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Commonwealth of Massachusetts

Division of Marine Fisheries

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November 15, 2012

Board of Selectmen
P.O. Box 119
Chilmark, MA. 002535

Ladies and Gentlemen:

Under authority of Chapter 130, section 57 of the Massachusetts General Laws, an on-site inspection was conducted on Wednesday August 29, 2012 commencing at 09:00 A.M. A 100 x 600 square foot shellfish aquaculture license proposed by Wayne Vincent Iacono Jr. of Chilmark, MA. was surveyed by personnel from the Division of Marine Fisheries.

The proposed project area is located in the Town of Chilmark, in the center of Menemsha Pond. The applicant plotted the license site. Five other 100 x 600 square foot existing license sites are situated within the same area.

The area is situated in the sub-tidal zone. Depth at the time of the survey was 18-20 feet. Substrate throughout the site was a fine grain very soft silt mud bottom, greater than 2 feet deep. Divers from the Division of Marine Fisheries were used to survey the site. Two divers swam along six transects, one on each side of the transect line sampling square foot quadrants using hand scratchers at stations spread out approximately 15 feet apart. Distances between quadrant stations were estimated by counting "fin kicks" resulting in varying the number of stations per transect line. Square foot plots were dug using hand rakes along each of the transects. A total of 84 square foot samples were taken along the inside perimeter of the proposed site as delineated by four buoys deployed by the applicant and along 4 transects through the middle of the site. No quahogs *M. mercenaria* or other bivalve molluscan shellfish were collected.

The proposed site does not contain average numbers of naturally occurring shellfish close to the level considered significant by the Division of Marine Fisheries in assessing areas for private shellfish licenses (1 quahog/sq.ft. or 3 soft shell clam or 3 oysters /sq.ft.). No eelgrass (*Zostera marina*) or other submerged aquatic vegetation was observed on the proposed site or bordering the site. Other benthic fauna observed included several spider crabs *Libinia emarginata*. Additionally, no endangered species, significant marine resources or fisheries were noted at or immediately adjacent to the proposed site.

As a result of this inspection, it is our opinion that license and operation of the proposed shellfish aquaculture project under the provisions of Chapter 130, section 57 of Massachusetts General Laws, would not have a substantial adverse impact on the shellfish or other natural resources of Menemsha Pond in the Town of Chilmark.

All activities in connection with this license must be conducted in accordance with all applicable state statutes and regulations governing shellfish and in accordance with provisions of 322 CMR 15:00: Management of Marine Aquaculture. Marine Fisheries reserves the right to further condition this license at any time, under provisions of Chapter 130, section 57 if deemed necessary to protect shellfish and other natural resources.

The licensee-applicant should be aware that this license is subject to further regulation by the U.S. Army Corps of Engineers and may be subject to regulation by the Massachusetts Dept. of Environmental Protection under the provisions of Chapter 91 (Waterways Acts) and/or Chapter 131, section 40 (Wetlands Act) and their regulations.

It is strongly suggested that the applicant contact the local Conservation Commission to determine the applicability of the Wetlands Act and the U.S. Army Corps of Engineers, Regulatory Branch at 696 Virginia Road, Concord, MA. 01742, tel.(978-318-8696), concerning a Programmatic General Permit For Small Scale Shellfish Aquaculture.

Operation of this license prior to such determination by the Conservation Commission or before obtaining other required permits and licenses from the Dept. of Environmental Protection or the U.S. Army Corps of Engineers may result in legal or regulatory action against the applicant by one or more of these agencies.

Permits issued by this Division to obtain and possess seed shellfish for aquaculture do not absolve the applicant-licensee from the above mentioned obligations. All holders of a local private shellfish aquaculture license from a municipality allowing exclusive use of an area to grow shellfish are also required to obtain an aquaculture permit under authority of Chapter 130, Section 69, MGL and Title 322, Code of Massachusetts Regulations (7) and (15) from the Division of Marine Fisheries. This permit authorizes the possession and growing of seed shellfish from an approved source and is required annually regardless of whether seed is purchased from a hatchery or is acquired from a natural set.

Sincerely,



J. Michael Hickey
Chief Biologist

jbm/JMH

cc to: D. McKiernan, Deputy Director, DMF
I. Scheffer, Chilmark Shellfish Constable
Chilmark Conservation Commission
T. Davies, DEPSERO
Grant Applicant
K. Kotelly, U.S. Army Corp of Engineers

AQUINNAH

asha Pond

E. Carroll

D. Poole

J. Armstrong

T. Broderick

S. Broderick

W. Iacono, Jr.

CHILMARK

West

