

# AQUATIC FARM OVER-THE-COUNTER LEASING INFORMATION

## 1. GENERAL INFORMATION

### Introduction

On June 21, 2002, House Bill (HB) 208 was signed into law under Chapter 81, SLA 2002. The law required the Department of Natural Resources (DNR) to identify and offer for lease at auction a minimum of 90 sites suitable for aquatic farming. The sites are divided into the following categories: 60 sites for oysters (and other suspended culture species); 20 sites for clams (and other intertidal culture species); and 10 sites for geoduck (and other subtidal culture species). By the end of the process the state identified a total of 158 aquatic farm lease sites. 25 sites were taken during the auction which will now be administered under the State of Alaska Mariculture Statutes and Regulations. Each lease is 10 years in length.

Sites not selected are now available on a first-come first-served basis in an Over-the-Counter offering that began on January 29, 2004.

This booklet is intended for informational purposes only and does not constitute an offer to lease. It is possible that modifications of the booklet may need to be made after initial publication. An errata sheet (booklet corrections) will be published on the DNR website and available at the DNR Public Information offices in Anchorage and Juneau. The DNR website is:  
[www.dnr.alaska.gov/mlw/aquatic/](http://www.dnr.alaska.gov/mlw/aquatic/) .

While State agencies believe the remaining over-the-counter sites are suitable for aquatic farming there is no guarantee of a farmer's success. There are many factors that influence the success of a farming operation that must be evaluated by the farmer. Successful farms are not only contingent upon a good site in both physical and biological terms, but are also

dependent upon the farmer's technical and financial expertise.

### Authorities:

This lease disposal and subsequent lease administration is authorized and implemented in accordance with the following Alaska Statutes (AS) and Alaska Administrative Codes (AAC): AS 38.05.035; AS 38.05.070; AS 38.05.075; AS 38.05.083; AS 38.05.127; AS 38.05.128; AS 38.05.950; 11 AAC 51; 11AAC 63; 11 AAC 67.008; 11 AAC 96.060; and, 11 AAC 96.145(b).

### Is this program for you?

Aquatic farming is a very labor intensive occupation. It requires not only time and money but skills in aquatic farm development techniques, water quality and product testing, market analysis and development, processing, packing and shipping knowledge as well as business management skills. In many cases income or profit may not be realized in the early stages of farm operation. Constant attention must be given to the farm site.

Many resources exist for the beginning aquatic farmer. As in any business venture, developing a thorough business plan is necessary and can prevent false expectations and increase the chances for success. The U.S. Department of Agriculture, Northeastern Regional Aquaculture Center, has an excellent web-site for the beginner and can be found at:  
[www.nrac.umd.edu/](http://www.nrac.umd.edu/) .

Before you decide to apply for an over-the-counter aquatic farm site, it is recommended that you visit their website and complete the fact sheets/ worksheets: "Is Aquatic Farming For You?" and "Business Planning For Aquaculture – Is It Feasible?" Both fact sheets can be found at their website under Publications – Fact sheets. If you do not have access to their website, you may request a copy of these publications from the Division of Mining, Land, and Water, Mariculture Office of the DNR in Anchorage.

If a prospective aquatic farmer wishes to lease an area other than those offered under this program, or proposes an operation other than what is allowed under this program, they may apply during the on-going aquatic farm program which holds state-wide openings once every other year. Application openings are held each year from January 1<sup>st</sup> through April 30<sup>th</sup>.

### **Co-operatives (Co-ops)**

Experience has shown that cooperatives in the aquatic farm industry in Alaska have made a significant impact on the success of farmers. Potential farmers should consider co-ops in the early planning of aquatic farm sites. Cooperatives benefit farmers in many ways. Working together gives farmers an advantage in buying, bargaining and marketing.

Cooperatives may be able to purchase aquatic farm supplies at a more reasonable cost by banding together and purchasing supplies in volume. In addition, suppliers may be more willing to discuss customizing products and services to meet specifications if the co-op buys in volume.

Marketing on a co-operative basis, like purchasing supplies, allows members to combine their strength while maintaining their status as independent business people. Farmers can lower distribution costs and develop the ability to deliver their products in the amounts and types that will attract better offers from restaurants and/or grocery markets. A co-op may have sufficient resources and volume to identify and ship to larger markets where prices can be higher.

Another advantage of co-ops is the use of brands and other promotional activities to provide small farmers with markets that are more secure. Promotional activities can establish a loyalty for co-op products from buyers and consumers who will look for and buy the co-op brand. This will tend to stimulate the movement of co-op products throughout the year.

### **What are the costs?**

The site locations are posted on the DNR website. Once you decide on an area you will need to complete the aquatic farm application for review by state agencies. A \$100 filing fee is required at the time the information is returned to the office.

