

THE PIKE LAW FIRM, PLLC

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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.

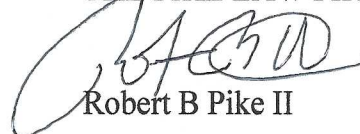
Lukens members and their guests regularly fish from the shoreline and piers and shrimp and fish near shore from boats. As noted in the various state agency reviews, this location is a regularly used location, in all months of the year, for recreational and commercial fishing. Many Lukens members have 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