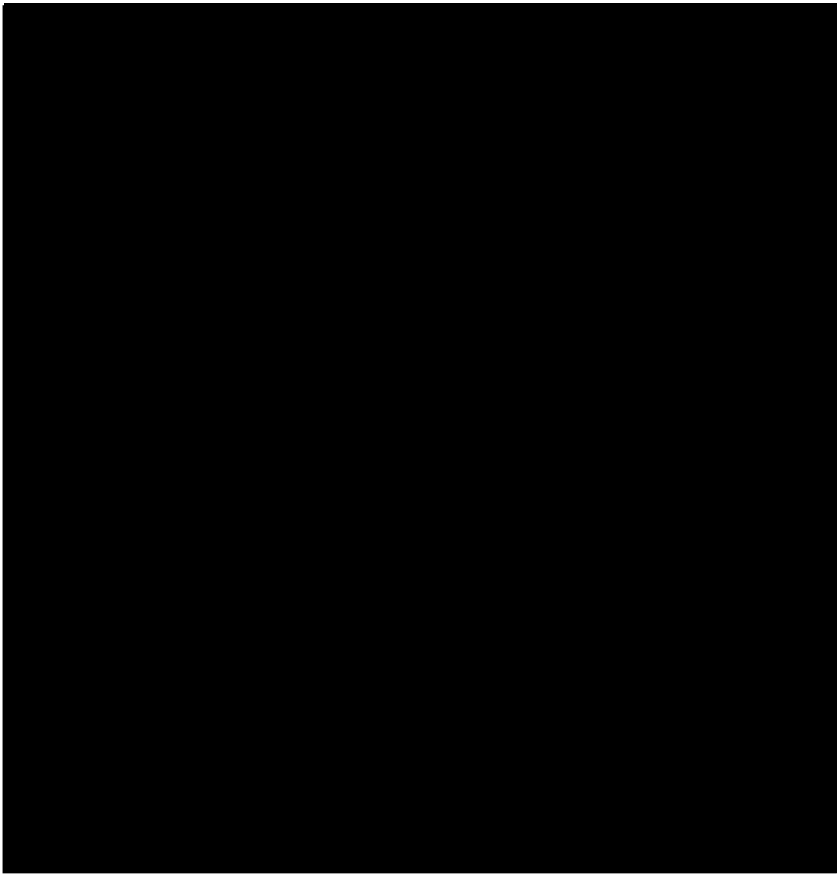
CA
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Side View Diagram

(Insert on a separate sheet of paper- NO PENCIL)



Applicant Initials CA
MA



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Section 8: Final Signature

By signing below, the Applicant hereby states that the information included in the application is true and correct, and that the Applicant(s) understand the following:

1. The Applicant will accept the shellfish lease and is subject to all the provisions of the North Carolina Marine Fisheries Commission Rules and applicable General Statutes.
2. The annual shellfish lease rental fee shall be \$10.00 per acre for bottom leases and \$100.00 per acre for water column leases. Shellfish lease rent is prorated for the first year and is due prior to the issuance of the lease contract. Annual rent shall be paid a year in advance on or before July 1st. Unpaid or delinquent rent will result in the termination of the lease.
3. The applicant agrees to use the shellfish lease for commercial production of shellfish and shall provide annual production reports as required by DMF. Failure to meet production requirements may result in the termination of the lease.
4. The applicant agrees that if the application is approved for public comment and hearing, to provide evidence that they attempted to notify by certified mail the adjacent riparian property owners within 250 feet from where the proposed shellfish lease is located. The notice shall instruct riparian property owners to provide any comments on the proposed shellfish lease in writing to DMF within 30 calendar days of the date the notice was sent and indicate that no response shall be interpreted as no comment.

Applicant/Business Agent: X Chalk Date: 4-18-22

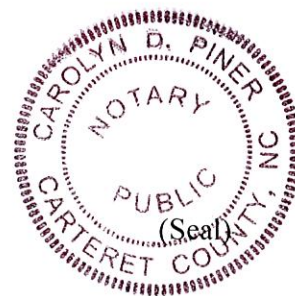
Co-Applicant: Mason H Allen Date: 4-18-22

SWORN to and subscribed before me

This the 18 day of April, 2022

Carolyn D. Piner
NOTARY PUBLIC

My Commission Expires: 11-29-2023



Applicant Initials CP
MA

Appendix I: Shellfish Lease Application Process

1. Select a shellfish lease site.
 - a. Use the *DMF Shellfish Lease Tool* (<http://portal.ncdenr.org/web/mf/shellfish-lease-franchise-programs>) and/or the *UNCW Shellfish Benthic Siting Tool* (<https://uncw.edu/benthic/sitingtool/>). These tools show you other leases, as well as pertinent regulations for each area.
 - b. Visit the location. Make sure it is suitable for growing and meets the minimum requirements set by DMF.
 - c. Talk to your neighbors. This includes riparian landowners, or other local growers. This can help you learn valuable information about your proposed location, as well as build relationships with the folks you will be interacting with in the future.
 - d. Talk to DMF Leasing Staff - they can help you with this part of the process and answer any questions you may have.
2. Complete the application. **All pages must be completely filled out, and initialed, indicating that you have read and understand all the information included in the application.** Submit to DMF with your nonrefundable or transferable application fee.
3. Once your application is received, the fee is processed. The application is checked to ensure it is complete and an initial verification using GIS is completed to ensure the lease does not occur in historical SAV or infringe upon other property interests.
4. If the application is incomplete, illegible, or the proposed lease is not in a permissible area, the application is denied.
5. Temporary lease signs are mailed to the applicant with a letter requesting the proposed site be marked on each corner. These signs will remain throughout the lease application process.
6. Lease applicant emails pictures of the installed temporary signs to Lease Program Staff. **Staff will not proceed with a site investigation until this occurs.**
7. Lease Program staff investigate your proposed site. This investigation includes determining criteria for marsh setback, channel locations, percentage of water body the proposed site occupies, shellfish presence/density and SAV presence/density.
8. Site investigation data is compiled into a report by a biologist.
9. The proposed site map including the investigation report is sent out for review to internal staff and DEQ agencies.
10. Internal comments are reported to the DMF director. At this point the director can recommend:
 - a. The application be taken to public hearing as submitted,
 - b. The site or application be conditioned or modified prior to going to public hearing,
 - c. The application be denied.
11. If the application is approved for public hearing, DMF staff will attempt to notify adjacent riparian property owners within 250 feet from where the proposed shellfish lease is located by certified mail. The notice shall instruct riparian property owners to provide any comments on the proposed shellfish lease in writing to DMF within 30 calendar days of the date the notice was sent and indicate that no response shall be interpreted as no comment. By law, DMF must run two public notices in a local newspaper. DMF also issues a press release and notifies DMF proclamation lists of the proposed site. At the end of the public comment period, a public hearing is scheduled in the county where the proposed lease is located. All comments received must either be in writing or submitted verbally or in writing at the public hearing.

Applicant Initials



12. Public hearing comments are summarized in a report to the director for consideration. The director then does one of the following:
 - a. Approves the shellfish lease as submitted or as modified in #8,
 - b. Approves the lease with conditions,
 - c. Denies the lease.
13. Once the lease is approved, the Lease Program will draw up a contract for the lease site. DMF staff will verify corner markers and applicant installs permanent markers and signage as required. The contract will be mailed to the lease applicant with instructions. The first year's rent is due in advance.
14. The lease applicant reads the lease contract and signs and dates with a notarized signature, indicating agreement with the lease contract terms. The applicant mails the signed contract back to DMF with the appropriate lease rent.
15. Applicant installs permanent signs on their lease and submits photos to DMF
16. The lease rent is processed and the DMF director signs the contract which a copy is mailed back to the leaseholder.

Appendix II: Shellfish Lease Siting Requirements and Restrictions

It is the responsibility of the applicant to site the lease. Shellfish leases are a special use of public trust submerged land and waters that allow individuals to grow shellfish for commercial production only. To protect access to public trust resources, the DMF Director is given broad authority to ensure that leases are granted in areas that will be compatible with the lawful utilization of marine and estuarine resources.

The DMF Shellfish Lease Tool (<http://portal.ncdenr.org/web/mf/shellfish-lease-franchise-programs>) and/or the UNCW Shellfish Benthic Siting Tool (<https://uncw.edu/benthic/sitingtool/>) should be used to assist with lease siting.

Areas where leases cannot be sited:

- In areas unsuited to the species of shellfish or grow-out method you have selected.
- In areas closed by Shellfish Sanitation because of pollution.
- Within 10 feet a natural shellfish bed.
 - By MFC rule, a natural shellfish bed is defined as 10 bushels of shellfish (oysters, clams, mussels) per acre.
 - The US Army Corps of Engineers Nationwide (ACoE) Permit #48 sets strict limits for the placement of aquaculture sites near naturally occurring oyster reefs, oyster aggregations and shell bottom.
- On areas containing significant Submerged Aquatic Vegetation (SAV, i.e. sea grasses).
 - The US Army Corps of Engineers Nationwide Permit #48 sets strict limits for the placement of aquaculture sites where the presence of SAV is greater than 15% coverage of the applied for site.
- Where the lease site extends more than one-third the distance across any water body (creek, bay, river, etc.); *except* where the aquaculture method only uses cultch-on-bottom, or clam-on-bottom methods. (ACoE NW Permit #48 condition)
- In areas incompatible with traditional uses such as, but not limited to: commercial or recreational fishing, swimming areas, navigational channels (marked and unmarked), areas designated as shellfish management areas and enhancement sites including cultch planted sites.
- In areas where leases are otherwise prohibited by law.
- Over recognized Submerged Land Claims without a completed signed and notarized permission form. For a map listing any recognized claims in your county link here: <http://portal.ncdenr.org/web/mf/submerged-lands-maps>

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Shellfish leases must:

- Be as compact as possible and be compatible with the Shellfish Lease Management Plan
- Not impinge upon the rights of riparian property owners.
 - Within **250 feet** of a developed shoreline, you will need written and notarized consent of the riparian property owner.
 - The Division shall notify by certified mail the adjacent riparian property owners within 250 feet from where the proposed shellfish lease is located. The notice shall instruct riparian property owners to provide any comments on the proposed shellfish lease in writing to DMF within 30 calendar days of the date the notice was sent and indicate that no response shall be interpreted as no comment.
- May not be within **250 feet** of another existing or proposed shellfish lease (including ones you own)
- Not be sited within **20 feet of a vegetated marsh** to allow public access to the marsh or **5 feet where the aquaculture method only uses cultch-on-bottom**, or clam-on-bottom methods.
- Not exclude or attempt to exclude the public from allowable public trust use of navigable waters on shellfish leases and franchises including, but not limited to, fishing, hunting, swimming, wading and navigation.
 - Lease sites using bottom or floating cages must place them in parallel rows with at least 10 feet between each row to allow for navigation by the public. Rows may be configured in any direction.
- Be continuously marked with proper legible signage on all corner markers. All corner markers shall be marked with either reflective tape or reflectors.
- Not conduct development activities listed below without permitting by DCM.

**NOTE: DMF has no authority to permit the following structures on a lease. If you intend to use these structures, they will require a CAMA permit. For more information, contact DCM at (252) 808-2808.*

- Lease markers **greater than 4 inches X 4 inches or > 4 inches in diameter**
- Floating Upwelling Systems (FLUPSYs) not on lease site, tank downwellers, upwellers, raceways, etc.
- Docks, piers, bulkheads, or other development activities
- Permanently anchored barges or platforms
- Dredging or fill activities or utilities

Appendix III: Lease Management Plan Information and Technical Assistance

The Shellfish Lease Management Plan details what type of aquaculture operation you plan. This is an important step when planning your shellfish lease activities. When your shellfish lease is approved by the DMF director, the Shellfish Lease Management Plan will become a part of the legal lease contract by reference. **Changes to grow-out methods, species, and navigational clearance will require submission of a modified management plan and approval by DMF.**

Please use the following resources to help you develop your Lease Management Plan:

North Carolina Sea Grant: can provide valuable assistance in helping you determine capital investment, lease size, grow-out methods, seed sources, and many other important items that will help your aquaculture venture succeed (<https://ncseagrant.ncsu.edu/aquaculture/>).

Carteret Community College: offers an Aquaculture Technology certificate, as well as a degree. These classes provide technical knowledge about aquaculture, operating a business, and finance management (<https://carteret.edu/programs/aquaculture-technology/>).

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NOAA: The data is available via NOAA's Marine Cadastre national mapper and viewer (<https://marinecadastre.gov/nationalviewer/>). The specific data are for Vessel Traffic density. Generalized summaries are available in the Marine Cadastre viewer (<https://marinecadastre.gov/ais/>). *Note this does not apply to personal watercraft.

The North Carolina Shellfish Growers Association: industry group that shellfish growers can join and network with other growers (<http://www.ncshellfish.org/>).

The East Coast Shellfish Growers Association: regional association that includes great information on shellfish aquaculture including Best Management Practices. They produce a newsletter with updates on legislation, scientific studies, and other pertinent information concerning shellfish growers (<http://ecsga.org/>).

Appendix IV: Shellfish Lease Production Requirements (as of 2019)

Shellfish leases in NC must meet production standards by rule. Failure to meet production standards is the number one reason for leases being terminated. Proper sizing of the lease and a sound management plan are key to meeting your production standards.

The following are the **minimum** Shellfish Lease Production Standards in statute:

Bottom and Franchise Extensive methods (no gear): Plant 15,000 seed/acre/year or harvest an average 20 bushels/acre (leaseholder *must* provide annual receipts of proof of purchase of seed)

Bottom Intensive methods (gear use): Plant 23,000 seed/acre/year or harvest an average 20 bushels/acre (leaseholder *must* provide annual receipts of proof of purchase of seed)

Water Column Intensive methods (gear use): Plant 23,000 seed/acre/year or harvest an average 50 bushels/acre (leaseholder *must* provide annual receipts of proof of purchase of seed)

Note: The Shellfish Lease Program uses the following conversion numbers that are in rule to determine bushels in planting and marketing. *These numbers apply to all sizes, seed to market size:*

- Clams and Scallops: 1 bu. = 400 count
- Oysters: 1 bu. = 300 count

Applicant Initials 
MA

Appendix V: Shellfish Sanitation/ Public Health Information

The following information is to provide awareness of the public health risks with shellfish as well as causes and impacts from temporary and permanent shellfish closures. An illness from your product or growing area closures can have a significant impact on your shellfish aquaculture business. We encourage applicants review and consider the permanent and temporary closure status where you site your lease and implement safe handling practices.

Because shellfish are filter feeders, they provide valuable water quality benefits by filtering up to 40 gallons of water per day. However, they can also concentrate potential pathogens (bacteria and viruses) that cause illness in consumers, particularly when shellfish are consumed raw or undercooked. The DMF Shellfish Sanitation and Recreational Water Quality Section continuously sample waters to ensure the shellfish harvest areas of the coast are properly classified. Classification maps showing permanent closure areas can be viewed at: <http://portal.ncdenr.org/web/mf/shellfish-closure-maps>

In addition to the permanent closures, heavy rainfall and the resultant runoff, or other events such as septic or sewage failures, chemical spills, etc. may cause temporary shellfish water closures. These events result in heavy pollutant loads washing into growing areas and may close growing areas for days to weeks depending upon the event. No shellfish harvest is allowed during this time. An interactive map of current temporary shellfish closures can be viewed at:

<https://ncdenr.maps.arcgis.com/apps/webappviewer/index.html?id=5759aa19d7484a3b82a8e440fba643aa>

Not all pathogenic bacteria are associated with polluted waters. The National Shellfish Sanitation Program (NSSP) Model Ordinance and the US Food and Drug Administration require safe harvest and handling practices to reduce illness caused by post-harvest growth of **Vibrio** bacteria. Two species of concern are *Vibrio vulnificus* and *Vibrio parahaemolyticus*.

Vibrio bacteria occur naturally in our warm coastal waters and multiply rapidly once shellfish are removed from the water and exposed to warm ambient air temperatures. To decrease the risk of *Vibrio* illnesses, which are rare in NC, Shellfish Sanitation and the DMF have developed Time to Temperature limits for harvesting oysters and clams. Lease holders harvesting oysters outside of the regular oyster season from shellfish leases must document time of harvest and follow restrictions set forth in DMF annual proclamations. Shellfish dealers must also document time to temperature for receiving, storage and shipping. Current (Shellfish Sanitation) proclamations specifying time to temperature controls can be viewed on the DMF website: <http://portal.ncdenr.org/web/mf/proclamations-current#shellfish-san>

In some instances, a portion or the entire lease may be closed when the surrounding growing area is later reclassified and permanently closed by reason of pollution. Staff from DMF Shellfish Sanitation and Resource Enhancement work closely to notify lease holders that are impacted by these reclassification closures so they can relay material off before the closure takes place. At this point, the lease may either be relinquished by the leaseholder or it will either be terminated for lack of production over time, or automatically expire at the end of the contract period and may not be renewed. No shellfish harvest is allowed once the permanent closure goes into effect.

Contact the Shellfish Sanitation & Recreational Water Quality Section for up-to-date information at (252) 726-6827.

Subscribe to DMF and/or Polluted Area proclamations at: <http://portal.ncdenr.org/web/mf/email-subscribe>

Applicant Initials



Appendix VI: Aquaculture Permits

Certain types of activities associated with shellfish aquaculture require additional permits. These permits provide leaseholders with tools to access public resources, produce and market shellfish while ensuring protection of public health, native species and habitats. Filling out your Lease Application completely will help DMF staff identify what permits you will need so we can bundle those with the application. Permits are available at no cost and it is unlawful to conduct these activities without the proper permit. For more detailed information, contact the Lease Program Staff at Shellfish.Lease.Permits@ncdenr.gov

Aquaculture Operation Permit (AOP)

An AOP is required for any lease/operation that meets the definition of aquaculture in MFC rules. If you are providing any technology not found in nature (feeding, predator protection, salinity or temperature control, etc.) you will need an AOP. All intensive culture methods will require an AOP. An AOP also gives you the ability to harvest product under the size limit for natural wild harvest stock if your product is properly identified with your AOP number. This is an annual permit expiring on December 31st.

Aquaculture Collection Permit (ACP)

This permit is rarely issued and is for collection of small numbers of organisms from state waters for aquaculture purposes, typically brood stock or breeding. You must have an AOP prior to applying for an ACP.

Aquaculture Seed Transplant Permit (ASTP)

This permit allows the transfer of seed from a permitted nursery or hatchery using waters that are classified as Restricted or Conditionally Approved Closed by Shellfish Sanitation. To be eligible for this permit, oysters must be 25 mm or less and clams must be 12.5 mm or less.

Introduction and Transfer Permit (Intro)

This permit allows introduction and transfer of organisms such as seed clams or oysters into North Carolina from another state. Only native shellfish species may be transferred for placement into state waters. The transfer of organisms is carefully monitored to ensure no unwanted shellfish diseases or pests are introduced into North Carolina waters. A pathological report on the lot to be shipped is required by DMF to issuance of a permit.

Mechanical Harvest Permit (Mechanical)

This permit allows lease holders to use select mechanical gears on their lease, even outside the regular seasons for mechanical harvest. If your lease is in a Primary Nursery Area (PNA) you are not allowed to use bottom disturbing gear, but you may use a winch and davit system or similar to lift and place cages or bags.

Polluted Area Relay Permit (Relay)

This permit allows leaseholders to harvest oysters or clams of any size in designated polluted areas and relay them to their lease. The lease is then closed for a period of time to allow the shellfish to “depurate” or cleanse themselves. The relay period takes place after the close of the regular oyster season.

Seed Oyster Management Area Permit (SOMA)

This permit allows leaseholders to go into designated oyster management areas open for relay to seed their leases. This activity takes place outside of the regular oyster season.

Applicant Initials



MA

Appendix VII: Riparian Owner consent Form

I/We, the undersigned, hereby give my/our consent to (Name):

_____,
who resides at (Physical Address):

_____, to lease:

- Shellfish bottom
- Shellfish bottom and the water column within 250 feet of my/our shoreline.

