

## Blue Hill Mussel Farming Battle Heads to the Courtroom

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Longlines are hauled up on the Gray's Mussel Farm raft from which they will hang when it is time to begin cultivating another crop of blue mussels. The raft is located just east of the northern end of Long Island, a little more than a mile from the Maine Cultured Mussels lease site.—STAFF PHOTO BY STEPHEN RAPPAPORT

BLUE HILL — There has been a change of venue in the ongoing battle over the expansion of mussel farming in Blue Hill Bay.



A buoy marks one of the many lobster traps set within a biscuit toss of the eastern shore of Long Island.—STAFF PHOTO BY STEPHEN RAPPAPORT

Last week, Friends of Blue Hill Bay filed suit in Superior Court in Ellsworth to overturn a decision by the Department of Marine Resources (DMR) to allow the operation of a 51-plus acre mussel farm off the eastern shore of Long Island. The agency approved a 10-year aquaculture lease to Erick Spencer Swanson (d/b/a Mussel Bound Farms) and Maine Cultured Mussels Inc., a corporation owned by Swanson's mother and managed by his father, at the end of May.

In February, the Friends of Blue Hill Bay spearheaded opposition to the plan at DMR's public hearing on the lease application.

Ellsworth attorney Sally Mills said her client was challenging DMR's lease decision for two reasons.

"It has a lot to do with the technical deficiencies in the lease application," Mills said. "There are so many gaps. How bad does an application have to be before it's denied?"

Mills said Friends of Blue Hill Bay was also challenging the DMR decision because of the mussel farm's potential to interfere with navigation and lobster fishing in the area.

"I'm disappointed at the Department of Marine Resources' inability to manage the growth of aquaculture responsibly," Donald Eley, the conservation group's president, said this week.

While the Maine Cultured lease site is by far the largest mussel farm in the upper part of Blue Hill Bay, it isn't the only one. Evan Young of Hancock operates a 2.3-acre suspended culture mussel farm close to the shore of Hardwood Island off the western shore of Mount Desert Island. In January, DMR approved an application by Terry Gray of Verona Island to expand an experimental lease to a 10-year lease to culture mussels on lines suspended from wood and steel rafts moored on a six-acre site just east of the northern end of Long Island.



Maine Cultured Mussels and Mussel Bound Farm have already set dozens of buoys in a 1,400-by-1,600-foot area off the shore of Long Island in Blue Hill Bay. The buoys are set in water 100 feet deep or more, and more than 900 feet from the shore. Most of the lobster gear in the area, at least this week, was set close to shore in shallow water.—STAFF PHOTO BY STEPHEN RAPPAPORT

The Swanson family's mussel farming operations in Blue Hill Bay have grown like Topsy.

In 1999, the elder Swanson began growing blue mussels on part of a 25-acre lease site east of Hardwood Island owned by Trumpet Island Salmon Farm Inc. and originally devoted to raising Atlantic salmon. By the end of 2005, the salmon were all gone and the lease site was devoted entirely to cultivating mussels. The site had also been reduced to just 15 acres, but that wasn't a sign that family was cutting back on mussel farming in Blue Hill Bay. In July 2005, DMR granted Maine Cultured a 10-year lease to grow mussels on a 53.4-acre site east of Tinker Island in the lower bay. The Hardwood Island site was transferred to the corporation early in 2006.

Maine Cultured and the younger Swanson first applied for a lease to cultivate blue mussels using suspended long lines on a 51.4-acre site more than a year ago. The application was filed about six months after Swanson and DMR held a pre-application "scoping session" in Blue Hill to present his proposal for a 13-acre mussel farm in the vicinity of Dunham's Cove on Long Island's eastern shore.

DMR twice postponed a public hearing on the application. The first delay was ordered because the acreage sought in the lease application was nearly four times greater than the area discussed at the scoping session. The second was the result of a typo in the published hearing notice.

The Maine Cultured lease site lies about 1,000 feet off Long Island. It encompasses a rectangular area that stretches 1,400 feet more or less parallel to the shore and extends 1,600 feet into the bay toward Western Point on Bartlett Island.

At the public hearing in February, the Friends of Blue Hill Bay objected to the lease application, among other reasons, because they claimed it would unreasonably interfere with navigation in an area popular with sailors and other recreational boaters during the summer months. The lease area lies directly across the most direct course toward Blue Hill Harbor from the southern end of Long Island. After Maine Cultured moors the 200-350 buoys it will use to mark the site and support the lines on which mussels will

be grown, it could be difficult for boats to pass through the area without snagging a buoy line.

Sailors face another problem. Because they won't be able to sail through the lease site, sailboats heading up or down the bay against the wind will have to make shorter, more frequent tacks.

Despite the concerns raised by Friends of Blue Hill Bay, DMR ruled that, with passages more than 900 feet wide between the lease site and Long Island, and more than a mile wide on the other side, the mussel farm won't pose too knotty a problem for mariners. That view is apparently shared by the U.S. Army Corps of Engineers.

Under federal law, Maine Cultured may not set its moorings and other paraphernalia on the lease site without a permit from the Corps of Engineers. As of this week, according to the Corps' Sean Mahaney, no permit has been issued.

"Right now, we're reviewing the project," Mahaney said on Monday. "They don't have a permit yet, but a decision will be made shortly."

That decision is likely to be positive. Mahaney said the Corps had first reviewed Maine Cultured's permit application a year ago and no other federal agencies voiced any objections at the time.

"We act independently, but we held off on a final decision until the state's decision," Mahaney said.

Despite the absence of the required permit, earlier this month workers from Maine Cultured began setting out gear on the lease site. That work has apparently stopped, although dozens of blue and yellow buoys have already been set out on the lease site.

"I sent him an e-mail saying 'stop work' and he said, 'OK, I will,'" referring to the elder Erick Swanson, Mahaney said.