

## *Blue Hill Bay*

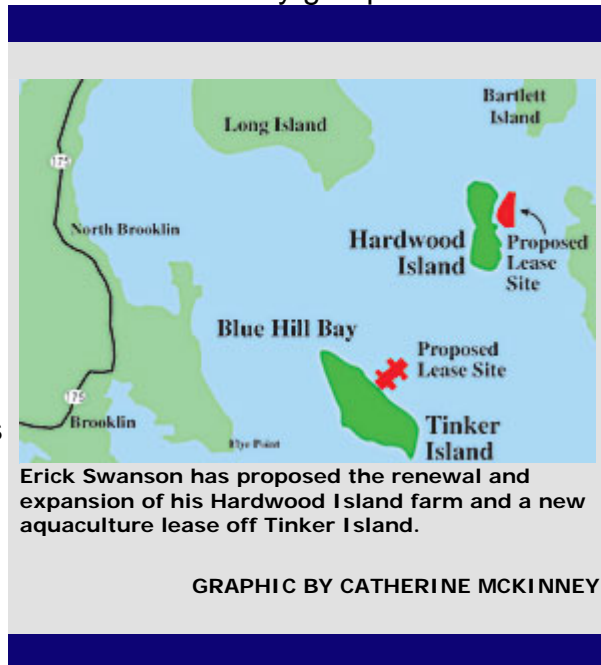
# Regulator Proposes an Approval And a Denial for Salmon Farm

*By Aaron Porter*

TREMONT — Proposed state decisions on two salmon farms in Blue Hill Bay have stirred complaints from aquaculture critics and industry groups alike.

The decisions in the renewal and expansion of Erick Swanson's salmon farm off Hardwood Island and his application for a second farm off Tinker Island were proposed by the Department of Marine Resources last week.

The proposed decisions are subject to a 10-day comment period before Commissioner George Lapointe decides whether to sign off on them. As written, they would allow Swanson's Trumpet Island Salmon Farm, located off Hardwood Island, to be renewed for 10 years, deny an expansion of that site, and grant him a second salmon farm lease off Tinker Island.



The decisions were made based on testimony received during three days of public hearings in Tremont and Southwest Harbor last August and an evening hearing in Tremont in January.

Swanson, who has operated his salmon farm off Hardwood Island since 1993, has been looking to expand his operations since the late 1990s. He needs a second lease site to allow him to conform to state regulations requiring separation of fish hatched in different years. The proposed decisions taken together would allow him to do that. However, he didn't get all he wished for.

Maine Aquaculture Administrator Mary Costigan, who composed the decision proposals, said Swanson had problems with feed buildup under his farm as well as late payment of rental fees to the state and lapsing of his performance bond over the first 10 years of his 25-acre farm lease.

She said, in spite of the fact that Swanson wasn't always in compliance with provisions of his lease, the department has the discretion to grant the renewal anyway.

"There's no discretion on the department's part. If they've complied, we have to renew. But if he hasn't, there's nothing that says what we have to do," she said.

“We could deny it, but I didn’t feel the need to recommend that in this case.”

That doesn’t sit well with Don Eley of Friends of Blue Hill Bay. He said the list of shortcomings in Swanson’s operation of the farm ought to prompt the state to question whether the farm operator should be trusted to lease the public waters again.

Costigan said she made her recommendation based on what she saw as improvements in Swanson’s record.

“The administrative things like late rental, we can get over that. He paid it. He has improved. We haven’t had that many problems recently. The bond issue is straightened out, and we have the same issues on a lot of leases,” she said.

While Costigan’s proposal to renew the existing farm indicates that the “unacceptable” effect the farm has had on the seafloor around it has been cleaned up, she cited the history of environmental problems in denying the 17-acre expansion of the farm.

“He’s doing fine now,” she explained, “but we don’t want that same operation that has had problems in the past to move to less favorable conditions.”

Costigan said shallower water and slower currents closer to shore would make the expansion site more vulnerable to environmental degradation from the farm.

“The current site has some impact, but it’s acceptable,” she said. “The fear is that if it goes to less environmentally favorable conditions, it would be unacceptable.”

Costigan said the line between acceptable and unacceptable impact isn’t specified in rule or statute. “It depends on the site,” she said.

Eley questioned how much conditions on the Hardwood site have improved. He cited a Finfish Aquaculture Monitoring Program video shot the same month as the first of the hearings. It showed Begiattoa matting, which indicates organic loading of the bottom, as well as a net and various rope on the bottom.