Signature Name (Please Print)

Signature Name (Please Print)

Street Address or PO Box City State/Zip Phone

SWORN to and subscribed before me

This the _____ day of _____, 20__

NOTARY PUBLIC

My Commission Expires: _____

(Seal)

Applicant Initials CW
MA

Appendix VIII: Storm Preparedness and Gear Management Best Practices

NC Shellfish Lease and Aquaculture Program

Adapted from FDACS and UF Resource Guides

***Relocating gear and product off lease into public waters is illegal and will result in product confiscation, permit revocations, and fines.**

***Relocating gear or product to another lease outside of the growing area requires resubmergence for 21 days and proper resubmergence tagging (please refer to SS1/SS2 for guidance). The receiving lease must be permitted properly to accommodate any additional gear.**

***Relocating shellfish greater than seed size (clams 12mm in length, oysters 25mm in length) to another lease in a different growing area requires resubmergence for 21 days, proper resubmergence tagging, and recording of resubmergence activities in a logbook (please refer to proclamations SS-1/SS-2)**

***When relocating gear to another lease, the receiving lease must be permitted properly to accommodate any additional gear.**

***Moving product to a land-based cold or wet storage is only allowed by prior approval and permitting by Shellfish Sanitation as a certified shellfish dealer with wet storage permit (as applicable).**

Assessing Risks

A farm's vulnerability to risks, such as wind, storm surge, and flooding, can be assessed by reviewing previous storm trends near the farm's location. The NOAA National Hurricane Center, www.nhc.noaa.gov, has storm information (wind speed and direction, pressure, landfall) archived since 1900, which can be used to determine prevailing patterns for different growing locations. By reviewing characteristics of previous storms that have made landfall near the farm, growers can consider what they would have done to prepare and what should be included in their plan.

Preserving Business Information

Important information that must be safeguarded should be identified in the plan. A list of insurance policies and financial documents should be kept current along with locations where these documents are stored. Most of this information can be stored electronically; however, hard copies of important documents may be useful in the event of power outages. It may be prudent to duplicate some documents and keep them in different locations.

Maintaining Farm Records

Farm information, such as coordinates, maps, and diagrams of layout and gear, should be included in the plan and available immediately after the storm. Timely inventory records (number of culture units and estimated quantity, age, and sizes of oysters) should also be included. Maintaining a spreadsheet with this information is important for record-keeping required by insurance policies, business loans, or crop disaster assistance programs, such as the U.S. Department of Agriculture (USDA), Farm Service Agency's Noninsured Crop Disaster Assistance Program (NAP). Oyster inventory apps, such as Oyster Tracker or SmartOysters, are available and recommended. Inventory records should also include vehicles, boats, and motors, as well as equipment used on farms (tumblers, pressure washers, cranes or winches, etc.), at shore-based seed facilities (tanks, pumps, filtration systems, etc.), or at shellfish processing plants (forklifts, refrigerated units, etc.). Photographs and videos with time stamps of both water and land-based operations can provide timely and critical documentation.

Farm Employees

The plan should have information available for farm employees, such as an operational plan identifying essential personnel, services, and equipment, re-opening protocols, records storage, and agreements with suppliers and contractors. Information on evacuation routes, reentry requirements, shelter-in-place plans, and alternative reporting locations could be included. It is important to know how many people will be needed to implement the storm plan and who will help as a storm is approaching. Farm employees should be able to implement the storm plan themselves and be cross-trained in tasks outside their normal job duties to assist with securing gear.

Maintaining Communication

An emergency contact list (electronic and hard copies) for key personnel and businesses providing services to the farm and its customers should be developed and phone numbers kept current. Phone numbers for employees to call for information should also be included. Another communication component could be developed for the media, customers,

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or public with predetermined messages and messaging platforms.

Maintain Insurance Policies

The time to review insurance policies for the business is prior to the hurricane season to ensure there is adequate coverage for flood, wind, fire, theft, general liability, catastrophic loss, loss of income, and product liability. Insurance agents should be contacted to review coverage.

Storm Preparedness Plan Blueprint

Items in yellow apply to *floating bags*, items in blue apply to *floating cages*. Items in white apply to all intensive gear types.

Installation

During installation of the farm, there are several important considerations.

1. Assess the site's exposure to storms as a primary factor in site selection.
2. Orient main lines parallel to prevailing winds and waves.
3. Choose an anchoring system suitable to the bottom type.
4. Install substantial, durable anchors (buried to at least 5 feet depth) that will hold in the farm's bottom substrate in the strongest storms (see Figure 1 for some options).
5. Bury anchors (typically helical metal screw anchors) fully in the sediment to reduce projection above the sea floor, corrosion, and tangling hazard.
6. Invest in durable main line that meets the supplier's recommendation with some protection from chafing at friction points (e.g., anchor attachment).
7. Allow sufficient spacing between lines to ensure bags do not collide in bad weather.
8. Use a system that will reinforce the bag to reduce chafing at friction points (see Figure 2 for one example).
9. If floats have removable caps, invest in and practice with a system, such as a mechanical davit or a compressor to fill floats with air (with a back-up system in place), that allows for safe and efficient sinking and re-floating of bags.
10. Invest in and practice with a system, such as a mechanical davit or a compressor to fill the floats with air (with a back-up system in place), that allows for safe and efficient sinking and re-floating of cages. (Figure 2)
11. Place identifying tags on each bag

Prior to Hurricane Season

Prior to the onset of hurricane season, oyster farmers should take these steps to reduce the risk of losses.

1. Check stocking densities and reduce as necessary (though some farmers have had success by overstocking bags to achieve neutral buoyancy just prior to a storm).
2. Check biofouling and control on a routine basis.
3. Check all lines for chafing (especially near the clips) and repair as needed.
4. Check all bag clips are secured and in good condition at attachment points.
5. Have crew conduct timed practices to gauge time needed per line to prepare for a storm.
6. For shoreside operations, pick up loose pieces of equipment and secure bags to reduce loss from flooding and wind.
7. Review storm plan with crew and family so they can account for personal preparations alongside farm preparations.
8. Maintain appropriate stocking densities so that cages are not crowded and heavy.
9. Air dry cages to control biofouling on a routine basis.
10. Make it a habit to check bridles and lines when flipping to ensure lines do not get tangled.
11. Check all door closures to ensure that the attachments are secure and not worn.
12. Have extra caps on hand in workboat.
13. Remove empty cages from the line, as these are prone to come off the line in bad weather.

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During Hurricane Season

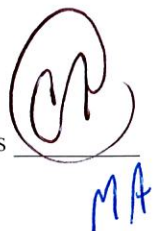
A tiered approach to preparation, which has been adopted in each fact sheet, allows growers to stage tasks based on the storm or hurricane's track forecast. The authors developed the following color codes to address increasing levels of concern and actions.

CODE YELLOW

Once a hurricane or tropical storm is projected to impact North Carolina, it is time to begin preparations according to the farm's plan. Note that the timeline is fluid and will depend on the storm's speed and track.

1. Re-check stocking densities and reduce as necessary. If opting to overstock bags to achieve slightly positive buoyancy, ensure stocking is appropriate.
2. Farmers opting to sink their bags below the surface but still float off the bottom by overstocking bags should consider taking this step now.
3. Re-check all lines for chafing (especially near the clips) and repair as needed.
4. Ensure all bag clips are secured and in good condition.
5. Secure any empty bags on shore or on lines.
6. Document the condition of the farm with dated photographs and notes.
7. Document the numbers of various sizes of oysters.
8. Review workboat(s) plan.
9. Re-check that all bridles and pucks are in good condition.
10. Re-check that all bag and cage closures are in good condition.
11. Consider consolidating all small seed (e.g., seed held in 2 mm bags) to one section of cages so that you can re-float those cages first once the threat has passed.

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CODE ORANGE

Once a hurricane or tropical storm watch has been issued, final preparations should begin. In the case of a fast-moving storm, proceed with tasks associated with final stages of preparation.

1. Sell product as market allows.
2. Track the storm's progress frequently and carefully. When assessing whether to sink bags, keep in mind the amount of time necessary to carry out the sinking operation. Farmers should also weigh the risks of bags and oysters being buried in the substrate.
3. Remember that the day before the storm is to make landfall, farmers should not plan to be on the water. They will need that day for other preparations and the weather will likely not allow for it.
4. If weather conditions do not warrant sinking bags, consider adding slack to anchor lines to allow for storm surge. Alternatively, some farmers opt to tighten their mainlines to pull bags under the water surface.
5. If weather conditions warrant sinking bags, remove both floats from bags and allow them to rest on the bottom or remove one float or alternate floats to partially or completely submerge the bags to keep them just above the bottom. Store floats safely onshore.
6. For systems that have floats with caps, remove caps from floats or alternate floats and ensure all air from floats is removed when sinking.
7. Some growers suggest replacing caps on floats (once all air is removed) to prevent sediment from filling the floats (though this may depend on sediment type). This adds considerable time to preparations.
8. Prepare to implement workboat(s) plan
9. Ensure all air from floats is removed when sinking, and walk or dive over the cages to be sure the pontoons are down, with adjustments made as needed.

*Reminder- it is illegal to relocate gear and product outside the boundaries of your shellfish lease unless they are being relocated to another, properly permitted shellfish lease

CODE RED

When a hurricane or tropical storm warning has been issued and there is a high probability of being in the path of the storm, farmers must conclude final preparations if and only if they can be accomplished safely. Farmers will make a series of personal risk assessments.

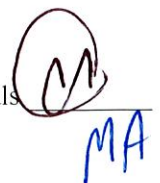
1. Conduct last check of farm.
2. Implement workboat(s) plan.
3. Get to safety.

Post-Storm Recovery

Oyster growers and their employees must be ready to take care of the needs of the farm as soon as it is safe and reasonable to do so. After a storm has passed, the following tasks should be considered.

1. Assess risk of returning to farm, and proceed only when safe.
2. Patrol the area upstream and downstream of the farm for significant debris that could entangle or dislodge gear once it is raised, and remove or secure debris.
3. Document the condition of the farm with dated photographs and notes.

Applicant Initials



4. For shellfish product that has been transported off the lease as a result of the storm, please contact Division staff for guidance.
5. Refloat bags as soon as practically possible by adding flotation and/or reducing stocking densities.
6. If caps were removed from floats, use systems designed for this task, with bags lifted from reinforced points, allowing water to drain out the end caps and being careful to work any bags out of the sea floor if necessary.
7. If necessary, use an on-board washdown hose to rinse sediment off the bags or out of floats and recap once washed down.
8. Assess and document oyster survival, gear condition, and losses.
9. Once mortality risk has passed, resume normal biofouling regimen.
10. Communicate with public agencies about closures and effects of the storm.
11. Communicate with buyers and suppliers to provide situation and outlook reports.

Additional Resource Links

NCDMF Contacts and Resources

<https://deq.nc.gov/shellfish-lease>

<https://deq.nc.gov/about/divisions/marine-fisheries/shellfish-sanitation-and-recreational-water-quality>

<https://deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/polluted-area-proclamations> (Current Polluted Areas Proclamations)

<https://deq.nc.gov/about/divisions/marine-fisheries/rules-proclamations-and-size-and-bag-limits/fisheries-management-proclamations> (Current SS Proclamations)

University of Florida Storm Prep Resource Guides

(While some of this information is specific to Florida, much of it can be adapted for North Carolina shellfish farms as well.)

- Introduction: <https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.introductory.pdf>
- Land Based Operations: https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.LBO_.pdf
- Workboats: <https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.workboats.pdf>
- Adjustable Longline Guide: https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.ALF_.pdf
- Floating Cage Farms Guide: https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.cages_.pdf
- Floating Bag Farm Guide: https://shellfish.ifas.ufl.edu/wp-content/uploads/oyster.aquaculture.bags_.pdf

Applicant Initials





ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM

TO: Kathy B. Rawls, Director

FROM: Jacob Boyd, Habitat and Enhancement Section Chief

DATE: 10/20/2022

SUBJECT: Changing Tide Renovations, LLC, Charles Allen and Mason Allen; Proposed Shellfish Bottom and Water Column Lease 22-019BL/22-020WC

Purpose:

The purpose of this memo is to provide information to allow you to determine whether to proceed with the shellfish lease application. If the intended action is approval of the application or approval with conditions, then a formal public hearing will be scheduled following a 30-day public comment period. Public comment will be summarized and presented to you for a final decision on the proposed shellfish lease.

An application for a 3.72-acre shellfish bottom and water column lease for Charles Allen and Mason Allen, was received for a proposed site location South River, Carteret County.

Shellfish Lease Application Review:

Prior to any site investigation, shellfish lease applications are checked against GIS data layers to ensure that shellfish leases do not conflict with existing designated or protected areas. Not all areas listed preclude the siting of a shellfish lease but may limit certain uses or gears (see Appendix 1).

The proposed site is also evaluated using standard GIS measurement tools to initially determine if the site meets the regional conditions of the U.S. Army Corps of Engineers (USACE) Nationwide #48 Permit. GIS is also used to determine riparian use and to approximate marked or unmarked channels prior to the site investigation.

Summary of Shellfish Lease Site Investigation:

This site was investigated by shellfish leasing staff on June 9th, 2022. Temporary signs were in place and shellfish density was determined to be zero bushels per acre which is below the natural shellfish standard of 10 bushels per acre threshold in Marine Fisheries Commission (MFC) Rule 15A NCAC 03O .0201. Submerged aquatic vegetation was found in zero samples which meets criteria set by the National Oceanic and Atmospheric Administration (NOAA) as per the USACE Nationwide #48 Permit Regional Conditions.

Internal Review:

After the formal site investigation, data is compiled and sent out for internal review to the following personnel. The typical review period is two to three weeks but that may be extended to provide additional information when requested. Comments may be made directly by the contacts listed below or further delegated to field staff. Due to the number of shellfish lease applications we receive, we do not expect internal reviewers to conduct a site visit for each shellfish lease but rather use experience and knowledge of the area to develop comments.

- Division of Marine Fisheries (DMF) Fisheries Management, District Manager
- DMF Marine Patrol, District Captain
- DMF Shellfish Sanitation, Growing Area Manager
- Division of Coastal Management (DCM)
- Division of Water Resources (DWR)
- USACE

Summary of Internal Review:

Tina Moore, DMF Fisheries Management, Southern District Office, commented that no Fisheries Management sampling activities occur near this lease. Commercial fishing activities include hand oystering, gill nets, flounder gigging, crab pots, shrimp trawling and shellfish hand harvest. Recreational activities include RCGL gear use, flounder gigging, and hook and line fishing for flounder, speckled trout. The area is also utilized by waterfowl hunters.

Officers Lott and Morris, DMF Marine Patrol, commented that there is commercial crabbing in the area, with sets being within 50 yards of the proposed lease location. There is also commercial gill and strike netting in the footprint of the proposed lease because of its shallow, sandy bottom. Recreational trout and drum fishing occurs in the area as well. There is a popular mooring location for sailboats and large vessels 100-200 yards south of the lease.

Andy Haines, DMF Shellfish Sanitation Section, commented that this proposed lease is in approved waters that are closed an average of 7% (26 days) annually. [REDACTED] SS requests that they review SS-1 and SS-2 to ensure compliance. Applicant will be asked to amend their storm management plan to include contact information for SS in case any product is found off lease post-storm.

Daniel Govoni, DCM, commented that the applicant should contact Jonathon Howell, DCM, to ensure [REDACTED] meet all permitting requirements. The applicant will be required to obtain CAMA permits if they intend to construct any permanent structures or undertake development activities on the proposed shellfish lease. Additionally, CAMA requests that the shellfish lease markers have reflective tape.

John Perry, DWR, commented that the proposed shellfish lease is in SA;HQW, NSW waters, and that there appear to be no adverse impacts to SAV and SAV habitat, but cite concerns with recreational and commercial utilization of the area.

Modifications and mitigations to the proposed shellfish lease application based on internal comments:

Shellfish Sanitation comments will be discussed with applicants if a public hearing is approved. The storm prep plan has been amended and mitigates SS concerns about transporting product.

Applicant will be made aware of [REDACTED]

Applicant will be required to obtain CAMA permits, if necessary, prior to their contract being signed.

Applicant will contact Jonathon Howell, DCM (252) 808-2808 to ensure [REDACTED] meet all permitting requirements.

Director's Recommendation:

It is my recommendation that a public hearing be held concerning this application to allow for public comment. Please provide your response below.

- Proceed with public hearing.
- Do not proceed with public hearing.
- Only proceed to public hearing if the application is amended with the following modification(s) agreed to by the applicant.



Kathy B. Rawls, Director

12-16-22

Date

| Shellfish Lease Investigation Report | |
|---|--|
| Investigation Date | 6/9/2022 |
| Applicants name | Changing Tide Renovations, LLC - Charles Allen & Mason Allen |
| Lease Number | 22-019BL/22-020WC |
| County | Carteret |
| Waterbody/location | South River |
| Proposed Lease Size (acres) | 3.72 |
| Lease Type | Bottom/Water Column |
| Investigation Team | A. Frost/R. Farnell/D. Walters/S. Tripp |
| Gear Used | 766 - Patent Tong |
| Sediment Type | 8 - sand (sand in hard and firm strata) |
| Bottom Composition | O - no grass |
| Depth (m) | 0.75 |
| Tidal Stage | Wind |
| Water Temperature (°C) | 28.5 |
| Salinity (ppt) | 16.7 |
| Dissolved Oxygen (mg/L) | 6.4 |
| Comments on SAV in or around Proposed Lease location | |
| Other Species Collected | |
| In PNA? | No |
| In Polluted Area? | No - Approved |
| In Mechanical Clam Harvest Area? | No |
| In Mechanical Methods Prohibited Area | No |
| Other Comments | |

| Application Coordinates | | Modified Coordinates | | Actual Coordinates | |
|-------------------------|-------------|----------------------|-------------|--------------------|-------------|
| -76.57241667 | 34.96510000 | -76.57107726 | 34.96412178 | -76.57375614 | 34.96528212 |
| -76.57105000 | 34.96416667 | -76.57133333 | 34.96370000 | -76.57313558 | 34.96556800 |
| -76.57133333 | 34.96370000 | -76.57377617 | 34.96525873 | -76.57131293 | 34.96365865 |
| -76.57303333 | 34.96480000 | -76.57315950 | 34.96555874 | -76.57106193 | 34.96408881 |

Proposed Shellfish Lease Biological Investigation Sampling Data

Applicant: Changing Tide Renovations, LLC - Charles Allen & Mason Allen

Proposed Lease #: 22-019BL/22-020WC

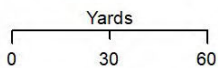
Date: 6/9/2022

Lease size: 3.72 acres # of Samples: 92

| Sample # | Presence of SAV Density class | # of Oysters (Eastern Oyster) | # of Clams (Quahogs) | # of Scallops | Date collected | Comments | Bottom Comp. | Sediment Type |
|----------------------------------|-------------------------------|-------------------------------|----------------------|---------------|----------------|--|--------------|---|
| 78 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 79 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 80 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 81 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 82 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 83 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 84 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 85 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 86 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 87 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 88 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 89 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 90 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 91 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| 92 | 0 | 0 | 0 | 0 | 6/9/2022 | NA | O - no grass | 8 - sand (sand in hard and firm strata) |
| | SAV | Oysters (Eastern Oyster) | Clams (Quahogs) | Scallops | | | | |
| | 0 | | | | 0% | OF SAMPLES CONTAINED SAV | | |
| TOTAL OF EACH SPECIES | | 0 | 0 | 0 | | | | |
| TOTAL BUSHELS PER SPECIES | | 0 | 0 | 0 | 0 | TOTAL BUSHELS OF SHELLFISH PER ACRE | | |

Proposed Lease ID/Number: 22-019BL/22-020WC
 Changing Tide Renovations, LLC - Charles Allen & Mason Allen

Date: 6/13/2022



- Proposed Corner Points
- Proposed Lease Area

Acreage: 3.72

Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet



Proposed Lease ID/Number: 22-019BL/22-020WC
Changing Tide Renovations, LLC - Charles Allen & Mason Allen

