



New Hampshire Fish and Game Department

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November 15, 2021

William & Chaney Fisher
Avalonia Aquaculture
1 Boston Harbor Road
Dover, NH 03820

Dear Mr. Fisher;

1. Procedural History: On May 5, 2019, an application was received from Avalonia Aquaculture for a bottom aquaculture license near 1 Boston Harbor Road, Dover, NH 03820. A public hearing scheduled for March 25, 2021 for the 3-acre proposed site was cancelled by the applicant due to concerns from an abutter about a future dock. Avalonia Aquaculture reduced the size of the proposed site from 3 acres to 1.4 acres to address the abutters concerns. Notice to the public and interested parties for the 1.4 acre proposed site was accomplished as follows: 1) notice of a public hearing on October 1, 2021 at 9:00 am, was printed in the Portsmouth Herald newspaper on September 1, 2021; 2) the notice and application was posted on the NH Fish and Game website; and 3) all abutters and regulatory agencies were mailed (certified mail) information on the public hearing and the application for the proposed aquaculture site. However, the applicant failed to send notifications three weeks prior to October 1, 2021 as required by Fis 807.07 (g) and (h). Notifications were sent on September 23, 2021. After consulting with Paul Sanderson, NH Fish and Game Legal Coordinator, the proceedings for the proposed aquaculture site remained open until confirmation of receiving application material by return receipt or comment was received from all notified abutters. The matter was heard by the public at the Region 3 office in Durham, NH on October 1, 2021 at 9:00 am (see Attachment 1 for list of individuals who attended).

The following persons testified at the hearing:

Opposed to the license:

L. Worthington, 5 Boston Harbor Rd, Dover, NH 03820
Paul Sapienza, 3 Boston Harbor Rd, Dover, NH 03820
Angela Engel, 3 Boston Harbor Rd, Dover, NH 03820
Kevin and Peggy Clifford, 7 Boston Harbor Rd, Dover, NH 03820
Mike Leonard, 5 Boston Harbor Rd, Dover, NH 03820

Support to the license:

Conor Walsh, Swell Oyster Company

The following persons provided written comment in opposition to the licenses due to concerns of boating safety, recreational impact, too many current licensed aquaculture sites in the area, and property value impacts:

Email - Kevin and Marguerite Clifford, 7 Boston Harbor Rd, Dover, NH 03820
Email – Michael Leonard & Lorraine Washington, 5 Boston Harbor Rd, Dover, NH 03820

Letter – Angela Engel & Paul Sapienza, 3 Boston Harbor Rd, Dover, NH 03820

Letter – Multiple signatures against application provided by Boston Harbor Rd. residences:

Hugh Voughen, 11 Boston Harbor Rd.

Ralph Phipps, ½ Boston Harbor Rd.

Halil Qzkurt, 13 Boston Harbor Rd.

Wes Elmer, 15 ½ Boston Harbor Rd.

Paul Sapienza, 3 Boston Harbor Rd.

Marguerite Clifford, 7 Boston Harbor Rd.

Michael Leonard, 5 Boston Harbor Rd.

Kevin Clifford, 7 Boston Harbor Rd.

Andre Messiar III, 13 ½ Boston Harbor Rd.

Fred Biederman, 9 ½ Boston Harbor Rd.

Lorraine Worthington, 5 Boston Harbor Rd.

Ashley Phelps, 9 Boston Harbor Rd.

Letter - Richard Delude – Pease International Ports and Harbors, Harbormaster – concerns of the proposed site encroaching on mooring space (see Attachment 2)

No person provided written comment in support of the license.

All abutters sent the required notification has either provided comment and/or attended the public hearing. The record was closed on October 27, 2021.

2. Standard of Review: Fis 807.07(j) states: *The executive director shall review all of the information to determine that the proposed aquaculture operation would not pose any unacceptable risk as specified in Fis 807.02(g), does not conflict with or negatively impact any recreational, commercial or other use currently being conducted in the area in and around the proposed project area, or does not adversely impact the value or use of private property in and around the projected area before issuing a license.*


3. Findings: Based upon the entirety of the record, I find as follows:

- a) Due to the shallowness of the proposed bottom culture area (0-5 ft. at mean low water stated in the Department's site survey), the bottom culture gear proposed for use in the application (cage culture – 3'x4'x15") would conflict with existing recreational boating activity at mean low tide in a majority of the proposed site.
- b) The proposed bottom planting of oysters would conflict with recreational boating and mooring accessibility, kayaking, paddleboarding, and swimming in the area.

4. Decision: The application is denied because it does not meet the Standard of Review contained in Fis 807.07(j).

5. Following this determination, and in accordance with Fis 200 and RSA 541-A:35, individuals have the right within 30 days to seek reconsideration or modification of this decision. If you have any questions, please contact Cheri Patterson of NH Fish and Game at the Region 3 office in Durham.

Sincerely,



Scott Mason
Executive Director

Attachment 1. Attendance list from public hearing.

Aquaculture Public Hearing 10-1-2021

NAME	ORGANIZATION
Clark Nash	NHDES
Heather Mailhot	DHHS- Shellfish
Carol Walsh	SWELL OYSTER CO.
X. J. Donington	5 Boston Harbor Rd
Kevin Clifford	7 Boston Harbor Rd
Peggy Clifford	7 Boston Harbor Rd
ANGELA ENGEL	3 BOSTON HARBOR RD
PAUL SABERZA	3 BOSTON HARBOR RD
MIKE LEONARD	5 BOSTON HARBOR.
Lt. Delayne Brown	NHFG Law Enforcement
William Fisher	1 Boston Harbor Road

Attachment 2. Letter from Richard Delude, Harbormaster, PEASE International Ports and Harbors



OCT 26 2021

555 Market Street, Suite 1 Portsmouth, NH 03801

New Hampshire Fish and Game
11 Hazen Drive
Concord, NH 03301

Re: Avalonia Aquaculture License

The concern of the Pease Development Authority – Division of Ports & Harbors is for the encroaching of this farm on mooring space for the citizens of this state. There has been a marked increase in the area consumed by aquaculture leaving the public with less recreational space. The water is a State asset and is to be made available for all.

Shorefront property owners have a riparian right to ready and safe use of their property and the water adjoining it. The oyster farms are beneficial but must be controlled and not allowed to overwhelm the public ability to enjoy the water.

Thank You

A handwritten signature in black ink, appearing to read "Richard Delude".

Richard Delude Harbormaster