An annual lease fee of \$450 for the first acre or fraction thereof, plus \$125 for each additional acre or fraction thereof along with a minimum \$2500 bond is required upon issuance of the lease. Aquatic farm site lease fees are set at fair market value determined by a DNR appraisal. Appraisal Report No. 2522-10, effective March 15, 2010, with current annual lease fee information can be found on the DNR website.

### **Site Inspection**

**CHECK IT OUT!** DNR and DFG strongly advise anyone wishing to acquire an over-the-counter aquatic farm lease to review the information in this booklet and then inspect the area before picking up a site location packet. A site chosen by a potential farmer is taken “as is” with no guarantees, expressed or implied, as to its future success as an aquatic farm site.

A prospective aquatic farmer must keep in mind that aquatic farm site leases are one of many uses that may occur within the nomination areas, which are now known as “designated” areas described in this booklet. An aquatic farm site lease does not give the lessee the sole use of an entire bay or bight. A variety of other authorized uses, such as commercial and sport fishing, subsistence and recreational activities, can and do occur within these areas.

### **How Does The Over-The-Counter Lease Work?**

A person interested in an aquatic farm site will pick up a site location packet and complete the required information. Each farm site has a maximum number of acres. The size of your farm will be determined by your development

plan and can be increased during the course of the 10-year lease up to the maximum number of acres available.

## 2. FARM SITE LOCATIONS & INFORMATION

There were 130 statewide aquatic farm site leases available within designated areas, plus and additional 28 statewide, pre-authorized aquatic farm site leases available over-the-counter.

### Designated Areas

130 statewide aquatic farm sites were originally available for lease within designated areas. Designated area maps along with farm site descriptions can be found on the DNR website. Designated areas are indicated by both a letter and number sequence (such as KET-N014-019) and a general geographical area name (such as Kasaan Bay) Beneath are the Bid Numbers, the type of culture (suspended, inter-tidal or sub-tidal) and the maximum number of available acres for each farm site.

Each individual farm site has been assigned an ADL Number. In some cases multiple farm sites are available within the same designated area.

Please refer to **Appendix A** for the Geographic Area Name, Farm Site ADL Numbers, Culture Method and Maximum Number of Acres available for each site.

### SOUTHEAST ALASKA

Originally one hundred and eight (108) sites were available in southeast Alaska comprised of 84 suspended culture sites, 16 inter-tidal sites, and 8 sub-tidal sites. **All sub-tidal farm sites have been leased and are not available in the over-the-counter offering.**

### SOUTHCENTRAL ALASKA

Twenty-two (22) sites were originally available in southcentral Alaska comprised of

14 suspended culture sites and 8 inter-tidal sites.

### Pre-Authorized Sites

Pre-authorized sites are the result of an approved aquatic farm site that went through the public review process prior to the HB 208 program but for reasons other than biological were relinquished and/or closed. These farm sites may have been relinquished or closed due to the lack of finances, non-payment of required state fees, or lack of readiness or enthusiasm to farm the site. The difference between a pre-authorized site and a designated area site is that the boundaries of pre-authorized sites are fixed whereas the farmer will actually choose the farm site location within a designated area. The acreage of a pre-authorized site may be reduced but cannot be exceeded. There were 28 statewide, pre-authorized aquatic farm sites available for lease. There were 13 pre-authorized sites available in southeast Alaska and 15 pre-authorized sites available in south central Alaska. Pre-authorized sites are indicated as such on both the Farm Site Descriptions and on the Maps.

### Locating Farm Sites

The successful lessee is responsible for correctly locating their farm. Corners must be identified providing accurate latitude and longitude readings using a Global Positioning System (GPS) in NAD 27. Purposely locating farm sites improperly is not justification for alteration of the farm site boundaries, does not vest any preference right to the land improperly entered, and may result in the termination of the lease.

Maps shown on the website are intended to provide a graphic illustration of the sites and areas available for lease and should only be used for general location purposes. You will be required to properly locate your farm site and provide the coordinates of your site to the DNR. If you are awarded a “pre-authorized” farm site, the coordinates will be provided to you in the Site Location Packet. You will not

be allowed to alter the boundaries or exceed the maximum acreage of any pre-authorized site. However, you may choose to utilize less acreage as long as the farm is still within the boundary of the pre-authorized site.

Upon approval of the development plan by both DNR and DFG, an aquatic farm lease will be sent for signature. Upon receipt of the signed lease agreement and performance guarantee, the lease will be executed by the Division of Mining, Land and Water, Southcentral Regional Manager.

Access to and from the site to a permanent living facility and/or to market areas is the responsibility of the farmer. This is a financial and a logistical consideration when choosing a designated area or a pre-authorized site.