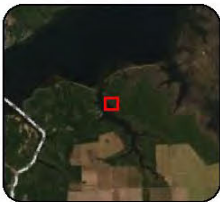
Date: 6/13/2022



Proposed Lease Area

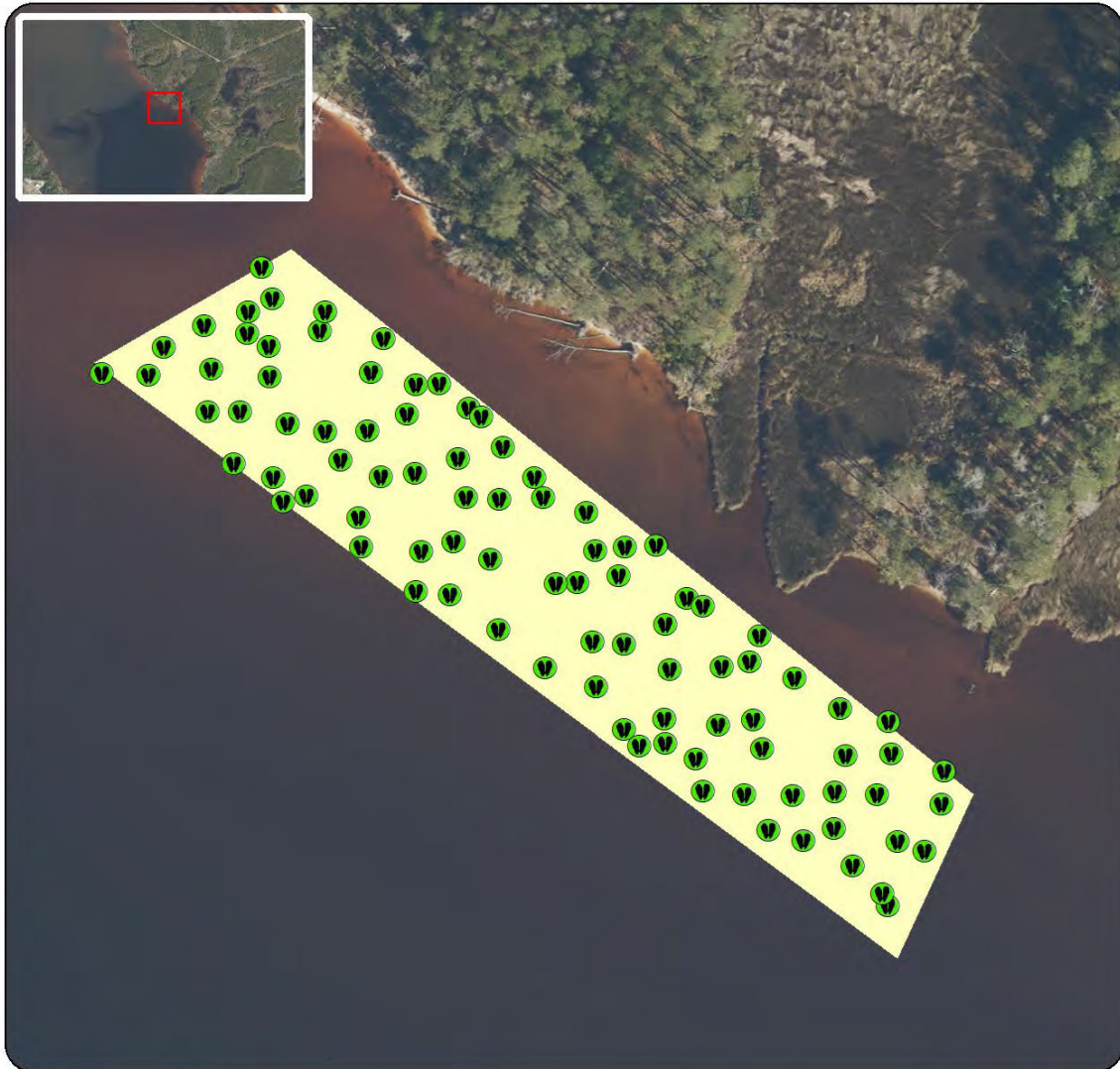
Acreage: 3.72


Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet




Proposed Lease ID/Number: 22-019BL/22-020WC
Changing Tide Renovations, LLC - Charles Allen & Mason Allen

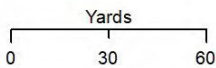
Date: 6/13/2022



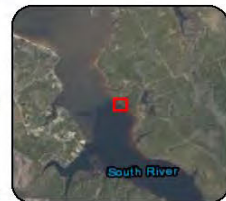
 No Bivalve Shellfish Present

 Proposed Lease Area

Acreage: 3.72

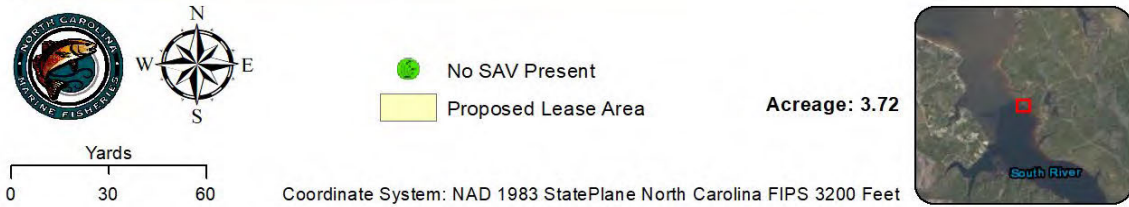
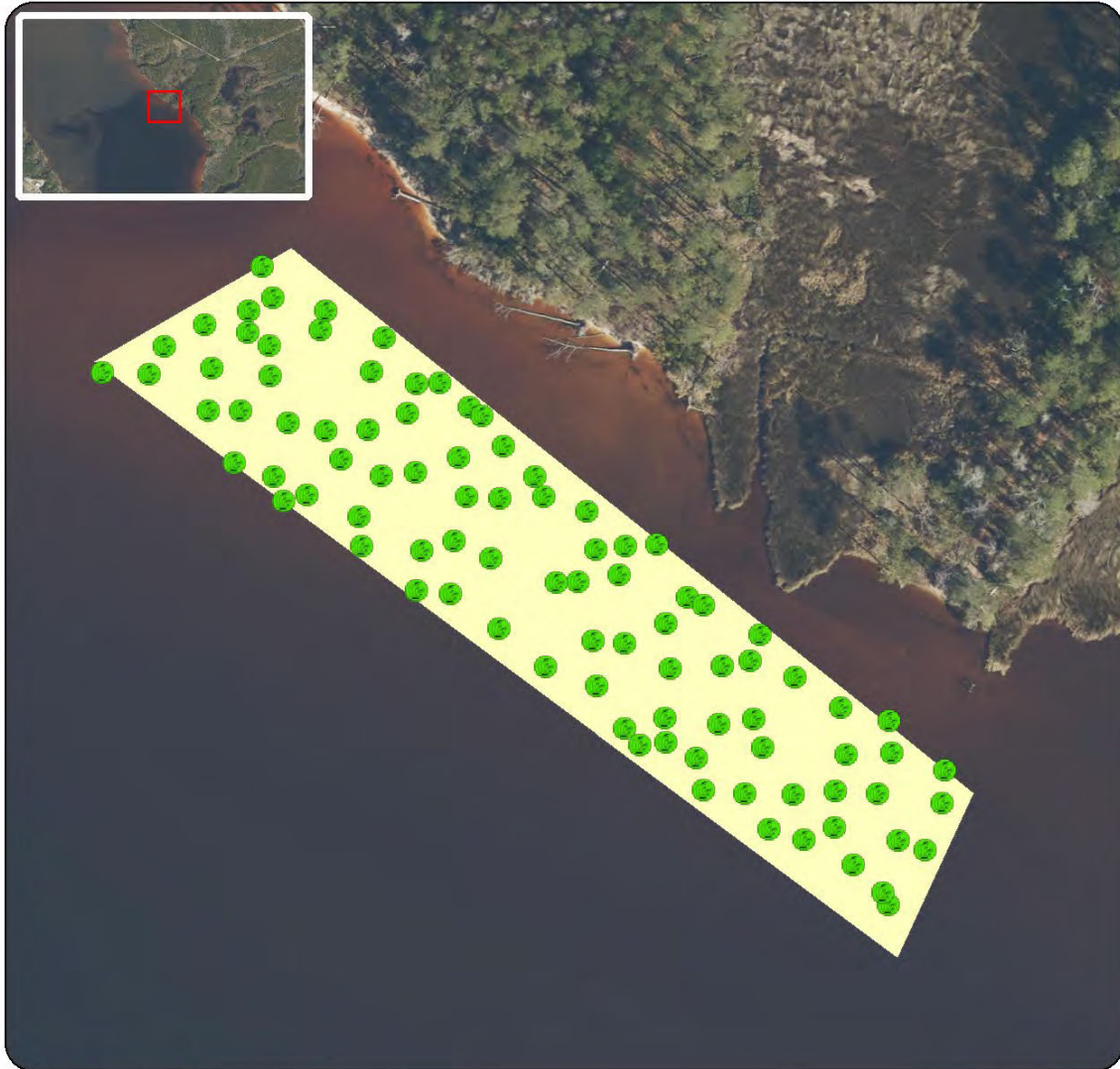


Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet



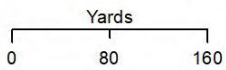
Proposed Lease ID/Number: 22-019BL/22-020WC
Changing Tide Renovations, LLC - Charles Allen & Mason Allen

Date: 6/13/2022



Proposed Lease ID/Number: 22-019BL/22-020WC
Changing Tide Renovations, LLC - Charles Allen & Mason Allen

Date: 6/13/2022



- Proposed Lease Area
- Approved

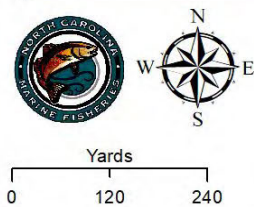
Acreage: 3.72

Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet



Proposed Lease ID/Number: 22-019BL/22-020WC
Changing Tide Renovations, LLC - Charles Allen & Mason Allen

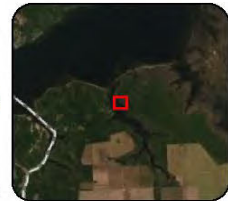
Date: 6/13/2022



- Proposed Lease Area
- Lease Type**
- Other Proposed Water Column
- Other Proposed Bottom
- Bottom

Acreage: 3.72

Coordinate System: NAD 1983 StatePlane North Carolina FIPS 3200 Feet







SHELLFISH LEASE INFORMATION

June 13th, 2022

Charles Allen and Mason Allen – Changing Tides Renovations, LLC
3.72 Acre Bottom Lease 22-019BL and Water Column Amendment 22-020WC
South River
Carteret County

NAME OF REVIEWER: Andrew Haines

DATE REVIEWED: 6/17/2022

SHELLFISH SANITATION

PLEASE ANSWER THE FOLLOWING QUESTIONS, INCLUDING ANY COMMENTS THAT YOU FEEL ARE PERTINENT.

1. What is the current status of the area described above concerning closures issued by your office to the harvest of shellfish?

Approved Conditionally Approved Prohibited

Comments: Although the waters surrounding this proposed lease location are classified as Approved, emergency closures of the area can be made following extreme rain events associated with hurricanes, tropical storms, or other unusually strong storms.

2. If the current status is “Conditionally Approved”, in your opinion what percentage of an average year would the area be restricted to shellfish harvesting?

25% or less 25%-50% 50%-75% 75% or more

Comments: Over the past five years, the waters surrounding this proposed lease have been closed for an average of 26 days per year (7%).

3. Has the status of this area changed within the last year? Yes No

Comments: _____

4. Do you expect the current status of this area to change in the near future? Yes No

Comments: Although we do not expect any changes in the status of this area in the near future, all growing area classifications are reevaluated on a regular basis, and the classification of this area could change if there is a change in water quality.

Additional Comments:

We would like the applicants to be informed of the following details if this lease application is approved:

- a. The applicants indicate that they intend to [REDACTED] Additional handling requirements apply to this practice, so the applicants should review [SS-1](#) and [SS-2](#), or

call the Shellfish Sanitation and Recreational Water Quality Section to discuss those requirements.

- b. Shellfish transported away from the lease during a storm may be exposed to additional contamination beyond what impacts the lease itself, and may be subject to special handling requirements in order to best protect shellfish consumers. If shellfish product is found outside of the boundaries of the lease following a storm, the leaseholder should contact the Shellfish Sanitation and Recreational Water Quality Section at 252-726-6827 to discuss best practices for handling those shellfish. A line describing this requirement and including the phone number should be added to the lease-specific Storm Management Plan so that this information is readily accessible following a storm.

Internal Review for Proposed Shellfish Lease Fisheries Management

Applicant: Changing Tide Renovations, LLC, Charles Allen and Mason Allen

Location (waterbody and county): South River, Carteret County, 3.72 Acres

Lease Type and Number: Bottom and Water Column Shellfish Lease (22-019BL / 22-020WC)

Reviewed by: Tina Moore Date: June 15, 2022

1. Describe the type and frequency of Fisheries Management activities at or near the proposed lease area (please include sampling activity and fishing gears).

No Fisheries Management activity occurs in the footprint or vicinity of the lease.

2. Discuss any potential impacts the proposed area would have on commercial fishing activities (please include distances, time span, and types of fishing activity).

Commercial fishing activities in the general area near the lease could include gill nets, flounder gigs, crab pots, shrimp trawling, and hand harvest of oysters along the shoreline. Crab pots must be removed from the water for a short period in the winter; this fishery is most active from May to October. Commercial flounder gigging is most active during the summer and fall months and are limited to a short season for regulatory protections on southern flounder. Gill nets can occur year-round but depend on the seasonality and movement of fish and regulatory limitations. Large mesh anchored gill nets are also limited to a short season for regulatory protections on flounder and when protected species interactions are higher. The brown shrimp season occurs in the summer months, peaking in late-July and white shrimp are more predominant in the fall, peaking in late October and November. Shrimp trawling in the South River waterbody can only occur in the deeper water outside of the 6-foot depth to reduce conflicts with crab pots.

3. Discuss any potential impacts the proposed area would have on recreational fishing activities (please include distances, time span, and types of fishing activity).

Recreational fishing activities in the general area near the lease could include flounder gigging, RCGL gear use (gill nets and shrimp trawls mostly), and hook and line. These activities could occur year-round but are more likely during the months from May to October. Hook and line activities also vary with the seasonality of the movement of the fish and dependent on the fish species. Flounder and spotted seatrout hook and line fishing is popular in this area and the frequency of use will vary with the availability of the fish and regulatory seasons. Recreational fishing for flounder is most active in the summer and fall months but is limited to a compressed season for protective measures on southern flounder. Spotted seatrout hook and line activities are most active from September through December and varies from year to year. Recreational flounder gigging can occur in the area from May to October with highest effort in the late summer and fall months and are also limited to a compressed season for further protections on southern flounder. The brown shrimp season occurs in the summer months, peaking in late-July and white shrimp are predominant in the fall, peaking in this system in August through October.

4. What (if any) public comments have you heard regarding this site?

No public comments have been received by Fisheries Management regarding this proposed lease.

5. List any agencies Fisheries Management recommends notification for comment, other than the following: Marine Patrol, Shellfish Sanitation, Division of Coastal Management, Division of Water Resources, US Army Corps of Engineers.

Fisheries Management does not recommend notification of other agencies for comment other than those noted. Boating activities occur in this area for both recreational and commercial use. Waterfowl hunters also move through the area as well, but Fisheries Management cannot provide specific estimates.

**Internal Review for Proposed Shellfish Lease
Marine Patrol**

Applicant: Changing Tide Renovations, LLC, Charles Allen and Mason Allen

Location (waterbody and county): South River, Carteret County, 3.72 Acres

Lease Type and Number: Bottom and Water Column Shellfish Lease (22-019BL / 22-020WC)

Reviewed by: Justin Lott and Jonathan Morriss

Date: 6-24-2022

1. Describe the type and extent of public trust uses or other activities at or near the proposed lease regarding the following:
 - a. Recreational and/or commercial fishing (include months of the year, frequency of use, types of gear, and distance from activities)
 - Commercial crab potting during the months of June through November will have crab pots set close to (within 50 yards) of the proposed lease site.
 - Commercial gill netting and strike netting during the spring and fall for trout and summer and fall for mullet -especially along the shallow sandy bottom of the lease site area.
 - Recreational hook and line fishing from vessels throughout the year will occur in the area – particularly for anglers targeting drum and trout. This fishing activity could happen on the proposed lease site.
 - b. Boating (navigating and/or recreational anchoring). Indicate months of the year, and type of activity, distance from activities)
 - 100 to 200 yards south of the proposed lease site is a popular site for larger vessels (ex. Sailboats) to anchor at. This occurs mostly during the warm summer months.
 - c. Other recreational/commercial activity in the area (e.g. hunting, swimming)
 - During the fall and winter there are two duck blinds within 50 yards of the proposed lease site. If they are utilized again during duck hunting season hunting activity will be on the proposed lease site.

2. What (if any) public comments have you heard regarding this site?

None.

3. Are you aware of any history of compliance issues with this applicant? If so, please indicate date and issue?

None.

4. Please provide any other comments regarding this lease siting or suggestions to reduce potential conflict with existing public trust uses.

None.

ROY COOPER

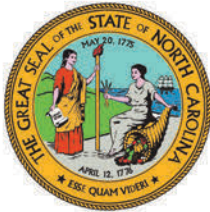
Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director



NORTH CAROLINA
Environmental Quality

TO: Marla Chuffo, NC Division of Marine Fisheries

FROM: Daniel Govoni, Policy Analyst, Federal Consistency Coordinator

SUBJECT: Changing Tide Renovations LLC, Charles Allen, and Mason Allen
(22-019BL/22-020WC)

DATE: August 9, 2022

Thank you for the opportunity to comment on the lease application for Charles Allen and Mason Allen, for a 3.72-acre Bottom Lease and Water Column Amendment, South River, Carteret County. Please consider the following comments in your lease application process.

- The applicant indicates [REDACTED] will be used as part of the operation. Depending on the location and any [REDACTED] associated with these methodologies, a CAMA permit may be required. Please have the applicant contact Jonathan Howell (252) 515-5404 at the Division of Coastal Management to determine if a permit is required.
- CAMA § 113A-103(5)(a) defines development to include the construction or enlargement of a structure, excavation, dredging, filling, dumping, removal of clay, silt, sand, gravel or minerals, bulkheading, driving of pilings, clearing or alteration of land as an adjunct of construction, alteration or removal of sand dunes, alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal, or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5). If permanent structures are proposed, the applicant should be notified that a CAMA Permit will be required.
- To ensure there is no hazard to navigation associated with the lease, at a minimum, permanent reflectors or reflective tape shall be attached to any markers associated with this lease to make them visible during hours of darkness or inclement weather.



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808

From: [Perry, John M](#)
To: [Chuffo, Marla](#)
Subject: RE: Proposed Shellfish Lease Review –Changing Tide Renovations, LLC, Charles Allen and Mason Allen, 22-019BL / 22-020WC, Carteret
Date: Tuesday, June 14, 2022 12:55:10 PM
Attachments: [GC4270 for NW48 signed with effective date.pdf](#)
[image001.png](#)

Good afternoon,

The DWR has reviewed the application from Changing Tide Renovations, LLC, Charles Allen and Mason Allen of Morehead City, for a 3.72-acre Bottom Lease and Water Column Amendment (22-019BL / 22-020WC), in South River, Carteret County which are classified as SA;HQW,NSW. Based on the application and supporting documentation provided by the DMF staff there do not appear to be potential impacts to SAV and SAV habitat. However, this office has concerns regarding other commercial and recreational usage limitations associated with the proposal due to the acreage of open water impact.

If the US Army Corps of Engineers issues Nationwide Permit 48 for this proposal, then no DWR written approval will be required under our current General Certification No. 4270 (see attached). Please feel free to contact me if you have any questions or I can be of assistance.

John Perry
Environmental Specialist II
Division of Water Resources
Department of Environmental Quality

127 Cardinal Drive Extension
Wilmington, NC 28405
Office: (910) 796-7341
Cell: (910) 617-9577

**N.C. Division of Marine Fisheries – Habitat and Enhancement
Shellfish Lease and Aquaculture Program – Public Hearing**

February 15, 2023

Present: Owen Mulvey-McFerron – Program Coordinator, Shellfish Lease Program
Teri Dane – Shellfish Lease Biologist
Marla Chuffo – Administrative Specialist I
Dustin Walters – Staff
Anthony Frost - Staff
Scottie Tripp – Staff
George Stilson – Staff
Robert Farnell - Staff
Elizabeth McCormick – Staff
Patricia Smith – Staff
Jeff Moore – Staff
Zach Harrison - Staff
Ashley Bishop - MPO

Attendees:

Brad Rich, Nancy Dupuis, Stephanie Foss, Hans Hofe, Mandy Uticone, Pat Tester, Bobby Smith, Jud Kenworthy, Jamie Ridenhour, Kenneth Brennan, Mary Hamman, Adrienne Strickland, Cynthia Delafuente, Kyle Frey, Ben Strickland, Grayson Parker, Tyler Chadwick, Keith Larick, Ally Allen, Mason Allen, Kent Gitter, Chris Allen, Chris Matteo, Cindy Baker, Mack Baker, Lori Stokes, Kevin Brown, Cyndi Brown, Phillip Lannan, John Foss, Creighton McNeil, Brittney McNeil, Marie Frey, Patrick Jest, Joe Harvey, Frank Milchuck, Jacob Milchuck, Joseph Michael, James Morris Sr., Kevin Daniels, Eric Herbst, Jet Matthews, Matt Godwin, Doug Brady

Meeting: 15 February 2023, 6:08-6:40 PM via in Person and WebEx for Carteret County proposed shellfish lease. Location at Central District Office, 5285 Hwy 70 W, Morehead City

Applicant(s): Benjamin Strickland, Tyler Chadwick, Hershall Kevin Brown, Charles Merritt, Charles Allen, John Foss, Austin Goodwin, James A. Morris Sr., James A. Morris Jr., Cynthia Delafuente, James Kyle Frey (2), Nancy Dupuis, Patrick Tosto, Lori Stokes, Joseph McMichael, Kent Gitter

I. Meeting

At 6:08 pm the public hearing was called to order by Owen Mulvey-McFerron:

“I’d like to call this Shellfish Lease Public Hearing to order. My name is Owen Mulvey-McFerron, and I am the Shellfish Lease and Aquaculture Program Coordinator of the North Carolina Division of Marine Fisheries. I will be serving as the hearing officer tonight.