Eley said the video is contrary to the testimony of Swanson and state Aquaculture Environmental Coordinator Jon Lewis. They said conditions had improved on the site.

Lewis on Monday said he didn’t see anything in the video that contradicted his prior testimony. He said there was no excuse for the net being on the bottom, but said Swanson had retrieved it as soon as he was informed. As for the Begiattoa, he said it was the result of salmon die-off in the winter of 2003, a problem not confined to Swanson’s farm.

“When fish died in these super-chill sites, people could not get out to them because of icing,” he said. “Things sat for a while and those fish essentially liquefied and fell to the bottom.”

He said the Begiattoa was obviously not from overfeeding, and it had dispersed by the spring video shot in April.

In proposing the renewal, Costigan asked for the removal of mussel cultivation rafts from Swanson’s lease site. She said the rafts became an issue that headed into the hearing when the department became aware that they didn’t belong to Swanson. She said the mussel rafts amount to a sublease of Swanson’s aquaculture lease. She clarified that Swanson would be able to place mussel rafts that belonged to him on the site.

Sebastian Belle, executive director of the Maine Aquaculture Association, said the proposal to remove the mussel farms is shocking. He said the decision would “remove any incentive for an operator trying to do polyculture” on a farm. He said salmon farmers have been looking to have mussels grown near pens to help clean up any waste that might come from the salmon farm.

Another proposed decision that disturbed Belle appeared in the two approvals. Contrary to the testimony of Swanson and representatives from Heritage Salmon Co., Costigan found that Heritage is a tenant on Swanson’s lease. What that means is that the acreage of Swanson’s sites will count toward Heritage’s leased acreage total. That total stands at 250 acres today but will jump to 300 acres active and 500 acres total on July 31.

Belle said the proposal is “an indication of the commissioner’s discretionary powers.” He said such a decision flies in the face of an increasingly frequent agricultural business model, which allows a large processing company to provide financing for small farms that supply poultry or salmon in return.

“If you argue that this fundamental business model implies tenancy, it has tremendous consequences,” he said. They include an incentive to stick with corporate farm operation, in preference to local ownership.

“I don’t know of other situations that are like this,” Costigan said. She added that there wasn’t one part of the relationship between Heritage and Swanson that was definitive of their tenancy relationship. “It’s cumulative,” she said. “It was just too many things.”

Heritage supplies fish, loans, feed, processing facilities, some manpower and pays some fees for Swanson’s Hardwood Island facility.

Eley said he was pleased with the finding that Heritage is a tenant on Swanson’s farm. Friends of Blue Hill Bay and fellow intervenor Conservation Law Foundation

testified that Heritage was a tenant of Swanson's farm.

While the lease acreage total isn't a problem for the renewal, the addition of the Tinker Island site will take Heritage over its 300-acre limit. By the new rules, Heritage will have to fallow any acreage over 300 for 12 months.

In the proposed decision on the Tinker Island site, Costigan recommended the reduction of the lease from 54 acres to 30 acres. This was based on the department's assertion that the space for two salmon pens on the same site wouldn't allow for separation of two-year classes of fish, as Swanson intended. By choosing the outermost of the two sites, Costigan moved the inshore boundary of the proposed farm to 1,633 feet from the shore of Tinker Island.

Eley said the Tinker decision in particular disturbed him because of a lack of balance in the department's treatment of scientific evidence from Neil Pettigrew, who testified for Friends of Blue Hill Bay, and that of department Director of Ecology John Sowles.

Eley said he was disappointed by the lack of consideration given to the public comments that were made at hearings and in letters to the department. He estimated that more than 100 letters must have gone to the department, and numerous members of the public testified at the hearings. With the exception of the testimony of a few lobstermen about the Tinker Island site, Costigan's recommendations address the letters and comments in two sentences that acknowledge the testimony.

Costigan said she didn't know just how many letters had come in.

"I've read all of them," she said. "What we are concerned about in the decision is relevant evidence, not just any evidence. A lot of letters were very general, nothing very specific," she said. She reminded that it is vital that testimony and letters be relevant to the decision criteria and not just general objections to salmon farming.

Intervenors have 10 days to provide written responses to the proposed decisions before Commissioner Lapointe makes his final decision on the leases.

Erick Swanson didn't return calls before press time