

Mussel Farm Could Face Revocation of New Lease

Written by Stephen Rappaport



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BLUE HILL — A Blue Hill Bay mussel farmer has Department of Marine Resources (DMR) Commissioner George Lapointe seeing red.

Just weeks after he signed a 51.4-acre aquaculture lease allowing Erick Spencer Swanson (d/b/a Mussel Bound Farms) and Maine Cultured Mussels Inc., owned by Swanson's mother and managed by his father, to cultivate mussels in Blue Hill Bay, Lapointe accused the elder Swanson of displaying a "cavalier attitude" toward the requirement of that lease that the United States Corps of Army Engineers issue a permit for the site "before any aquaculture activities are conducted."

In a letter to the elder Swanson dated June 27, Lapointe warned that the department would begin proceedings to revoke the lease "unless we see rapid compliance" with the requirement in the lease that the site be properly marked in accordance with state and federal regulations.

On May 25, DMR approved the lease encompassing a 1,600-by-1,400-foot site located about 950 feet off the eastern shore of Long Island for the cultivation of mussels on loops of rope suspended deep beneath the surface of the water. The loops hang from an array of 44 to 50 "backlines" supported at a depth of approximately 30 feet by as many as 350 blue and yellow buoys on the surface, with as many as 250 additional buoys floating below the water. The farm is anticipated to produce 300,000 to 450,000 pounds of blue mussels every year.

Within days of DMR approving the lease, more than 60 buoys had been moored in the lease area although, as of the end of June, the Corps of Engineers had not issued any permit. Federal law requires that the Army Corps of Engineers must give its written approval before any buoys or aquaculture gear are placed in navigable waters.

After a complaint to DMR about the buoys from Donald Eley, president of Friends of Blue Hill Bay, the Maine Marine Patrol visited the lease site during the week of June 18 and found that buoys had been set out in the lease area. According to Lapointe, in an exchange of e-mails, the elder Swanson, who already operates two other mussel farms in Blue Hill Bay and has been in the aquaculture business in Maine for nearly two decades, indicated that he believed that he had all the permits required. He also suggested that it was up to DMR to make sure that he understood which permits he needed before gear installation could begin.

That wasn't Lapointe's view.

"Our permit is not a de facto Corps permit," the commissioner said this week. "These things should be pretty clear. Erick isn't a new guy on the block."

As a practical matter, with the Army Corps permit likely to be issued within the next several days, the risk that DMR would begin proceedings to revoke the Blue Hill Bay lease is small. Revocation requires written notice to the lessee and a public adjudicatory hearing and takes at least two months, Lapointe said.

Even so, Lapointe said, it was important to send a message to Swanson and to all aquaculture lease applicants.

"The message we want to send is to pay attention to the application. Pay attention to the process."

That message is particularly timely because, according to Lapointe, Maine Cultured Mussels has begun the process for obtaining another aquaculture lease located just south of the lease site off Long Island. According to State Aquaculture Coordinator Samantha Horn Olsen, DMR has set up a July 16 meeting between Swanson and Blue Hill town officials so that they can question him about those plans.

"The meeting is really just for the town officials," Horn Olsen said this week. A public "scoping session" will follow some time in the future.

"We want him to observe the process," Lapointe said Monday. As he told Swanson in his letter, "Aquaculture in Maine as a whole can only suffer when aquaculturists do not fulfill their responsibilities in a consistent manner."