The purpose of this public hearing is to receive public comment on proposed shellfish leases in Carteret County. Site investigations by division staff have determined that these proposed shellfish leases generally meet the standards for shellfish leasing under NC General Statutes and NC Marine Fisheries Commission rules. The director of the division has authorized this hearing to receive public comment.

Tonight's hearing is also being conducted virtually, so we have folks participating by telephone and through the WebEx virtual meeting application. PowerPoint slides presented tonight are also available on the division's website for those participating by telephone. This hearing is being recorded and is a public record. All verbal comments, chats, messages or other written communications between members of the public body regarding the transaction of the public business during this meeting are deemed a public record. This hearing is a formalized process where we take only public comment on the proposed shellfish leases that have been noticed in the Carteret News Times Newspaper on January 15th and January 22nd, 2023, and on the division's website. No decisions will be made at tonight's hearing. This hearing is also not a dialogue or forum. Any discussion or discourse should be held until after the hearing concludes. Written comments on these shellfish leases can be submitted to the division up to 24 hours after the public hearing. If you wish to speak tonight, you need to sign up on the list we have by the door on your way in. If you are not already on the speakers list, I will ask if anyone else wishes to speak at the end of the meeting at which point you may provide comment and then we will ask that you sign the speakers list. Now we will do a roll call of the folks participating on Webex or by phone. Please be advised, all participants will be recorded. Patricia Smith has been taking attendance as people have signed into the meeting. She will now finalize that and go over the information on how to participate."

Patricia: "Thanks Owen. I have been taking your names for our attendance records and asking who would like to speak as you have been signing in. Hans Hofe, would you be speaking tonight? He declined. Bobby Smith, can you hear me?"

Hans Hofe: "Okay, I'll speak for Bobby. He's in Dare County. I'm sure he's not speaking, he's listening."

Patricia: "Okay, thank you. Okay, so that gets everyone then. So later in the meeting I will go down the list of those who indicated they wanted to speak, which is right now, no one and then I will tell you then how, if someone decides they want to speak."

Owen Mulvey-McFerron: "As a reminder, no decision will be made at tonight's hearing. All public comment received tonight and during the public comment period will be taken into consideration. I will give each shellfish lease applicant an opportunity to speak first and then I will open comments to anyone else who wishes to be heard. I'll call on commenters by name in

the order in which they signed up to speak. Comments from all speakers including the shellfish lease applicants should be limited to no more than three minutes. I will indicate when your time is up at which point you should return to your seat. If you are participating on online, please mute your microphone after you finish speaking. When you get up to podium, you'll see the conference call speaker. There will be a red microphone on there. Press the microphone, it'll turn blue and then you can speak.

When you're done speaking press again, it'll turn red, and then you can go back to your seat. Once called please come to the podium and state your name and if applicable any organization you are representing or where you are from, which lease or leases you were commenting on and your comments, please direct your comments to me and not through the rest of the audience. Please be courteous and respect all people who wish to speak. If you were discourteous or disruptive, I will ask you to leave. If anyone has questions not directly related to the proposed shellfish leases, staff and I will be happy to meet with you after the hearing. And with that, I will read information on proposed shellfish leases.

First, we have a 2.06-acre shellfish bottom and water column lease applied for on July 6th, 2021, by Old Salt Oyster Company, agent Benjamin Strickland Jr., located in Bogue Sound. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on May 27th and 29th, 2022, which found zero bushels of shellfish per acre and zero submerged aquatic vegetation, which I will refer to as SAV for the rest of the hearing.

Next, we have a 2.12-acre shellfish water column lease applied for on March 21st, 2022, by Linda Jolly and James Tyler Chadwick, located in the Newport River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on May 16th and June 15th, 2022. No samples were collected because the proposed water column lease overlies an existing shellfish bottom lease.

Next, a 3.91-acre shellfish bottom and water column lease applied for on April 5th, 2022, by Hershall Kevin Brown, located in the White Oak River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on May 5th and 12th, 2022, which found 4.38 bushels of shellfish per acre and 1% SAV.

Next, we have a 1.83-acre shellfish bottom and water column lease applied for on April 12th, 2022, by Charles Merritt located in Ward Creek. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on May 19th and 23rd, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.72-acre shellfish bottom and water column lease applied for on April 19th, 2022, by Changing Tide Renovations, LLC, agent Charles Mason Allen, located in South River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on June 9th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.67-acre shellfish bottom and water column lease applied for on June 6th, 2022, by John Foss, located in Adams Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on July 6th and 7th, 2021, which found zero bushels of shellfish per acre and zero SAV.

Next is a 3.44-acre shellfish bottom and water column lease applied for on June 9th, 2022, by Austin Goodwin, located in Ward Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 7th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next, a 3.32-acre shellfish bottom and water column lease applied for on June 13th, 2022, by Sea Level Shellfish Co., LLC, agent James Morris Jr., located in Long Bay. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on June 30th and July 21st, 2022, which found zero bushels of shellfish per acre and 7% SAV.

Next, an 8.61-acre shellfish bottom and water column lease applied for on June 13th, 2022, by James Morris Sr., located in Long Bay. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 2nd & 4th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is a 5.08-acre shellfish bottom and water column lease applied for on July 15th, 2022, by Seafood for the Soul NC, LLC, agent Cynthia Delafuente, located in lower North River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on August 25th and 26th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is an 8.22-acre shellfish bottom and water column lease applied for on July 18th, 2022, by James Kyle Frey, located in Newport River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on September 12th & 13th, 2022, which found 0.05 bushels of shellfish per acre and zero SAV.

Next is a 3.86-acre shellfish water column lease applied for on July 18th, 2022, by James Kyle Frey, located in Newport River. The management plan indicates the use of floating and bottom gear for the commercial production of oysters. Division staff conducted a site investigation on September 2nd, 2022. No samples were collected because the proposed water column lease overlies an existing shellfish bottom lease.

Next is a 4.11-acre shellfish bottom and water column lease applied for on July 21st, 2022, by Nancy Dupuis, located in North River, below the bridge. The management plan indicates the use of floating and bottom gear for the commercial production of oysters and clams. Division staff conducted a site investigation on August 30th and 31st, 2022, which found 0.41 bushels of shellfish per acre and zero SAV.

Next is a 1.87-acre shellfish bottom lease applied for on August 1st, 2022, by Patrick Tosto, located in lower North River. The management plan indicates the use of predator nets for the commercial production of clams. Division staff conducted a site investigation on August 30th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Next is a 1.88-acre shellfish bottom and water column lease applied for on August 1st, 2022, by Dick Stiffner's Oyster Farming, A Sustainable Way to Grow, LLC, agent Lori Stokes, located in lower North River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on August 24th and 25th, 2022, which found zero bushels of shellfish per acre and 2% SAV.

Next is a 7.20-acre shellfish bottom and water column lease applied for on August 2nd, 2022, by Joseph McMichael located in lower North River. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 1st, 2022, which found 0.05 bushels of shellfish per acre and zero SAV.

Last is a 1.34-acre shellfish bottom and water column lease applied for on August 1st, 2022, by Kent Gitter, located in Ward Creek. The management plan indicates the use of floating gear for the commercial production of oysters. Division staff conducted a site investigation on September 7th, 2022, which found zero bushels of shellfish per acre and zero SAV.

Now, I will call on the applicants and give them an opportunity if they wish to speak to their proposed shellfish lease. This is not a requirement of the applicants. Please limit your comments to three minutes. Once your three minutes are up, we will move to the next speaker.

I would like to call on Benjamin Strickland Jr. to present their proposed shellfish lease.”

Patricia: “I may have him on here, let me check.”

Owen: “Benjamin Strickland, just stood up” *Declined comment.*

Owen: “I would like to call on James Tyler Chadwick to present their proposed shellfish lease.”

James Tyler Chadwick: “I’ll keep my comments short, to the point. We got a lot of people here, but I just want to thank the State for the work, they put into the proposed bottom. I look forward to looking forward to working that bottom putting floats oyster bags on it. I look forward to cleaning North Carolina waters.”

Owen: “We’ll handle any questions after we’ve closed the official part of the hearing. Thank you for comments.”

“I would like to call on Hershall Kevin Brown to present their proposed shellfish lease.”
Declined comment.

“I would like to call on Charles Merritt to present their proposed shellfish lease.”
Declined Comment.

“I would like to call on Charles Mason Allen to present their proposed shellfish lease.” *Declined comment.*

“I would like to call on John Foss to present their proposed shellfish lease.” *Declined comment.*

“I would like to call on Austin Goodwin to present their proposed shellfish lease.”
Declined comment.

“I would like to call on James Morris Jr. to present their proposed shellfish lease.” Not present.

“I would like to call on James Morris Sr. to present their proposed shellfish lease.”
Declined comment.

“I would like to call on Cynthia Delafuente to present their proposed shellfish lease.”
Declined comment.

“I would like to call on James Kyle Frey to present either of his proposed shellfish leases.”
Declined comment.

“I would like to call on Nancy Dupuis to present their proposed shellfish lease.”

Nancy Dupuis was online: “Good evening, everybody. I do not have any comments.”

“I would like to call on Patrick Tosto to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Lori Stokes to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Joseph McMichael to present their proposed shellfish lease.”

Declined comment.

“I would like to call on Kent Gitter to present their proposed shellfish lease.”

Declined comment.

“So, with that, we're going to move to the public comment portion of the meeting, and I'll call a first speaker here in a second. And I would like to remind speakers to limit their comments, three minutes. When you get to two minutes, I'll hold up by finger indicating you've one minute left. And then when you reach three minutes, I'll hold my hand, indicating these wrap-up comments, and allow the next person that comes to me. As a reminder, please state your name where you're from, if you're representing any organization and then your comments on the proposed shellfish leases. If you have any questions, we will address them after the public hearing has concluded.”

“So, with that first name, I have here is Jet Matthews, public comment. Okay. (Declined to speak) All right. So next I have Matt Godwin.”

Matt Godwin: “First my name is Matt Godwin. I'm an attorney in Beaufort, and a member of Lukens Island Hunting Club. We are before you in opposition, to the Changing Tide Renovations proposed shellfish lease. A number of documentation, Owen, have been submitted to the Division of Marine Fisheries prior to today but I would like to highlight a few things that have been submitted. This is obviously being addressed pursuant to North Carolina, General Statute, 113 -202, and in that these leases have to be considered in relation to navigation, fishing and recreation. Where this proposed lease lies on the shore of South River interferes with all three of those things. The agencies report that done this summer voices concerns for all three of those things. Both recreational fishing, commercial fishing and more importantly, duck hunting. Duck hunting that is done along our property along shores to South River is done through both permanent blinds and also accessing the shores of the river through the property. We've got designated trails reaching the edge of South River exactly where this proposed lease is, that would prevent us from using our land for hunting. If that lease was allowed to proceed within

150 or 200 yards for the shore, we essentially would not be allowed to go to the end of the trails to take advantage of our property to hunt. Furthermore, as the report has indicated, there is two permanent duck blinds already established within 50 yards of this proposed lease. If the proposed lease went forward, we would essentially be prohibited from using our own duck blinds. Also, this proposed lease, Owen, is dangerously close to where the polluted water line is that's up south river. The last thing I'll say, and if that polluted line changes, it could be within the area of this proposed lease. I've got a few documents to give to you. The last thing I'll say is that there is a proposed development plan for our land, that would allow lots along these edges of South River. If the shellfish lease went into place, it would essentially terminate the opportunity in this section to allow any development. So, I'd ask you to take those comments into account. And I'm going to ask that you receive the documentation. Thank you.”

Owen: “All right, now we're going to move on to Doug Brady, am I reading that right? Mr. Brady?”

Doug Brady: “Good evening, thank you for the opportunity to speak. This is in reference to the Changing Tide Renovations lease on South River, that Mr. Godwin spoke about. First, a little bit of background, I'm very supportive of Mariculture and the industry and its is wonderful to see how it's growing in the county, and I have experiences as a lease owner and grower of shellfish, and it's come along way. I do think that in granting these leases though, it is paramount that siting of them minimizes user conflicts. I know that the division and the marine fisheries commission works toward that. It is my opinion, that this particular lease where it's sited causes user conflicts with a number of people. Also, the land adjacent owners. You know, riparian rights issues or right given by the state, adjacent landowner is entitled to use, the water from the property. And we can't restrict people from using property in front of our land, but we can build structures and docks. It's my opinion that granted this lease which is 30 or 40 feet it appears off our shoreline would give exclusive right of this area. Basically, in the water column to a private use, thus infringing on our riparian rights and on the rights of just the general public that use this area, which is a used for fishing boating, anchoring, etc., which is noted in the report. This lease is in the direct corridor of riparian rights that we do have a development plan for and I know that the division and the Marine Fisheries division did push the riparian line, to the 250 feet out on the developed shoreline line did not address the undeveloped shoreline and in my opinion that is wrong and that is it needs to be looked at again because we do have rights they want to develop shore line and the fact that it's not done now I think it should be pushed out. It should be pushed out to 250 feet from property. Thank you.”

Jet Matthews: “Okay, my name is Jet Matthews. I'm a lifelong resident of Craven and Carteret Counties. I have owned and operated Marina Management Services, a development company corporation that builds, develops, and manages marinas. One of which is Matthew's Point Marina on the Neuse River built 1987 has 107 slips, and the Morehead city yacht basin where we

have 87 slips, 1400 feet of sidetide dockage. I'm also one of the founding members of Lukens Island. I'd like voice my opposition for this water column lease. I'd like everybody to know that I think it's a great program, and I'm not opposed to the program, I'm just opposed to citing this particular location. And one of the reasons I'm following up, we made three submissions, all of the other documents on it. Because I'm in the Marina business, one of the key anchorages on the entire Neuse River, is South River. I started Matthews Point in 1987 with a hundred boats, they all mainly either go to Oriental, or they go to South River and anchor. A lot of these people are older, a lot of the people that moving north-south, are older, they're transient in this area. We take in between a thousand and 1200 transients every spring and every fall going back and forth. They usually have stopped either there or Oriental before they make their trip into the yacht basins. So, it's a large number we have coming into that area, they are anchoring, sometimes they come in late at night. Like these people are older and they usually put their dogs on a dingy go ashore at the graveyard or on some sandy beaches there. I have some concerns that because these people probably only have a flashlight; that they're going to get overboard to get in there and not see these leases. This lease I think is right where they've been coming and I'm gonna submit these ads that are running in published Atlantic Intercoastal Waterway Guides, there's three of which are the salty of southeastern cruisers net, where their vectoring these people in and telling them this is where you can anchor and this is where you can go. I think I've covered it.”

Chris Matteo: “My name is Chris Matteo. The head of the North Carolina Shellfish Grower’s Association. I do not have a lease in the pool today but wanted to make some comments because I have a farm in Pamlico County that's surrounded by the Jones Island Club which is the hunt club that has sixty-four hundred acres. They're primarily duck hunters, we coexist nicely. Another point I want to make is, I've lived in Oriental. I lived in Adams Creek. South River is one of the most remote locations in Carteret County, as far as citing leases. Lukens was abandoned, the actual little town of Lukens, about a hundred years ago, or 110 years ago, and there's been no development there since. We do understand that duck hunting is important. We're all for duck hunting. Shellfish growers can coexist with duck hunters, we do it all the time, currently. The lease area where they're talking about, yes people do drop anchor nearby, but South River is a large place. I lived on Adams Creek, next creek over, and same thing happened there. You know, if you're trying to support folks and trespassing at night, then I understand there to be an issue. But, you know, Lukens in that area is privately owned. So, people shouldn't be coming ashore at night, really, for any reason. We've been leasing water bottom for 165 years in this state to cultivate shellfish. And I think it's really important when it comes to user conflict to understand that, first of all, from a development perspective, if there are current plans to develop this site within the next 10 years, I think it's more relevant. It's been abandoned or not developed for over a hundred years now, with exception of a graveyard. So, I support the lease in that site, South River. And I also support every other grower before you today. Most of them I know personally through the shellfish growers association, I'd say, 70% of them are active

growers currently looking to either expand or relocate because of a variety of dynamic conditions in the estuary. And I just wanted to make those comments in support. Also, the perspective growers coming out of our local Community College.”

Patricia – (call speakers)

Now Patricia will call the folks who are joining us via Webex or by phone who wish to speak. She will unmute you after she calls your name. No one chose to speak online.

It does not appear that anyone else would like to speak, so I'm going to turn it back over to you. Is there anybody else that is here this evening that would like to submit a public comment has not already.

Owen - “Is there anyone else who would like to comment on any of these proposed shellfish leases?”

“If no one else wishes to speak, I will close this public hearing. I would like to thank you for your time and participation in this process. Time of closure is 6:40 P.M.

Stop Webex Recording

Now that the hearing has concluded, I will take any questions that folks may still have.


Online Public Comments # 1-18

Final

February 15, 2023 Carteret County Shellfish Lease Hearing

| Created | First Name | Last Name | State/Province | Please type your comments in the box below: |
|------------------------|------------|-----------|----------------|--|
| 2023-01-23 08:37:58 | Chris | McCaffity | North Carolina | <p>These people have applied for public water leases in good faith based on existing laws. My public comments are not intended to deny their lease applications. They are intended to get people thinking and promote a moratorium on any new public water leases that include water columns and/or growing genetically sterilized species. All but one of these lease requests include water columns. Water column cages restrict the public's freedom to access navigable waters while negatively impacting natural water flow and sedimentation patterns. There is a HUGE difference between growing native clams and oysters that can naturally reproduce on the bottom and clogging our waterways with cages full of genetically sterilized species. Genetically sterilized shellfish should be listed as such so consumers know what they are eating. Public Shellfish Gardens equal to existing public water leases should be stocked with native shellfish that can naturally reproduce and be available to all recreational and commercial license holders. Please do not further restrict our freedom to access public waters and resources by continuing to allow and even promote water column leases. Please label all genetically sterilized species being sold to the public. If you are one of the lease applicants, please do not grow genetically sterilized species and keep your operation on the bottom. Thank you.</p> |
| 2023-02-07 10:05:50 | Sue | Hamann | North Carolina | <p>We at Hamann Clammin' are pleased to support the applications of James A. Morris, Sr., and James A. Morris, Jr., for shellfish leases in Long Bay. Jimmy Morris, Sr., is a mentor to us and many shellfish farmers. His farming practices are exemplary and a guide to us all.</p> <p>As shellfish farmers in the [REDACTED], we also support the lease applications of Linda S. Jolly and James T. Chadwick and James K Frey. We hope to get to know you soon.</p> <p>Sue Hamann & Phil Hamann, Hamann Clammin'</p> |
| 2023-02-07 14:50:05 | John | Haroldson | North Carolina | <p>The proposed Changing Tide Renovations, LLC lease on South River would have a seriously detrimental impact on property that I own with a group of other individuals. Lukens Island has owned the property adjacent to the proposed lease since approximately 1991. We have been hunting this shoreline for approximately 30 years, using retriever dogs from fixed and mobile pontoon blinds as well as floating layout boats. We also fish , shrimp, kayak and water ski along this shoreline. Any commercial oyster operation would destroy our ability to enjoy these activities. Also, we have recently developed a master plan to subdivide the property into</p> |