### **Siting Guidelines**

Siting guidelines have been established by the Department of Natural Resources and the Department of Fish and Game to help potential farmers site their farm within a designated area that will avoid any known conflicts. These guidelines are included in Part I - Application Process, Guidelines, Authorizations and Contacts, of the application and on the DNR website provided above.

In addition, if you have any on-going infractions with existing DNR authorizations you are not eligible to participate in the this program. If remediation is currently underway you may participate in the process. However, the department may require you to remedy the infraction as a condition of the aquatic farm lease, or to begin remediation and provide additional security to complete the remediation before receiving the aquatic farm lease.

If you give false information on forms or other required documents you may be prosecuted to the full extent of the law. In addition to any other penalties prescribed by law, you forfeit all monies paid and may lose all lease rights if any have been issued.

## **3. GENERAL CONDITIONS**

### **Title**

Title to the areas being leased is found under the Submerged Lands Act of 1953. (P.L. 31, 83<sup>rd</sup> Congress, First Session; 67 Stat. 29); Equal Footing Doctrine; and Section 1 of the Alaska Statehood Act.

### **Improvements**

It is the responsibility of the farmer to properly locate all farming-related improvements, such as culture gear and workrafts, within the farm site boundaries. It is the farmer's responsibility to obtain all necessary authorizations from federal, state, or local agencies prior to placing any improvements.

### **Survey**

A survey is not required by law before issuing a 10-year negotiated lease. However, the department has the right to require one, at the lessee's expense, if boundary conflicts or disputes over acreage arise.

### **Access**

The public's access to and along navigable and public waters is protected under the Public Trust Doctrine and the laws at AS 38.05.127 and .128. The implementing regulations are 11 AAC 51.045 and require the easement to be continuous, unless topography or land status prevents this, and extend at least 50 feet from the mean high water line, seaward. All aquatic farm leases are subject to the Public Trust Doctrine and the requirements of these laws.

### **Use of Adjacent Lands**

Use of adjacent uplands near the farm site is not part of this over-the-counter program and is prohibited without prior consent from the upland owner. Should the lessee find in the future that uplands are necessary in their aquatic farm activities, they must contact and obtain legal authorization from the upland owner prior to use and provide this information to DNR.

## Material Resources

Successful bidders are not permitted to sell or remove from the farm site any surface resource such as stone, gravel, sand, or any other material valuable for commercial or off-site purposes. **The commercial sale of materials in violation of this restriction is strictly prohibited; damages may apply.**

## Archeological Sites

If cultural or paleontological resources are discovered as a result of any aquatic farming activities, work which would disturb such resources must be stopped and the Alaska Office of History and Archaeology shall be contacted immediately at (907) 269-8721.

## 4. AGENCY CONTACTS

Dept. of Natural Resources  
Division of Mining, Land and Water  
550 West 7th Avenue, Suite 900C  
Anchorage, AK 99501-3577

John S. Thiede, Aquatic Farm Program  
Manager  
Phone: (907) 269-8543  
Fax: (907) 269-8913

DNR Web Page:  
[www.dnr.alaska.gov/mlw/aquatic/](http://www.dnr.alaska.gov/mlw/aquatic/)

For information on inter-tidal and sub-tidal clam surveys or other species or biological queries please contact:

Cynthia Pring-Ham, Mariculture Coordinator  
Dept. of Fish and Game  
P.O. Box 25526  
Juneau, AK 99802-5526  
Phone: (907) 465-6150  
DFG Web Page:  
[www.adfg.alaska.gov/index.cfm?adfg=commercialbyfisheryshellfish.main](http://www.adfg.alaska.gov/index.cfm?adfg=commercialbyfisheryshellfish.main)

For information regarding the water quality certification and the history of Paralytic Shellfish Poisoning (PSP) within an area, please contact:

George Scanlan, Shellfish Program  
Coordinator  
Dept. of Environmental Conservation  
555 Cordova Street, 5<sup>th</sup> Floor  
Anchorage, AK 99501  
Phone: (907) 269-7638  
DEC Web Page:  
[www.dec.state.ak.us/water/wwdp/seafood/index.html](http://www.dec.state.ak.us/water/wwdp/seafood/index.html)

For technical and/or further information on Aquatic Farming, please contact the following:

Ray Ralonde, Aquaculture Specialist  
UAF/Sea Grant Marine Advisory Program  
2221 E. Northern Lights Blvd. #110  
Anchorage, AK 99508-4140  
Phone: (907) 274-9691  
Sea Grant Web Page:  
[www.seagrant.uaf.edu/map/](http://www.seagrant.uaf.edu/map/)

Rodger Painter, President  
Alaska Shellfish Growers Association  
P.O. Box 20704  
Juneau, AK 99802-0704  
Phone: (907) 463-3600  
ASGA Web Page:  
[www.alaskashellfish.com/](http://www.alaskashellfish.com/)