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| | | | | individual developable waterfront lots that would be installing docks and, potentially, a community marina. Any new or proposed leases would be more appropriate adjacent to state owned property on the Neuse River, Turnagain Bay, Abraham Bay, Broad Creek, etc... |
| 2023-02-07 16:04:02 | Matt | Godwin | North Carolina | <p>I am writing in opposition to the proposed Changing Tide Renovations, LLC. (Charles Allen, agent), 3.72 acres bottom lease and water column lease in South River. This proposed lease just feet off of Lukens Island Timber Enterprises property of which I am a member. This lease poses a significant interference with the use and future development of the South River shoreline that Lukens Island Timber owns.</p> <p>I have hunted the shoreline where this proposed lease is since I was in college with my now deceased father in law George Sutton, a founding member of Lukens Island in 1993. We would hunt in blinds along the shores of South River or park four wheelers on the bank of the river and hunt from the rivershore. This type of oyster lease would eliminate the opportunity to hunt from our own shorelines. Furthermore, we would not be able to set decoys or use dogs to retrieve with an oyster lease off the shore line. In the summer and fall, I have fished the shore line of South River at the Lukens Island property dozens of times with family and friends. Allowing a large scale oyster lease in this area would essentially deprive fisherman to fish along this shore line. Not to mention the boating hazard this type of lease would create, both at day and night. Fisherman use this area at night for fishing, gigging and shrimping. Lukens Island Timber Company hired a consulting group approximately 3 years ago to draft a development plan for our land along South River. This development accounts for 146 individual lots to be sold and developed in this exact area. The long term plan includes waterfront homes with docks, a new clubhouse and a marina. This proposed lease would be detrimental to this future plan . Certain shoreline further up South River may more easily accommodate such shellfish leases. Any benefit of placing this type of lease off the shore line owned by Lukens Island Timber Company in South River would be significantly outweighed by both the negative and potentially dangerous consequences of allowing it . Thank you , Matthew H. Godwin, Attorney at Law</p> |
| 2023-02-08 10:28:52 | Ed | Burton | North Carolina | <p>I am Dr. Ed Burton, President of Lukens Island Timber Enterprises, LLC., the owners of the majority of the Lukens Island shoreline on the east side of the South River. We strongly oppose any further shellfish leases along our shoreline from slightly north of Eastmans Creek to the Neuse River. We have gone to considerable expense to have lot plans drawn up to develop this area for waterfront houses or RV's, seawall, piers, boat ramps, etc. Any shellfish areas would greatly interfere with this plan. It, otherwise, presents problems and potential hazards for boating, fishing, hunting, skiing, dogs, etc. I hope other suitable areas can be found. Thank you for your help. Ed Burton</p> |

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| 2023-02-08 10:29:45 | John | Ward | North Carolina | <p>Re: Application of Changing Tide Renovations, LLC 's Application for oyster bed permits in South River, Carteret County, NC.</p> <p>As an equity owner of Lukens Island Timber Enterprises, LLC, I strongly oppose the granting of the referenced permits for the reasons submitted by the other owners of Lukens. In addition, Lukens has been approached by at least two potential purchasers, who have indicated similar uses referenced today by other owners. The granting of these permits would seriously jeopardize a sale. Respectfully submitted, John A.J. ward</p> |
| 2023-02-08 13:38:48 | Aaron | Baker | North Carolina | <p>I am one of the owners of Lukens Island and am opposed to shellfish beds and especially the gear above water along our waterfront. We duck hunt the waters along our shoreline and access our duck blinds by boat and from the shore in addition to float boats. We use dogs for hunting, the beds and gear are dangerous for the dogs as well as the hunters.</p> <p>We, as do many of our South River and Oriental neighbors, use these waters for shrimping, fishing, setting nets, crab pots, water skiing, kayaking and other water recreational activities. Additionally there are many transient boaters that use this water for overnight stays. The beds not only interfere with these activities but create a dangerous environment while navigating the waters.</p> <p>We are also in the process of residential development of the property along our waterfront. We have been working on this for over six years and have spent tens of thousands of dollars on this project. The beds and gear will greatly devalue our property and certainly will jeopardize this on-going development project.</p>  |
| 2023-02-08 14:49:54 | Don | Batten | North Carolina | <p>As a part owner of Lukens Island Land and Timber LLC, I would be strongly opposed to the bottom lease of the 3.72 acres applied for by Changing tide Renovations LLC (Charles Allen agent) in South River. Or any other Lease that would be adjacent to the Lukens shore line in that area. As one of 14 owners we have discussed future plans to develop this water front property and many of us have an interest in actually building personal homes there as well. The view is spectacular and I feel that a shellfish type farm just offshore would take away from the natural beauty of the place. Not to mention be a hazard to water skiers, boating in the area and to dogs</p> |

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| | | | | swimming to retrieve ducks which is a common practice among our membership. There are other areas farther up the river towards Eastmans Creek that would be better suited for this type of operation. Please consider this and I urge you to deny this lease. Don Batten. |
| 2023-02-14 12:13:11 | Alison | Willis | North Carolina | My concerns revolve around only the proposed leases in North River (Carteret County) & Wards Creek (Carteret County). Both rivers are used for crab pots & peeler pots (soft crab operations) & bottom leases would prevent fishermen from utilizing those areas for crabbing (hard crabs & peelers). As it stands, commercial fishermens options for diversification among different fisheries are becoming fewer & fewer, therefore putting more and more pressure on our natural resources. Please do not continue to allow (particularity North River) to be consumed by bottom leases. At the least, please become aware of how specific areas in these two rivers are utilized by fishermen & please don't allow bottom leases in areas that are utilized by other fisheries. Best Regards, Alison Willis |
| 2023-02-14 19:21:33 | Katelyn | Kidd | North Carolina | My concerns revolve around only the proposed leases in North River (Carteret County) & Wards Creek (Carteret County). Both rivers are used for crab pots & peeler pots (soft crab operations) & bottom leases would prevent fishermen from utilizing those areas for crabbing (hard crabs & peelers). As it stands, commercial fishermens options for diversification among different fisheries are becoming fewer & fewer, therefore putting more and more pressure on our natural resources. Please do not continue to allow (particularity North River) to be consumed by bottom leases. At the least, please become aware of how specific areas in these two rivers are utilized by fishermen & please don't allow bottom leases in areas that are utilized by other fisheries. Best Regards, Katelyn Kidd |
| 2023-02-15 11:30:45 | marie | frey | North Carolina | https://youtu.be/hOZTuAKuyxg Please watch this video made by Fork2Farmer:Carteret County. It will support your decision to grant Kyle Frey the lease he is asking for. As his mother, I am so proud of his accomplishments and feel he is a great asset to our community and will only bring great things our way. He is a hard worker, with a wonderful personality that is making a great name for the quality of the oysters coming out of our waters. Thank you for you time. Marie Frey |
| 2023-02-15 14:37:45 | Kenneth | Brennan | North Carolina | I, Ken Brennan, am a resident of Carteret County and oppose these proposed leases in the Lower North River. Lease ID 22-063BL Lease ID 22-061BL Lease ID 22-039BL |

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| | | | | <p>Reasons for opposing these proposed leases are:</p> <ol style="list-style-type: none"> 1. These areas if leased would impact traditional navigation. By traditional navigation I am referring to using existing channels and deeper water in areas that are extremely shallow and limited for safe boating. 2. The spatial map shows how these proposed leases overlay and infringe on either all or portions of existing channels and areas of deeper water. If these proposed leases are granted it would require altering popular navigation routes in waters that are already very limited for boating. I don't see this same problem with other proposed leases being reviewed. 3. Another reason I oppose these proposed leases; they would have a high impact on both recreational and commercial fishing. There is a great deal of fishing effort all around North River Marsh and the marshes adjacent to Goose Bay throughout the year. Just by the nature of where these proposed leases are located, on the edge or in the channel, they would hinder drifting for, or gigging flounder; gill netting for mullet, spot, croaker and hogfish; and rod and reel fishing for red drum and speckled trout. 4. I'll close by saying, I am not opposed to leasing bottom for raising shellfish. I raised shellfish for 15 years and leased bottom myself. What I am opposed to is granting leases that impact safe navigation for boating, while also limiting opportunities for the public to fully utilize historically important fishing locations. The sheer number of leases that are being granted now in NC will all have some level of impact on public use, but these three proposed leases in particular exceed what should be allowed. |
| 2023-02-15 22:32:33 | Chris | Matteo | North Carolina | <p>This comment is submitted in support of proposed shellfish lease 22-019BL and its associated water column 22-020WC on South River in Carteret County.</p> <p>First, the riparian owners (hunt club / timber company) have over 26,000 linear feet of shoreline on the east side of South River. Surely a 850' long shellfish lease situated at the proper distance from that east shore would have little to no impact on the riparian owners' right to duck hunt for a few months a year (if ducks are even present). They cannot control the use of five miles of a state resource just because their land borders the river. Duck hunters and shellfish farmers can coexist (especially at that scale) in this very remote corner of Carteret County.</p> <p>Speaking of remote, the idea that the east side of South River will be developed anytime during the ten-year term (or ever) of the proposed shellfish lease is an extremely remote probability. First, the tiny community that once existed on the land situated on the east side of South River began to disband ninety years ago. There is no current development and no inhabitants on the land in question, and no sign of proposed development. In fact, there are no public roads that</p> |

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| | | | | <p>access this land, and no utilities. Nearby developments with nicely paved roads, utilities, and other infrastructure have struggled to sell plots and build homes over the last 20 or so years. So while the owners may have a "development plan", it should be viewed with great skepticism.</p> <p>Transient boaters that drop anchor in South River will have to navigate through or around the proposed shellfish lease in order to trespass on nearby land. No one can guarantee the safety of passengers on a small craft in NC waters, especially at night. Transient boaters who trespass in the dark are pretty low on the list of reasons to strike down a shellfish lease designed to produce sustainable seafood to feed North Carolina's citizens.</p> <p>No recreational or commercial fisherman have spoken out against the proposed lease. Only a nearby riparian owner that doesn't live on the land and wants to control 5 miles of state resource in a remote area.</p> <p>While "throwing the kitchen sink" of hypothetical conflicts at a proposed lease is an interesting approach, only actual conflicts should really carry any weight.</p> <p>Chris Matteo North Carolina Shellfish Growers Association</p> |
| 2023-02-16 09:52:34 | Christian | Tucker | North Carolina | As a lifelong duck hunter of south river, oyster farms never get in my way, nor do I think they will |
| 2023-02-16 09:56:37 | Doug | Brady | North Carolina | <p>My name is Doug Brady. I am a lifelong resident of Carteret County and reside in Beaufort. I was involved in the Seafood and Mariculture business for over 30 years until around 2005. I have served on many boards including the former NC Legislature Seafood and Aquaculture Study Commission, Atlantic States Marine Fisheries Commission, advisory boards to South Atlantic Fishery Management Council. I am a former Carteret County Commissioner and have served on multiple local boards and regional planning commissions. Presently, I am a trustee at Carteret Community College. I was chairman of the County Commissioners when we funded the aquaculture program at CCC. I also am owner in Lukens Island Land and Timber which owns the property along the shoreline of this proposed lease.</p> <p>I state the above only to give some background on me and subsequent comments below.</p> <p>I am in opposition to granting Changing Tide Renovations LLC a 3.72 acre bottom lease and accompanying 3.72 Water Column lease (22-019 BL, 22-020 WC) in South River.</p> <p>As stated in their review of the proposed lease, The NC Division of Water Resources has</p> |

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| | | | | <p>concerns regarding commercial and recreational use with this lease location. The NC Marine Patrol also voiced concern relative to user conflicts in this location. Recreational hunting and fishing is very prevalent in this area. In addition this is a heavily used anchorage area for transient as well as local vessels. Many boats come over from the Oriental area to overnight.</p> <p>Of primary concern is the impact on the Riparian Rights of Lukens Island Land and Timber. This proposed lease is located in the riparian corridor of Lukens Island Land and Timber. Under the statutes of the State, the adjacent land owner is entitled to reasonable use of the water in front of their property.</p> <p>A lease and especially a water column lease takes that right away and gives it to another entity. The Commission recognized this and have rules that push leases at least 250 ft off developed shorelines.</p> <p>The fact that our shoreline is not developed does not negate our riparian rights. I think the same provision should be for all shorelines and this is a matter I intend to take up with the legislature and legal counsel.</p> <p>In talking with CAMA in the last week, leases do impact the adjacent land owners process in getting docks and can make the process much more complicated....possibly causing the property owner to apply for a major CAMA permit just to get a dock over a lease. The user conflict issue only gets exacerbated. Leases should be sited to avoid future user conflicts.</p> <p>We do have a development plan for our property that has individual water front lots along the South River. This lease impacts those plans.</p> <p>In closing, I support the growth of the mariculture industry in our State but that growth can't come at the expense of all users of our waterways and the riparian rights of adjacent landowners.</p> <p>I encourage the Division to deny this lease application to avoid further user conflicts.</p> <p>Doug Brady</p> |
| 2023-02-16 16:12:40 | Cody | Horn | North Carolina | As a longtime duck hunter and fisherman I haven't had any trouble hunting around any other lease, and I don't see why people would have a problem around this proposed farm. |
| 2023-02-16 16:39:19 | Patricia | Tester | North Carolina | While I understand the potential economic value of shellfish leases in public waters of NC, my concerns centers on two topics. One is the lack of information about the effects of concentrations of shellfish on water quality and the effects of water quality on the shellfish in |

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| | | | | <p>our shallow, poorly flushed NC creeks and rivers. Not only do high concentrations of shellfish contribute nitrogen to the system but the floating shellfish bags are frequently visited by gulls and they contribute as well. In shallow, poorly flushed waters, this could be a problem. The absence of data on flushing rates and circulation in shellfish growing areas combined with a dearth of water quality (chemical) data suggests more careful consideration of shellfish leasing criteria. The concept of carry capacity of a water body to support healthy shellfish and sustain water quality should be considered. Areas like Wards Creek appear to be such a productive growing area that it could easily surpass a healthy state and suffer from low oxygen and other harmful effects.</p> |
| 2023-02-16 16:55:32 | Jet | Matthews | North Carolina | <p>I represent Lukens Island hunting Club I attended the hearing and spoke regarding the long established history of South River anchorages off Lukens Island. I have been in the Marian Buisness (wet slip storage) of sailing and power boats on the Neuse River and Moreheadcity N,C. Since 1987. I would like to call attention to several well known cruising guides The Water way Guide and the Salty Southeast cruisers net . These are two off many that are established and well known and are carried by all transit intercostal boaters on board that travels and down the intercostal waterway.They have been sending boats to anchorages off our shores in South River for 30 plus years . On any given night in the spring through Late Fall there are routinely 8 to 10 vessels anchored there. It has been long established that there is a 3 acre grave yard there open to the public with a nice dingy dock to off load pets for a walk. Sometimes large sailing clubs or cruising groups raft up in this area. Many of these folks come there often 10 or 15 times a season. It is busy. they have a public right to get off their boat there. A gentleman spoke last night and said that people anchoring there didn't go ashore because it was private. He simply didn't know what he was talking about .I would be surprised if he had ever been there. He further made statements about everyone leaving Lukens 100 years ago. He tried to paint a picture of Lukens as if it was abandoned, simply not true! We have Had 16 families living and recreating on Lukens since 1991. We have a 16 bedroom 7 bath lodge with 3 to four full time employees. We have been developing Lukens for well over 30 years and have built nearly 47 miles of all weather roads around and to all of our waterfront property . we finally finished having our formal engineered plans finished by the Culliper Group (Our engineering consultants 5 years ago and are moving forward with our power infrastructure as we speak. We have furnished our plans to the dept.This same individual stated that we had access problems etc, It is amazing that some one could state just absolute nonsense founded in fiction . I wanted to set the facts strait so that there would not be any further confusion of the facts. Thanks so much for your time I can be reached by phone at [REDACTED]</p> |

THE PIKE LAW FIRM, PLLC
ROBERT B. PIKE, II
ATTORNEY AT LAW

[REDACTED]
Morehead City, North Carolina 28557
[REDACTED]

February 10, 2023

Owen Mulvey-McFerron
Shellfish Lease Coordinator
N.C. Division of Marine Fisheries
Via Email: owen.mulvey-mcferron@ncdenr.gov

RE: Proposed Lease in South River by Changing Tide Renovations, LLC.

Dear Mr. Mulvey-McFerron:

My firm represents Lukens Island Timber Enterprises, LLC. (“Lukens”) regarding their opposition to the above proposed shellfish lease in South River. Lukens owns property within 250’ of the above proposed shellfish lease and the vast majority, more than seven miles, of the entire shoreline on the Eastern side of South River. Lukens opposes these proposed leases on several grounds, including but not limited to, the fact that the proposed areas for these leases do not meet the minimum standards for a suitable area for the production of shellfish as defined by N.C. Gen Stat. 113-202.

This proposed lease will not be compatible with the lawful utilization by the public of other marine and estuarine resources, including, but not limited to, navigation, fishing and recreation, as outlined in N.C. Gen. Stat. 113-202(a)(3). The North Carolina Division of Water Resources stated in their review of the application of this proposed lease that, “their office has concerns regarding other commercial and recreational usage limitations associated with the proposal due to the acreage of open water impact.” The internal review of Fisheries Management concluded that the proposed lease would have a year around impact on commercial and recreational fisheries, general boating activities, and waterfowl hunters.

Marine Patrol’s review concluded that the proposed lease site is used to set crab pots, is a popular spot for hook and line fishing, is in close proximity to a popular anchoring site for larger vessels, and that there are two duck blinds within 50 yards of the proposed lease site. According to Marine Patrol, “hunting activity will be on the proposed lease site when these blinds are used.”

Please note that, for safety reasons, in Carteret County, duck blinds are required, by law, to be 500 yards apart. "Within 50 yards" is not a safe distance. Based on the review of the proposed lease by the North Carolina Division of Water Resources, Fisheries Management, and Marine Patrol, this proposed lease should be denied. Due to the foregoing reasons, this proposed lease is not compatible with the lawful utilization by the public of other marine and estuarine resources.

The proposed lease is not a suitable location for the cultivation and harvesting of shellfish in commercial quantities, as outline in N.C. Gen. Stat. 113-202(a)(1). The NCDMF has closed everything South of this proposed lease site due to pollution. E.coli and other harmful bacteria and chemicals do not stop at that line. All creeks surrounding Open Grounds Farm are closed bottom due to pollution, for good reason. *This proposed lease sight is less than 150 yards from the closure line.* Allowing this lease, would mean allowing a lease that would be closed to harvest many days of the year and allowing oysters to be sold to the public that have a high chance of being contaminated with various harmful substances, such as the ones that caused all of the waters located to the South of this lease to be closed.

The proposed lease will violate N.C. Gen. Stat. 113-202(a)(4) because it will infringe upon Lukens riparian ownership rights. Lukens has owned the adjoining property since 1991. It was started as and remains a hunting and fishing club with a clubhouse to accommodate *as many as 40 people*. Lukens has built docks, piers, and launching ramps all along the shoreline to launch boats for boating, hunting, and fishing. Lukens hunts all the marsh points, including the two in front of the proposed lease, from the mouth of South River to the head of Eastman Creek.

Lukens has erected paths to these points to access their blinds and points. Some of these blinds are on shore, some are offshore, some are permanent, and some are temporary. Lukens has built over 75 duck blinds on this shoreline since they purchased this property in the 90s. Some have been destroyed by hurricanes through the years, many remain. Lukens has two blinds within 50 yards of the proposed lease. Lukens is allowed to have blinds this close due to their riparian ownership of the entire shoreline. Allowing this proposed lease would cause this club, whose riparian ownership allows them to erect such blinds, to abandon their hunting spots they have maintained for over 30 years and have invested a great deal of time and money in. Most importantly, the proposed lease would pose a safety issue for anyone working the lease during hunting season. Along with bird hunting, Lukens hunts deer, bear, and other animals in proximity to this lease with rifles that have a range of over 400 yards.

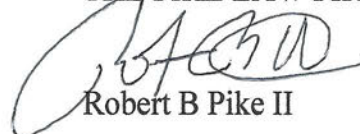
Lukens members and their guests regularly fish from the shoreline and piers and shrimp and fish near shore from boats. As noted in the various state agency reviews, this location is a regularly used location, in all months of the year, for recreational and commercial fishing. Many Lukens members have commercial fishing licenses and participate in commercial and recreational fishing activities. Lukens members and their guests fish from their shoreline to the proposed lease area. The proposed lease area is a sandy beach where Lukens members, their families, and pets swim, ski, and enjoy the beach. Allowing the proposed lease would close this area to their use as swimming for children and dogs would be unsafe and the beach unusable for the aforementioned purposes.

Finally, this lease would interfere with the waterfront development plans Lukens has for this area. Lukens has developed a master plan, see attached, to sell lots to members and the public to build recreational homes, with individual docks, along with a marina and boat ramp. This lease would end these plans and cause significant financial harm to the Lukens membership as this is their most valuable property. Lukens is not against oyster farming. However, they have no other choice but to protect their investment of more than 30 years. They will do what is necessary to protect their investment. I invite your attention to the attached master plan, pictures of the beach and duck blinds, the map of the closed bottom, and the review of the State agencies attached hereto.

Please feel free to contact me with any questions.

Sincerely,

THE PIKE LAW FIRM, PLLC.



Robert B Pike II

From: [Mulvey-McFerron, Owen G](#)
To: [Frost, Anthony](#); [Farnell, Robert](#); [Chuffo, Marla](#); [Tripp, Robert S](#); [Walters, Stephen D](#); [Stilson, George](#); [Dane, Teri M.](#)
Subject: FW: [External] Opposition to Changing Tide Renovations LLC, Charles Allen, and Mason Allen (22-019BL/22-020WC)
Date: Tuesday, February 14, 2023 8:50:52 AM
Attachments: [FisheriesMgt Comments.pdf](#)
[DWR Comments.pdf](#)
[DCM Comments.pdf](#)
[MarinePatrol Comments Allen.pdf](#)
[Luken's Island Development Plan.pdf](#)
[Carteret County Duck Blind Law.pdf](#)
[lettter to NCDMF.pdf](#)
[image001.png](#)

FYI

Owen Mulvey-McFerron
Shellfish Lease and Aquaculture Program Coordinator
NC Division of Marine Fisheries
NC Department of Environmental Quality

Shellfish Aquaculture Tool: <https://arcg.is/1Lu1PC>

Cell: (252) 269-3082

Email: Owen.Mulvey-McFerron@ncdenr.gov

3441 Arendell Street
Morehead City, NC 28557



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From: Bryce Pike [REDACTED]
Sent: Monday, February 13, 2023 8:36 PM
To: Mulvey-McFerron, Owen G <Owen.Mulvey-McFerron@ncdenr.gov>
Subject: [External] Opposition to Changing Tide Renovations LLC, Charles Allen, and Mason Allen (22-019BL/22-020WC)

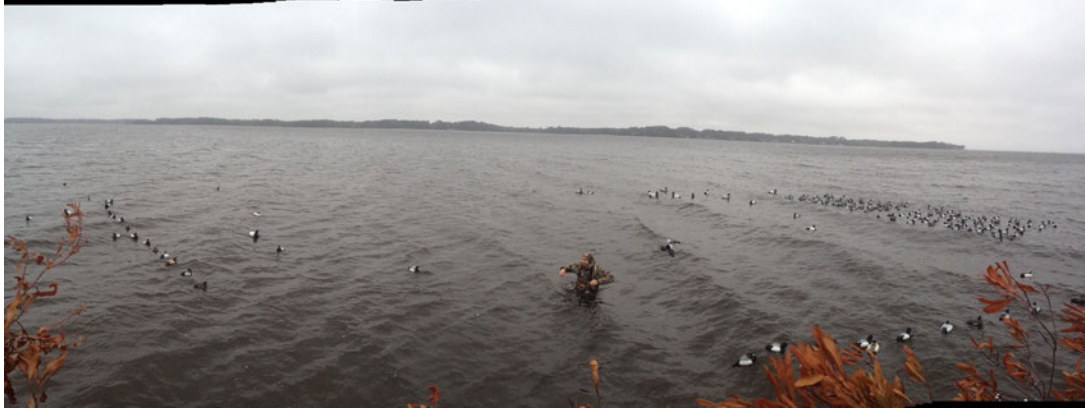
CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Owen:

I represent Lukens Island Timber Enterprises, LLC. Please find my letter and documentation opposing this proposed lease attached. Please feel free to contact me if you have any questions. Please share all of the contents of this email with staff members and the general public. Please let me know if anything else is needed.

Thanks,
Bryce











-
Bryce Pike
Attorney at Law

Morehead City, NC 28557
[The Pike Law Firm](#)

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 581
SENATE BILL 616

AN ACT TO PROVIDE FOR SAFE DISTANCES FOR HUNTING MIGRATORY
WILD WATERFOWL IN CARTERET AND PAMLICO COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Except as provided in Section 2 of this act, it is unlawful to take migratory wild waterfowl within 500 yards of another person's permanently established hunting location.

Sec. 2. This act does not apply to a person taking migratory wild waterfowl:

(1) On property of which he is the landholder or has the landholder's permission to hunt; or

(2) Within the riparian water area of property of which he is the landholder or has the landholder's permission to hunt; or

(3) If he comes within 500 yards of another person's permanently established hunting location only after legally shooting at migratory wild waterfowl and while in active pursuit of a visible, crippled bird.

Sec. 3. The definitions of Subchapter IV of Chapter 113 of the General Statutes apply in interpreting this act. A "permanently established hunting location" is a blind, float, raft, mat, or other buoyant craft or any other location, position, or device that is permanently established for hunting migratory wild waterfowl at a specific site by:

(1) The landholder of the property; or

(2) The riparian landholder, if the site is on or in water and hunting rights in that water are not controlled by someone other than the riparian landholder; or

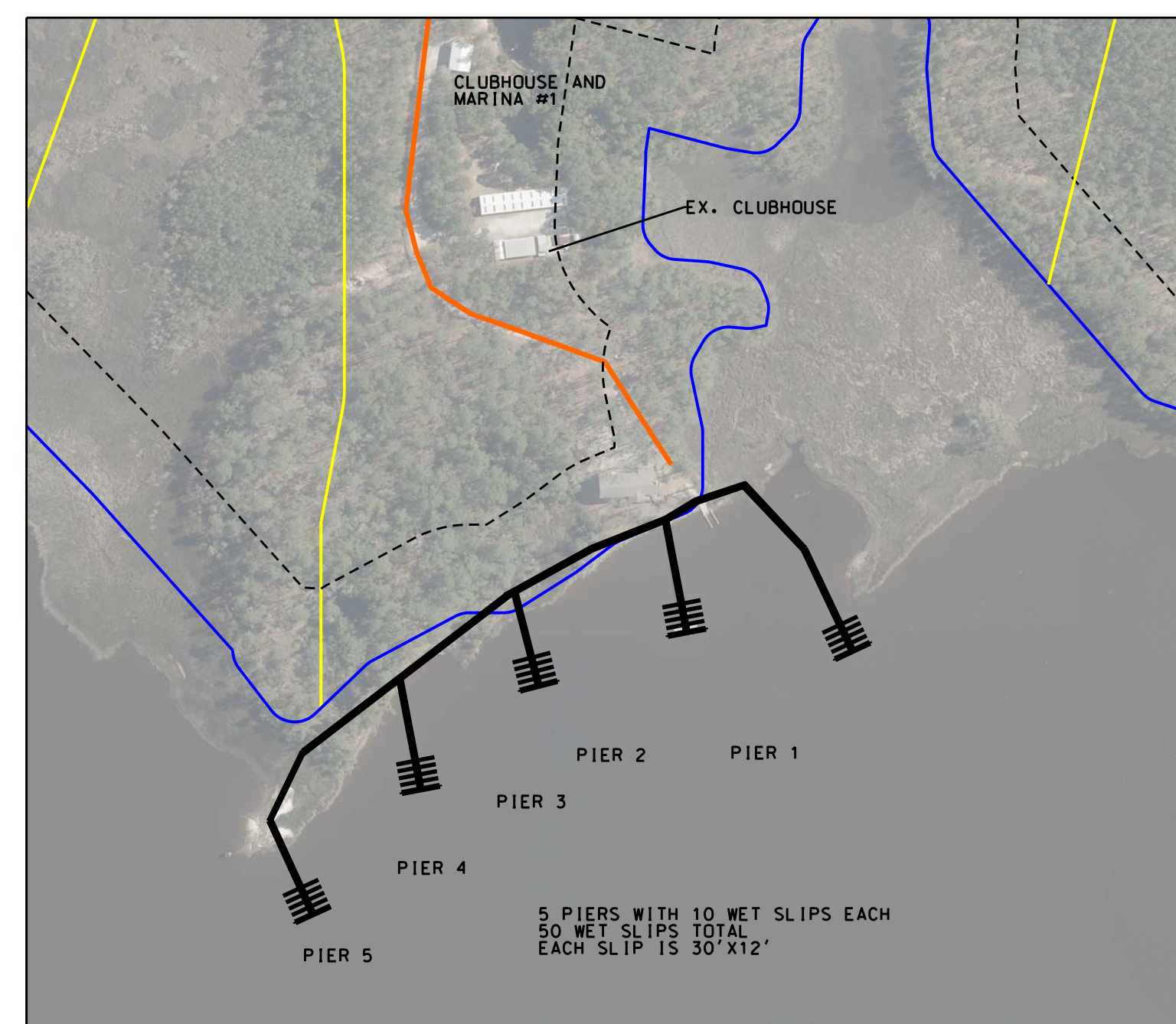
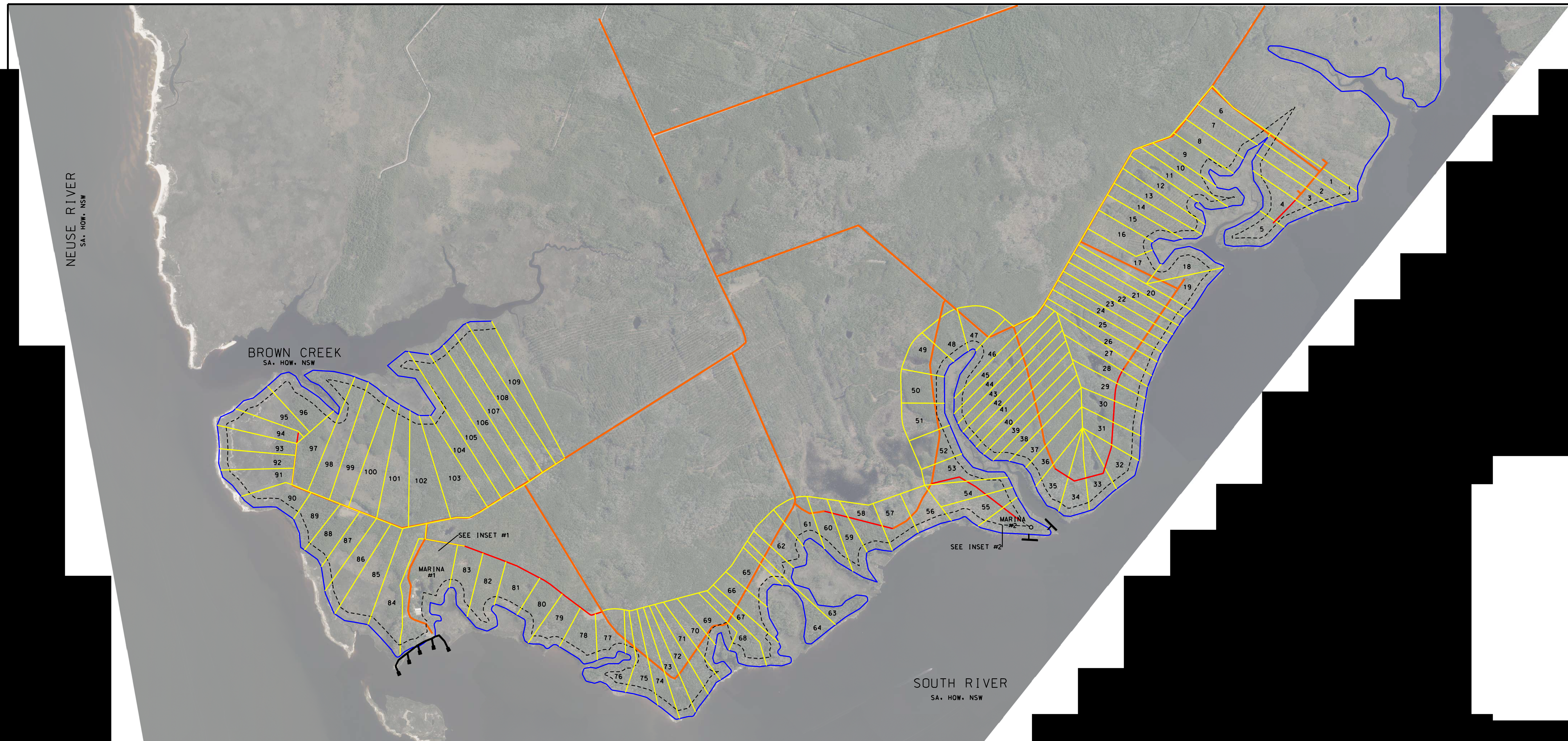
(3) A person who has written permission to establish the permanent site from a landholder who would qualify under subdivisions (1) or (2).

Sec. 4. Any person who violates this act is guilty of a misdemeanor. A first offense is punishable by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00), imprisonment not to exceed five months, or both. A second offense is a misdemeanor punishable by mandatory revocation of the violator's hunting licenses and cancellation of all his hunting privileges for one year and by fine, imprisonment or both in the discretion of the court. The court must notify the North Carolina Wildlife Resources Commission of such revocation of licenses and cancellation of privileges.

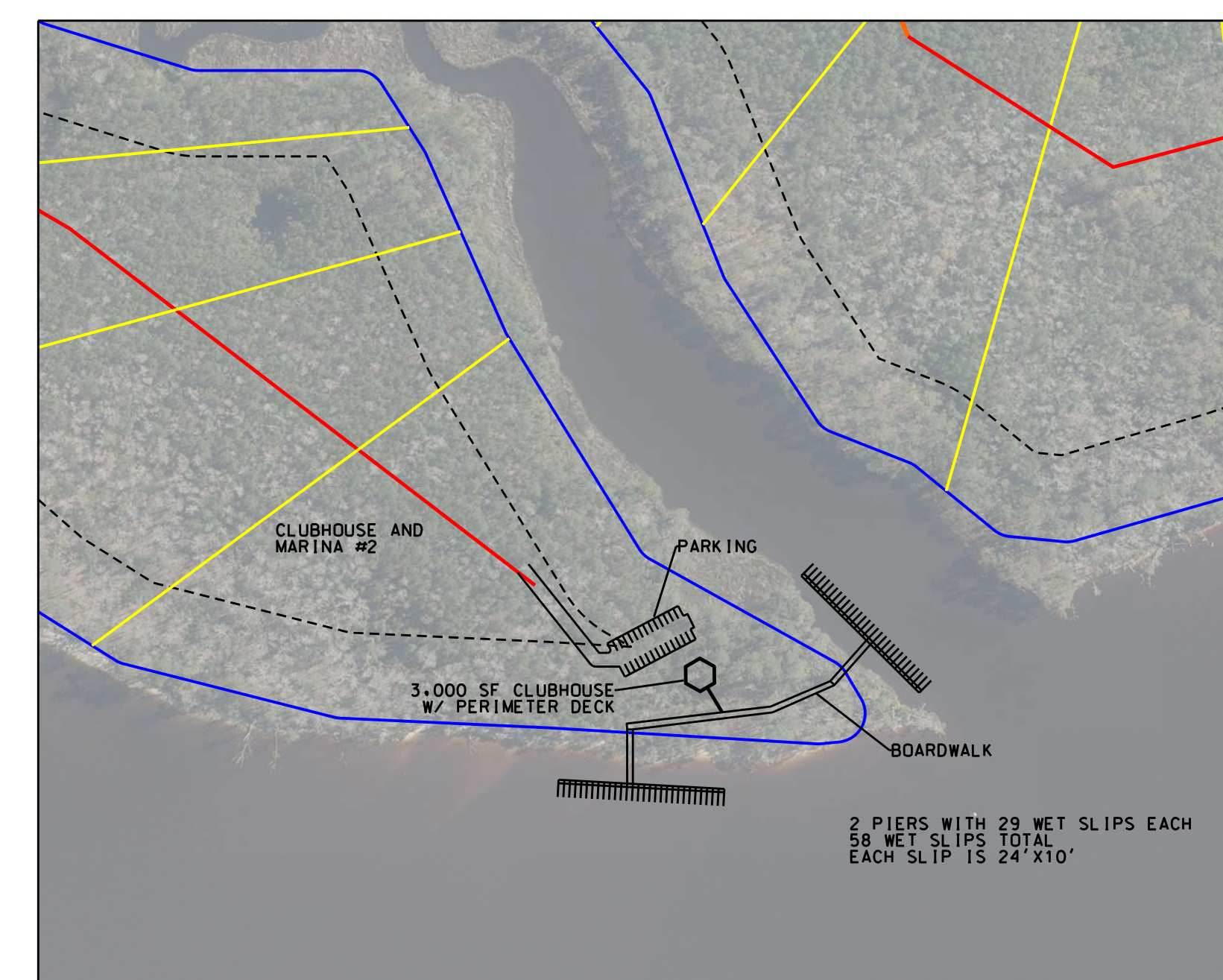
Sec. 5. This act applies only to the counties of Carteret and Pamlico.

Sec. 6. This act is effective upon ratification.

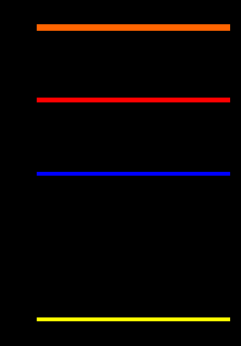
In the General Assembly read three times and ratified, this the 15th day of June, 1981.



INSET #1



INSET #2



From: [Bryce Pike](#)
To: [Mulvey-McFerron, Owen G](#)
Subject: [External] Follow Up Comments on Behalf of Lukens Island Timber Enterprises, LLC.
Date: Thursday, February 16, 2023 4:58:54 PM

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Owen:

Thank you for taking the time to listen to my clients last night. I am sorry that I was not able to attend. I would like to shore up a couple of our points.

First, Lukens is completely different from Jones Island. Jones Island hunts impoundments on the interior of their island, they do not hunt the open water or the shore. Their shore is marsh. They access their property by boat only and Lukens accesses by vehicle.

Lukens hunts its entire shoreline regularly and can do so at any time as it has the riparian rights to. It has fixed blinds on shore and offshore that are accessed by boat and vehicle.

The statements regarding roads, access, and other matters related to Lukens that were made by the third party who commented are completely without merit. Lukens has gravel roads, more than 47 miles worth. Lukens has good title to all of its roads and easements and regularly accesses these points to hunt and fish by vehicle. This guy was comparing an apple to a head of lettuce and has no idea about anything related to Lukens. He has no credibility to speak on the Lukens property or compare it to any other. I have seen Lukens and Jones Island first hand. They are opposites. This guy has never been to Lukens Island.

Thank you very much for taking the time to read this and for passing it along to the public at large.

Thanks,
Bryce

--

Bryce Pike
Attorney at Law

[REDACTED]
Morehead City, NC 28557

[The Pike Law Firm](#)
[REDACTED]



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM

TO: Kathy B. Rawls, Director

FROM: Jacob Boyd, Habitat and Enhancement Section Chief

DATE: 02/22/2023

SUBJECT: Proposed Shellfish Bottom Lease 22-019BL and Shellfish Water Column Lease 22-020WC; Changing Tide Renovations, LLC, Charles Allen, 3.72-acres, South River

A public hearing was held in person and by webinar, via WebEx, on Wednesday, February 15, 2023 at 6:00 P.M. The purpose of the hearing was to gather public comment on the proposed shellfish lease applications, located in a portion of South River, Carteret County. The hearing was advertised in The Carteret News Times on January 15th and 22nd, 2023, and on the division's website.

Owen Mulvey-McFerron, Marla Chuffo and Teri Dane represented the division at the public hearing with assistance from Patricia Smith. Also in attendance were other staff and the applicant for the proposed shellfish leases. There are written comments submitted during the open comment period that mentioned lease number 22-019BL / 22-020WC specifically (see attached). Of these comments, nine oppose and three support this lease. **There is a letter opposing the lease from The Pike Law Firm, PLLC, which is attached.** The minutes and the internal review comments from Fisheries Management, Marine Patrol, Shellfish Sanitation, Division of Coastal Management and Division of Water Resources are attached.

This information is forwarded to you for consideration of the following three options:

- I approve this shellfish bottom lease application **No. 22-019BL** and shellfish water column lease application **No. 22-020WC** because the proposed shellfish lease(s) meet the compliance standards set forth in N.C.G.S. 113-202 and 15A NCAC 03O .0201.
 - I approve this shellfish bottom lease application **No. 22-019BL** and shellfish water column lease application **No. 22-020WC** as provided in 15A NCAC 03O .0203(c), with the following special condition(s):
-
-

I deny this shellfish bottom lease application **No. 22-019BL** and shellfish water column lease application **No. 22-020WC** for the following reason(s):


Kathy B. Rawls

4-5-23
Date

Enclosures:

- Public Hearing Minutes
- Written public comments
- Opposition letter from Pike Law Firm
- Comments from NCDMF Internal Review
- Map of proposed shellfish lease



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM

To: Jacob Boyd, Habitat and Enhancement Section Chief
Owen Mulvey-McFerron, Shellfish Lease and Aquaculture Program Coordinator
[REDACTED]

From: Kathy Rawls, Director
[REDACTED]

Date: March 28, 2023

Subject: Decision on proposed shellfish lease 22-019BL/22-020WC, Changing Tide Renovations LLC, agent Charles Allen, 3.72 acres

After careful consideration of proposed shellfish lease 22-019BL/22-020WC, I am approving this application. This shellfish lease application meets all of the minimum requirements as set forth in N.C.G.S. § 113-202. The Division of Marine Fisheries (DMF) processed this application in the manner directed by the governing shellfish lease statutes and rules.

Compatibility with public trust rights is one of the primary concerns with shellfish lease application analysis. N.C.G.S. § 113-202(a)(3) and (4) set forth the standards of compatibility and riparian owner rights:

“(3) Cultivation of shellfish in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing, and recreation.

(4) Cultivation of shellfish in the leased area will not impinge upon the rights of riparian owners.”

The shellfish lease application process is very thorough, and includes a site investigation and accompanying biological report, internal review from DMF (Fisheries Management, Shellfish Sanitation, and Marine Patrol), DCM, and DWR, a 30 day public comment period, and a public hearing.

During the public hearing process, DMF received public comments from nearby riparian property owners detailing concerns related to the compatibility of this shellfish lease area. One written letter opposing the shellfish lease was submitted before the public hearing. Three verbal opposition comments were received at the public hearing (all three commentors also submitted written opposition to the portal). Nine written opposition comments were submitted through the comment portal. Finally, three comments in support of the shellfish lease were also submitted through the comment portal.

The opposition comments detailed several categories of concerns regarding the proposed shellfish lease area. The primary concerns included: 1) compatibility with lawful utilization of the public trust water; 2) proximity to duck blinds and subsequent impacts on waterfowl hunting; 3) close proximity to harvest closure lines; and 4) impingement on riparian rights. Each of these concerns is addressed, in turn, below:

1. *Compatibility with lawful utilization of the public trust water* - One comment mentions conflict between the proposed shellfish lease and boaters anchoring sailboats in South River. The anchorage point published on the Salty Southeast Cruisers Net (as cited by the commenter) is 1,300 feet south of the proposed shellfish lease. The Salty Southeast Cruisers Net also advises to maintain a distance of 200 yards from shore due to shallow depths. Lastly, there is a note on the US Coast Guard (USCG) nautical chart for this area stating that “Mariners are warned that numerous uncharted duck blinds, stakes, and fishing structures, some submerged, may exist in the area of this chart. Some structures are not charted unless known to be permanent.” Many of the duck blinds constructed and utilized in the area do not require permits and are not depicted on navigational charts, making them more hazardous than the proposed shellfish lease due to their considerably closer proximity to the recommended anchorage location. Based on all the information and data compiled during the shellfish lease application process (i.e., site investigation, internal review, public comments, public hearing), this proposed location is compatible with lawful utilization of the water body.

2. *Proximity to duck blinds and subsequent impacts on waterfowl hunting* - One comment states that “Lukens [the nearest riparian landowner] is allowed to have blinds this close due to their riparian ownership of the entire shoreline.” There is no required setback between shellfish leases and duck blinds in North Carolina. The only limitation in Carteret County relating to duck blinds is outlined in Senate Bill 616 (S.L. 1981-581), which precludes hunting within 500 yards of an established blind. By this law, any member of the hunting public could establish a waterfowl hunting blind along the shoreline of the Lukens Timber Enterprise Property so long as it is at least 500 yards from an existing blind. These constructed blinds are considered public property because they are located in public trust waters, so the builders have no more right to their use than any other lawful public trust users.

3. *Close proximity to harvest closure lines* - One comment expressed concern that the proposed shellfish lease is situated near an area closed to shellfish harvest. Proximity to adjacent closure lines has no bearing on the eligibility of a proposed shellfish lease as long as the lease is situated in approved or conditionally approved waters and does not include an area which the State Health Director has recommended be closed to shellfish harvest by reason of pollution, pursuant to N.C.G.S. § 113-202(a)(6). The proposed shellfish lease is located in growing area F2 and is an approved harvest area that is closed an average of 7% of the year (26 days) over the last five years. This is one of the least-closed areas of the state. The proposed lease area does not include any area that has been recommended for closure to shellfish harvest due to pollution.

4. *Impingement on riparian rights* - Several of the comments asserts that cultivation of shellfish in the proposed lease area will impinge on rights of riparian owners. The proposed shellfish lease is not adjacent to any developed shoreline. The entire property that borders the eastern side of the shellfish lease is classified as undeveloped as it does not contain any

buildings or water-dependent shoreline structures. The minimum required riparian setback from an undeveloped shoreline is 20 feet pursuant to the US Army Corps of Engineers Nationwide Permit #48 Regional Conditions. The minimum required riparian setback from a developed shoreline is 250 feet pursuant to 15A NCAC 03O.0201(a)(2). The shellfish lease is approximately 1,200 feet from the nearest water-dependent shoreline structures, and over 8,500 feet (1.65 miles) from the clubhouse that the property owners utilize.



ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

April 6, 2023

Changing Tide Renovations, LLC
Charles Allen and Mason Allen
[REDACTED]
Morehead City, NC 28557
[REDACTED]

*Re: Shellfish Lease Application: Bottom #22-019BL and Water Column Amendment
#22-020WC*

Dear Mr. Allen,

This letter is to notify you that your shellfish bottom and water column lease applications were approved on April 5, 2023. A contract with prorated rent will be created and mailed to you soon. Per the Marine Fisheries Commission Rule 15A NCAC 03O .0203(e), proposed shellfish lease areas remain public until a shellfish lease contract has been executed by the Secretary.

Your shellfish lease must have proper permanent signage, and proof of this signage must be delivered to the Division before your contract will be signed by the Director.

Please refer to the back of this letter for permanent shellfish lease marking guidelines. Once you have marked your shellfish lease, please email pictures of these signs to DMF.Leasingshellfish@ncdenr.gov.

Please note that your shellfish lease is not officially active until your lease contract has been signed by both you and the Director. Please do not conduct any operations on your shellfish lease other than to install your permanent signs until this occurs.

If you have any additional questions, please feel free to contact me at (252) 269-3082, or Owen.Mulvey-McFerron@ncdenr.gov.

Sincerely,

Owen Mulvey-McFerron

Owen Mulvey-McFerron
Shellfish Lease and Aquaculture Program Coordinator
NC Division of Marine Fisheries

Shellfish Lease Corner Marking and Signage Guidelines

Shellfish leases shall be marked on each corner with proper signage. Shellfish leases that are improperly marked or missing markers are a navigational hazard, will not be renewed, and are subject to termination. Marine Patrol will not protect shellfish leases (including product on leases) that are not properly marked.

Shellfish Bottom Lease or Franchise

- Poles (plastic or wood material) must be between 3-12 inches in diameter (>12 inches require a CAMA permit) and must extend at least 4 feet above mean high water mark.
- Legible and waterproof signs with minimum 3-inch letters displaying the following:
 - Lease Number
 - Leaseholder name or
 - Business name and Agent's name
- Reflective yellow tape or yellow reflective devices at least 12 inches in vertical distance with 360° visibility.
- Supplementary stakes (plastic or wood material) placed along boundary (unless interferes with use of traditional navigational channels) must be between 3 – 4 inches in diameter and must not be farther apart than 150 feet or closer together than 50 feet. They also must extend at least 4 feet above mean high water mark.



Shellfish Water Column Lease

- Above requirements for Bottom Lease or Franchise AND
- A sign giving notice and providing caution.



Bryce

On Thu, Apr 6, 2023 at 10:03 AM Mulvey-McFerron, Owen G <Owen.Mulvey-McFerron@ncdenr.gov> wrote:

Hi Brice,

Attached is the appeals form. As stated on the form, an appeal must be received no later than 30 days from the date of approval of the proposed shellfish lease (4/5/2023).

Let me know if you have any questions.

Thanks,

Owen

Owen Mulvey-McFerron

Shellfish Lease and Aquaculture Program Coordinator

NC Division of Marine Fisheries

NC Department of Environmental Quality

Shellfish Aquaculture Tool: <https://arcg.is/1Lu1PC>

Cell: (252) 269-3082

Email: Owen.Mulvey-McFerron@ncdenr.gov

3441 Arendell Street

Morehead City, NC 28557



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--

Bryce Pike

Attorney at Law

[REDACTED]

Morehead City, NC 28557

[The Pike Law Firm](#)

[REDACTED]

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Bryce Pike

Attorney at Law

[REDACTED]

Morehead City, NC 28557

[The Pike Law Firm](#)



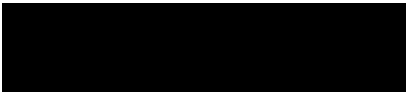
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Bryce Pike
Attorney at Law



Morehead City, NC 28557
[The Pike Law Firm](#)



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ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

WILLIAM F. LANE

General Counsel



NORTH CAROLINA
Environmental Quality

MEMORANDUM

TO: Rob Bizzell, MFC Chair & Chair of the Shellfish Cultivation Lease Review Committee (SCLRC), via MFC Counsel
Steve Yuhasz, SCLRC Committee Public Member, via MFC Counsel
Sammy Corbett, SCLRC Committee Public Member, via MFC Counsel
Phillip Reynolds, Special Deputy AG and SCLRC Co-Counsel, via email
Sarah Zambon, Assistant AG and SCLRC Co-Counsel, via email
Shawn Maier, DEQ Asst. General Counsel, via email
Kathy Rawls, DMF Director, via email
Jacob Boyd, DMF Habitat Section Chief, via email
Owen Mulvey-McFerron, DMF Shellfish Lease Program Coordinator, via email
Zach Harrison, DMF Aquaculture Permit Coordinator, via email
Lara Klibansky, MFC Liaison, via email

CC: Robert B. ("BRYCE") Pike, II, Counsel for Petitioner, via email to bryce@pikelawfirm.com

Changing Tide Renovations, LLC Approved Shellfish Leaseholder,
c/o Charles Chris Allen, Registered Agent, via email to ccallen68@gmail.com

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: June 29, 2023

RE: Decision Record Redactions: Third Party Hearing Request by
Lukens Island Timber Enterprises, LLC (SCLRC-2023-01)

Please find enclosed: Changes to 14 pages of the Decision Record which were further un-redacted compared to the initial Decision Record posted on DMF's Website on June 23, 2023. Staff and Counsel revisited some of the revisions, and in light of the standards of G.S. 143B-289.52 and G.S. 113-170.3, share these 14 pages to replace those found in the Decision Record at pdf pages:

Decision Record Pdf pp. 5-8 (application pp. 6-9 of 26)
Decision Record Pdf pp 12-15 (application pp. 12 and 13 of 26 plus 2 sketches)
Decision Record Pdf pp. 29-31 (10/20/22 memo)
Decision Record Pdf pp. 45-46 (Shellfish Sanitation Review)
Decision Record pdf p. 50 (Govoni Memo)

Enclosure



North Carolina Department of Environmental Quality | General Counsel
217 West Jones Street | 1601 Mail Service Center | Raleigh, North Carolina 27699-1601
919.707.8600

Note: Acreage allowed must be consistent with the Shellfish Lease Management Plan, prior lease production history, public trust use of the area, etc. **Single lease acreage is limited to between 0.5 and 10 acres.** If you currently hold more than 5 acres of leases, they must meet production before a new application may be accepted.

Does the shellfish lease site contain known sea grasses or Submerged Aquatic Vegetation (SAV)?
 No Yes (*Leases are prohibited on sites with greater than 15% seabed cover of SAV*)

Approximate closest distance to existing shellfish bed or oyster rock? ~~2000~~ ft.
Shellfish leases may not be located on or within 10 ft. of existing natural shellfish beds (>10 bushels of shellfish/ acre).

Approximate minimum distance of proposed shellfish lease from shoreline? ~~250~~ 250 ft.

Does the applicant or co-applicant own all the shoreline adjacent to the proposed shellfish lease?
 No Yes
Shellfish leases must be at least 250 feet from a developed shoreline unless a) the applicant or co-applicant are the sole riparian owner, or b) a signed and notarized riparian owner consent form has been completed and attached (Appendix VII)

Approximate distance from the closest existing shellfish lease? 2000 ft.
Shellfish leases must be at least 250 feet from any existing or proposed shellfish leases.

Approximate minimum distance of proposed lease from vegetated marsh? 500 ft.
Shellfish leases must be at least 20 feet from vegetated marsh if gear is proposed in the management plan.

Approximate distance to marked or unmarked navigational channel? 3-4000 ft.
Shellfish leases cannot block marked or unmarked navigation channels

Please list the coordinates for the proposed shellfish lease. The minimum number of coordinates required is three and the maximum is eight. A survey is not required by law but is suggested as a best management practice. Any costs of a survey are the responsibility of the lease holder. The shellfish lease site must be as compact as possible. Please use decimal degrees (ex: 34.72334896° (N), -76.75634128° (W))

Corner Coordinates:

| | | | | |
|---------------|----------------|--|---|---|
| 34° 57. 850 N | 076° 34. 263 W | | N | W |
| 34° 57. 822 N | 076° 34. 280 W | | N | W |
| 34° 57. 906 N | 076° 34. 345 W | | N | W |
| 34° 57. 888 N | 076° 34. 382 W | | N | W |

Section 5: Shellfish Lease Management Plan

Shellfish species to be grown: Diploid Oysters Triploid Oysters Hardshell Clam
 Bay Scallops Other: _____

Capital Investment: Year 1: \$ _____ Year 2-10: \$ _____

Vessel Available: Vessel: No Yes _____

If other vessels will be used, please list here: _____

Types of harvest gears will you use: Float bags

Will you require the use of mechanical harvest gear (dredge, power rake, etc.)? No Yes
Mechanical gears are not allowed on shellfish leases located in Primary Nursery Areas

Applicant Initials CA
MA

Shellfish Grow-out Method: Please check the grow-out method(s) you propose to use on your shellfish lease and the estimated amount of equipment and effort.

- *Poles or pilings over 4 inches require a permit from DCM, which applicant is responsible for obtaining*
- *Floating Upweller Systems (FLUPSYs) are not permitted on shellfish lease sites*

| Bottom Methods | Year 1 | Years 2-10 |
|---|--------------------------|--------------------------|
| <input type="checkbox"/> Cultch on-bottom | Bushels/Acre | Bushels/Acre |
| <input type="checkbox"/> Clam seed | Spat/Seed/Acre | Spat/Seed/Acre |
| <input type="checkbox"/> Predator netting/screens | # Units | # Units |
| <input type="checkbox"/> Rack and bag system <18" | Racks/ Bags ____/____ | Racks/ Bags ____/____ |
| <input type="checkbox"/> Cage system <18" | # Cages | # Cages |
| <input type="checkbox"/> Tray culture <18" | # Trays | # Trays |
| Water Column Methods | Year 1 | Years 2-10 |
| <input checked="" type="checkbox"/> Floating bags (<i>Taylor float™, mesh bags, flip bags, etc.</i>) | | |
| <input type="checkbox"/> Floating cages (<i>Oyster Gro™, etc.</i>) | | |
| <input checked="" type="checkbox"/> Suspended system, long line | | |
| <input type="checkbox"/> Rack and bag system >18" | | |
| <input type="checkbox"/> Bottom Cage system >18" | | |
| <input checked="" type="checkbox"/> Type of Anchor used (<u>screw anchors, rods, etc.</u>) | | |
| | | |
| <p>Grow out methods will be specific to the contract. If you plan on changing methods, you must notify DMF for prior approval, and complete another Shellfish Lease Management Plan.</p> | | |
| <p>Do you plan to participate in the following DMF permit relay activities?</p> <p><input type="checkbox"/> Polluted Area Relay <input type="checkbox"/> Seed Oyster Management Area Relay</p> | | |
| <p>In-state hatchery: <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p> | Hatchery Name: | |
| | Hatchery Phone: | |
| <p>Out of state hatchery <input type="checkbox"/> No <input type="checkbox"/> Yes*</p> <p><i>* Requires an Introduction Permit (Appendix VI)</i></p> | Hatchery Name: | |
| | Address: | |
| | City, State Zip: | |
| | Hatchery Phone: | |

Applicant Initials MA

Do you plan to harvest oysters anytime during April – September? No Yes* ?
 *Closed oyster season harvest requires a Closed Oyster Harvest Certification.

Will you operate as a Shellfish Dealer? No Yes*
 *Shellfish Dealers must have a certification from Shellfish Sanitation (252) 726-6827, and a DMF Dealer License to operate.

Do you plan to move shellfish from your shellfish lease to another lease prior to harvest? No Yes*
 Do you plan to conduct pre-harvest activities (such as culling) off-site of your lease? No Yes*
 *A Commercial Fishing Vessel Registration will be required annually for boats used to harvest or transport seafood. The registration is separate from the NC Wildlife Resource Commission's registration.

Shellfish Lease Marking
 Shellfish lease corners must be marked and with proper durable signage attached including all **lease numbers, reflective tape, and the name of the leaseholder**. Water column leases must also have **yellow floats** marking each corner. Boundary markers should be every 50 - 150 feet.

Type and number of markers to be used:

Wood post (3-4 inch): size- _____, number- _____
 Plastic/PVC: diameter- 2", number- 4
 Other (composition, size, quantity): _____
-Posts greater than 4"x4" or 4" in diameter require a permit from DCM
-DMF has no duty to protect any shellfish lease or franchise that is not properly marked

Land/Dock Based Facilities: (check all that apply) and indicate if these are shellfish lease or land based. NOTE: These structures, if proposed, may require a permit from DCM

| | |
|--|---|
| <input type="checkbox"/> Dock _____ | <input type="checkbox"/> Raceway/trays _____ |
| <input type="checkbox"/> Floating upweller (may not be located within the shellfish lease) | <input type="checkbox"/> Graders/sorters _____ |
| <input type="checkbox"/> Tank upweller or downweller _____ | <input checked="" type="checkbox"/> Tumblers <u>Land</u> |
| <input type="checkbox"/> Pumps _____ | <input checked="" type="checkbox"/> Storage facilities, sheds, etc. <u>Land</u> |

Other (specify):

If you propose floating gear or intertidal gear, describe the mitigation or deterrent measures you will take to minimize the potential pollution impact of birds and/or mammal waste. Please be as specific and detailed as possible. **This section must be completed, or your application will be denied.**
Zip-ties (At least 2) will be attached to Every bag to deter birds and other mammals. Smaller floats will also be used to keep birds & mammals off the bags.


Applicant Initials

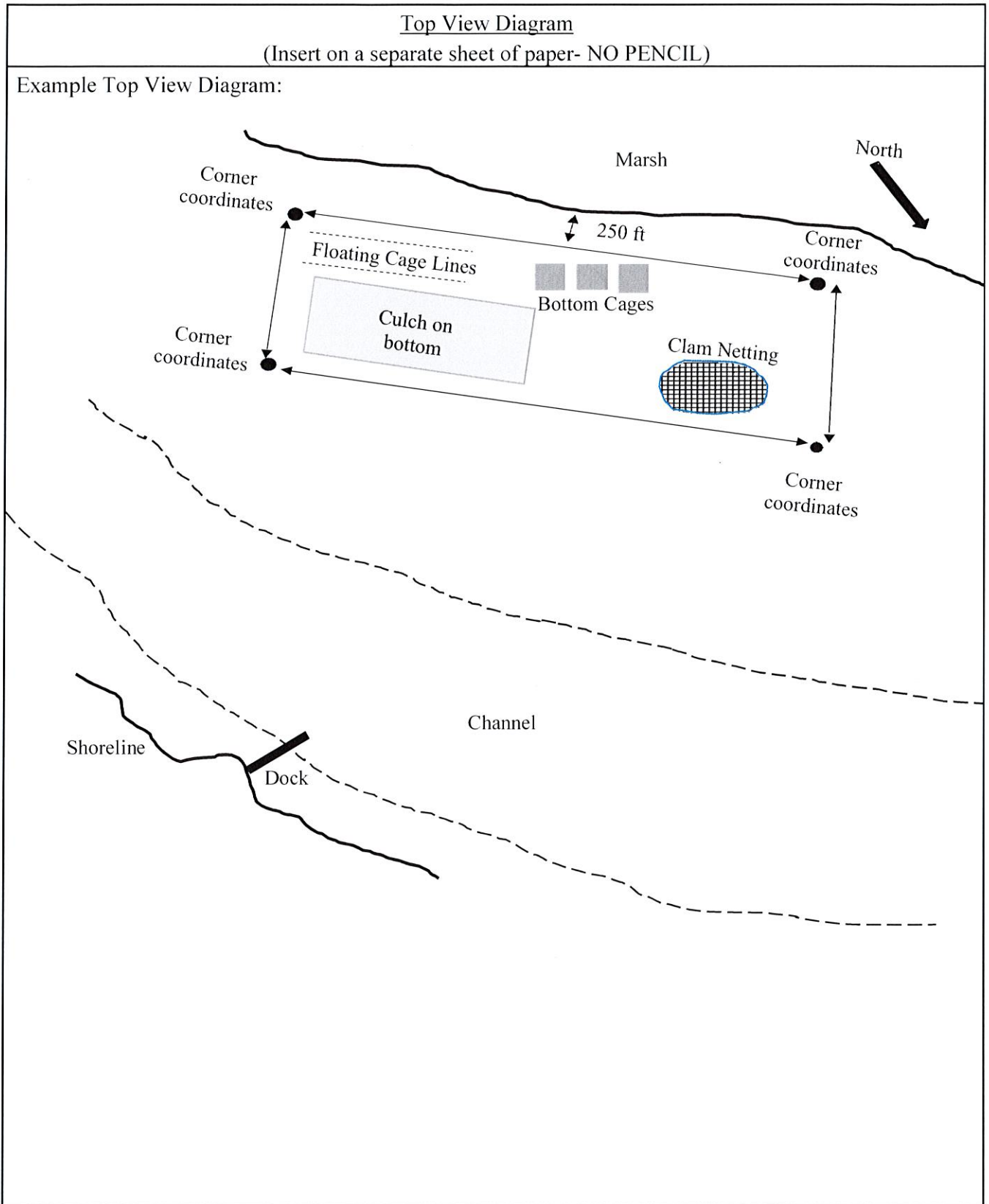
CM
MA

All shellfish lease applications for 2022 must be accompanied by a storm preparedness and gear debris management plan. Please use the space below to describe your plan (or attach your plan to the end of the application), using the template outlined in Appendix VIII.

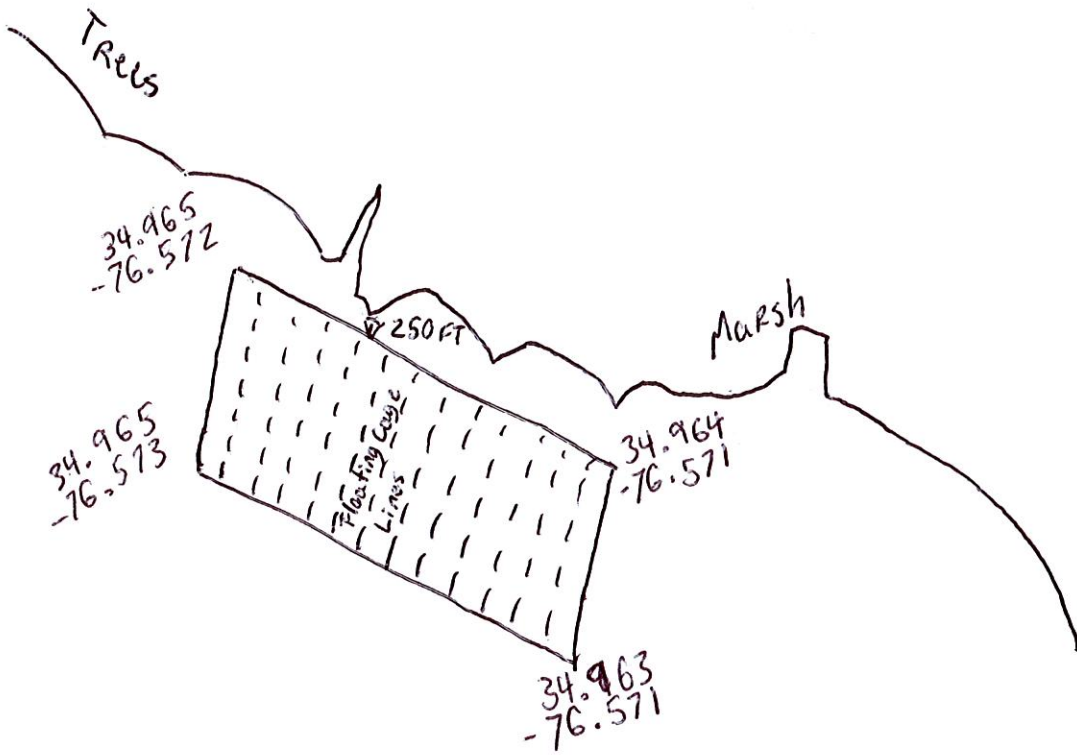
In accordance with the code yellow, orange, & Red, storm preparedness plans, we will remove the floats from our bags and sink the bags. We will store the floats in a facility on land during the storm. All bag will be tagged, and all knots, clips, crimps, & rings will be checked individually and reinforced as needed. The anchor lines will also be tensioned and reinforced. A third storm anchor will be added to the upwind side of each bag chain.

Applicant Initials

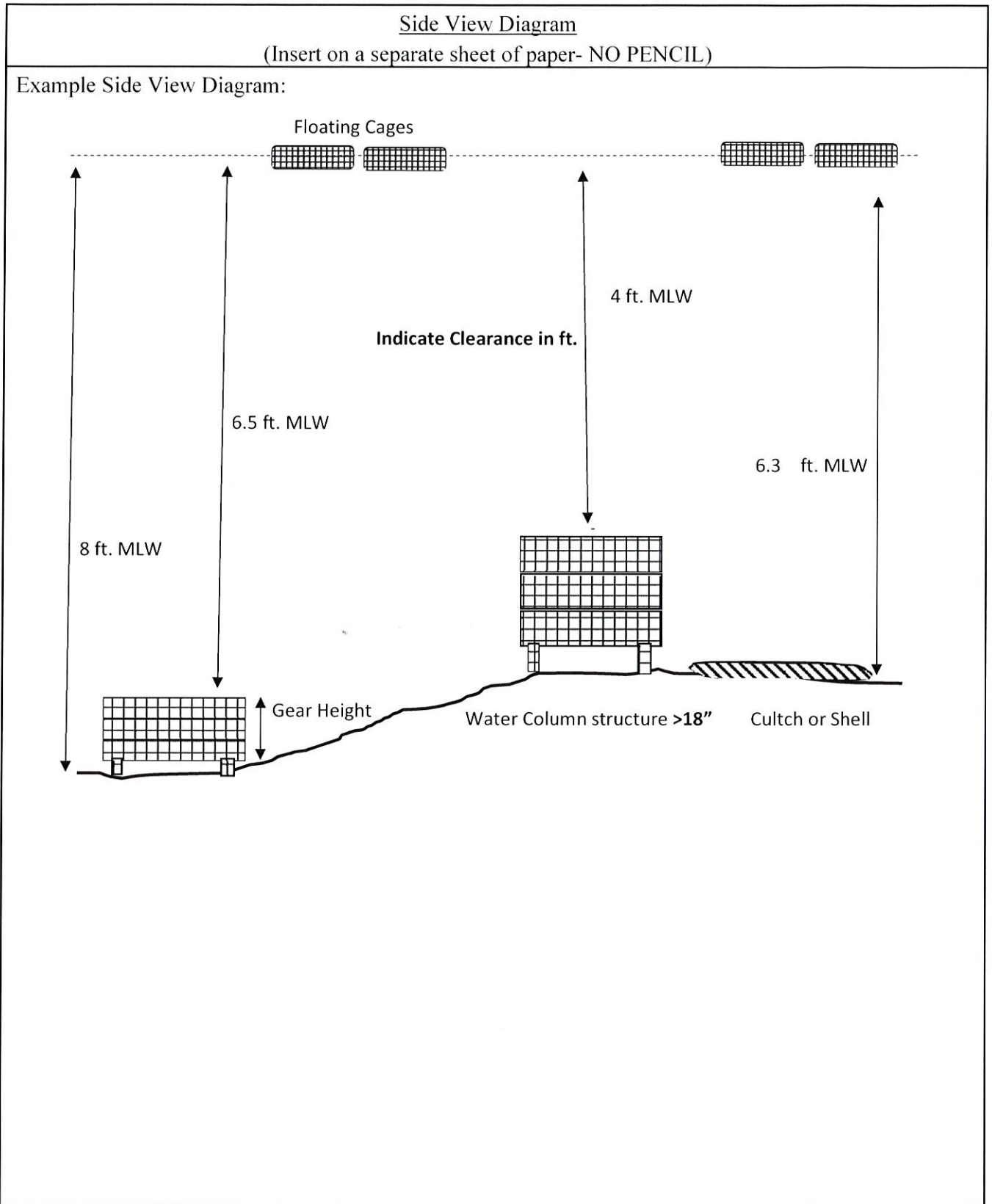

MA



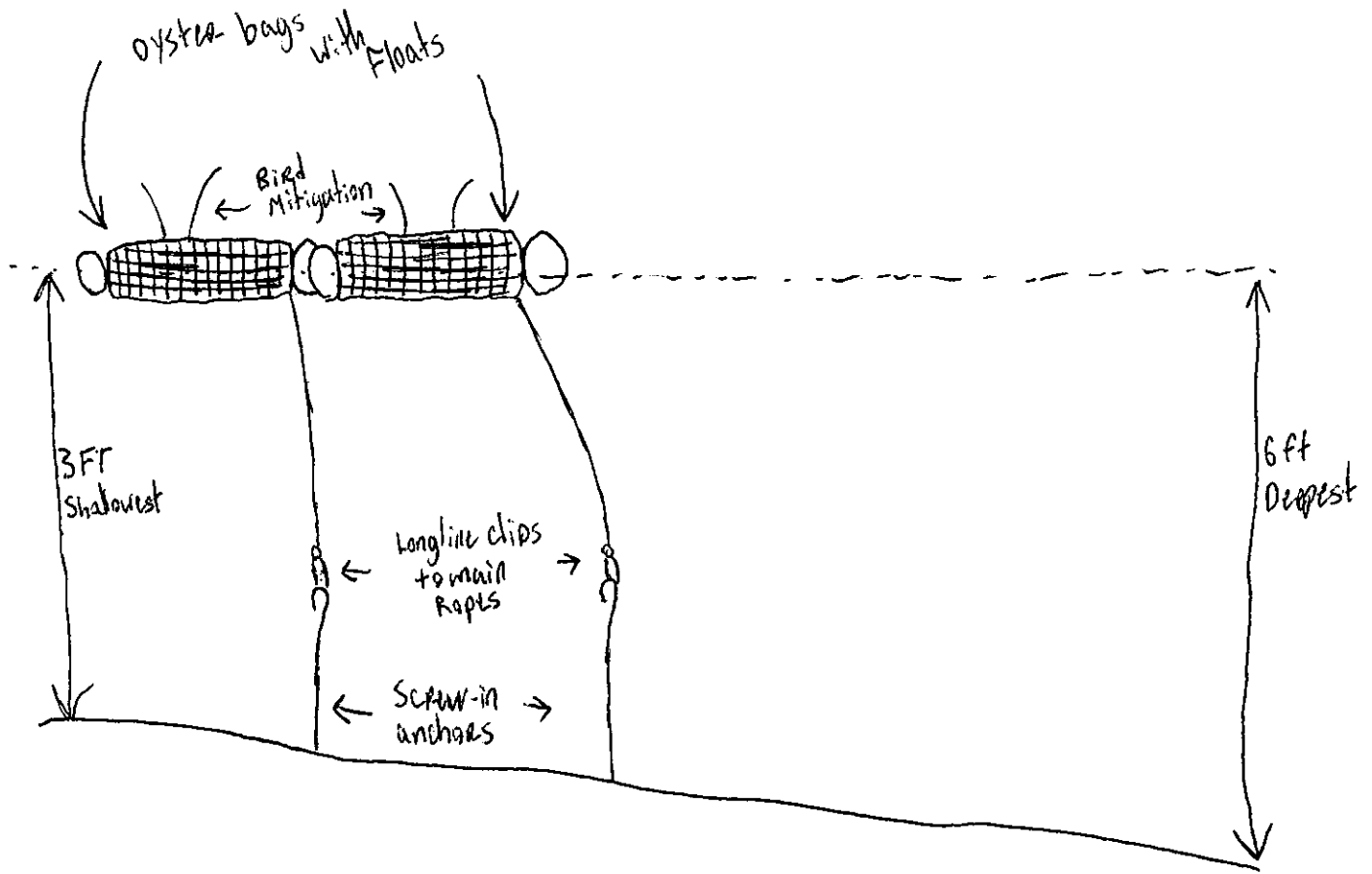
Applicant Initials *CA*
MA



Channel



Applicant Initials CA
MA





ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

KATHY B. RAWLS
Director

MEMORANDUM

TO: Kathy B. Rawls, Director

FROM: Jacob Boyd, Habitat and Enhancement Section Chief

DATE: 10/20/2022

SUBJECT: Changing Tide Renovations, LLC, Charles Allen and Mason Allen; Proposed Shellfish Bottom and Water Column Lease 22-019BL/22-020WC

Purpose:

The purpose of this memo is to provide information to allow you to determine whether to proceed with the shellfish lease application. If the intended action is approval of the application or approval with conditions, then a formal public hearing will be scheduled following a 30-day public comment period. Public comment will be summarized and presented to you for a final decision on the proposed shellfish lease.

An application for a 3.72-acre shellfish bottom and water column lease for Charles Allen and Mason Allen, was received for a proposed site location South River, Carteret County.

Shellfish Lease Application Review:

Prior to any site investigation, shellfish lease applications are checked against GIS data layers to ensure that shellfish leases do not conflict with existing designated or protected areas. Not all areas listed preclude the siting of a shellfish lease but may limit certain uses or gears (see Appendix 1).

The proposed site is also evaluated using standard GIS measurement tools to initially determine if the site meets the regional conditions of the U.S. Army Corps of Engineers (USACE) Nationwide #48 Permit. GIS is also used to determine riparian use and to approximate marked or unmarked channels prior to the site investigation.

Summary of Shellfish Lease Site Investigation:

This site was investigated by shellfish leasing staff on June 9th, 2022. Temporary signs were in place and shellfish density was determined to be zero bushels per acre which is below the natural shellfish standard of 10 bushels per acre threshold in Marine Fisheries Commission (MFC) Rule 15A NCAC 03O .0201. Submerged aquatic vegetation was found in zero samples which meets criteria set by the National Oceanic and Atmospheric Administration (NOAA) as per the USACE Nationwide #48 Permit Regional Conditions.

Internal Review:

After the formal site investigation, data is compiled and sent out for internal review to the following personnel. The typical review period is two to three weeks but that may be extended to provide additional information when requested. Comments may be made directly by the contacts listed below or further delegated to field staff. Due to the number of shellfish lease applications we receive, we do not expect internal reviewers to conduct a site visit for each shellfish lease but rather use experience and knowledge of the area to develop comments.

- Division of Marine Fisheries (DMF) Fisheries Management, District Manager
- DMF Marine Patrol, District Captain
- DMF Shellfish Sanitation, Growing Area Manager
- Division of Coastal Management (DCM)
- Division of Water Resources (DWR)
- USACE

Summary of Internal Review:

Tina Moore, DMF Fisheries Management, Southern District Office, commented that no Fisheries Management sampling activities occur near this lease. Commercial fishing activities include hand oystering, gill nets, flounder gigging, crab pots, shrimp trawling and shellfish hand harvest. Recreational activities include RCGL gear use, flounder gigging, and hook and line fishing for flounder, speckled trout. The area is also utilized by waterfowl hunters.

Officers Lott and Morris, DMF Marine Patrol, commented that there is commercial crabbing in the area, with sets being within 50 yards of the proposed lease location. There is also commercial gill and strike netting in the footprint of the proposed lease because of its shallow, sandy bottom. Recreational trout and drum fishing occurs in the area as well. There is a popular mooring location for sailboats and large vessels 100-200 yards south of the lease.

Andy Haines, DMF Shellfish Sanitation Section, commented that this proposed lease is in approved waters that are closed an average of 7% (26 days) annually. Since the applicant intends to harvest during the closed season, SS requests that they review SS-1 and SS-2 to ensure compliance. Applicant will be asked to amend their storm management plan to include contact information for SS in case any product is found off lease post-storm.

Daniel Govoni, DCM, commented that the applicant should contact Jonathon Howell, DCM, to ensure the proposed storage facility and shellfish tumbler meet all permitting requirements. The applicant will be required to obtain CAMA permits if they intend to construct any permanent structures or undertake development activities on the proposed shellfish lease. Additionally, CAMA requests that the shellfish lease markers have reflective tape.

John Perry, DWR, commented that the proposed shellfish lease is in SA;HQW, NSW waters, and that there appear to be no adverse impacts to SAV and SAV habitat, but cite concerns with recreational and commercial utilization of the area.

Modifications and mitigations to the proposed shellfish lease application based on internal comments:

Shellfish Sanitation comments will be discussed with applicants if a public hearing is approved. The storm prep plan has been amended and mitigates SS concerns about transporting product.

Applicant will be made aware of closed season harvest requirements.


Applicant will be required to obtain CAMA permits, if necessary, prior to their contract being signed.

Applicant will contact Jonathon Howell, DCM (252) 808-2808 to ensure proposed storage facility and tumbler meet all permitting requirements.

Director's Recommendation:

It is my recommendation that a public hearing be held concerning this application to allow for public comment. Please provide your response below.

- Proceed with public hearing.
- Do not proceed with public hearing.
- Only proceed to public hearing if the application is amended with the following modification(s) agreed to by the applicant.



Kathy B. Rawls, Director

12-16-22

Date

SHELLFISH LEASE INFORMATION

June 13th, 2022

Charles Allen and Mason Allen – Changing Tides Renovations, LLC
3.72 Acre Bottom Lease 22-019BL and Water Column Amendment 22-020WC
South River
Carteret County

NAME OF REVIEWER: Andrew Haines

DATE REVIEWED: 6/17/2022

SHELLFISH SANITATION

PLEASE ANSWER THE FOLLOWING QUESTIONS, INCLUDING ANY COMMENTS THAT YOU FEEL ARE PERTINENT.

1. What is the current status of the area described above concerning closures issued by your office to the harvest of shellfish?

Approved Conditionally Approved Prohibited

Comments: Although the waters surrounding this proposed lease location are classified as Approved, emergency closures of the area can be made following extreme rain events associated with hurricanes, tropical storms, or other unusually strong storms.

2. If the current status is “Conditionally Approved”, in your opinion what percentage of an average year would the area be restricted to shellfish harvesting?

25% or less 25%-50% 50%-75% 75% or more

Comments: Over the past five years, the waters surrounding this proposed lease have been closed for an average of 26 days per year (7%).

3. Has the status of this area changed within the last year? Yes No

Comments: _____

4. Do you expect the current status of this area to change in the near future? Yes No

Comments: Although we do not expect any changes in the status of this area in the near future, all growing area classifications are reevaluated on a regular basis, and the classification of this area could change if there is a change in water quality.

Additional Comments:

We would like the applicants to be informed of the following details if this lease application is approved:

- a. The applicants indicate that they intend to participate in closed season oyster harvest. Additional handling requirements apply to this practice, so the applicants should review [SS-1](#) and [SS-2](#), or

call the Shellfish Sanitation and Recreational Water Quality Section to discuss those requirements.

- b. Shellfish transported away from the lease during a storm may be exposed to additional contamination beyond what impacts the lease itself, and may be subject to special handling requirements in order to best protect shellfish consumers. If shellfish product is found outside of the boundaries of the lease following a storm, the leaseholder should contact the Shellfish Sanitation and Recreational Water Quality Section at 252-726-6827 to discuss best practices for handling those shellfish. A line describing this requirement and including the phone number should be added to the lease-specific Storm Management Plan so that this information is readily accessible following a storm.

ROY COOPER
Governor
ELIZABETH S. BISER
Secretary
BRAXTON DAVIS
Director



TO: Marla Chuffo, NC Division of Marine Fisheries

FROM: Daniel Govoni, Policy Analyst, Federal Consistency Coordinator

SUBJECT: Changing Tide Renovations LLC, Charles Allen, and Mason Allen
(22-019BL/22-020WC)

DATE: August 9, 2022

Thank you for the opportunity to comment on the lease application for Charles Allen and Mason Allen, for a 3.72-acre Bottom Lease and Water Column Amendment, South River, Carteret County. Please consider the following comments in your lease application process.

- The applicant indicates a tumbler and storage facility will be used as part of the operation. Depending on the location and any accessory structures associated with these methodologies, a CAMA permit may be required. Please have the applicant contact Jonathan Howell (252) 515-5404 at the Division of Coastal Management to determine if a permit is required.
- CAMA § 113A-103(5)(a) defines development to include the construction or enlargement of a structure, excavation, dredging, filling, dumping, removal of clay, silt, sand, gravel or minerals, bulkheading, driving of pilings, clearing or alteration of land as an adjunct of construction, alteration or removal of sand dunes, alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal, or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5). If permanent structures are proposed, the applicant should be notified that a CAMA Permit will be required.
- To ensure there is no hazard to navigation associated with the lease, at a minimum, permanent reflectors or reflective tape shall be attached to any markers associated with this lease to make them visible during hours of darkness or inclement weather.



North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808