

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGION

**PRELIMINARY FINDING AND DECISION
AQUATIC FARMSITE LEASE APPLICATION**

**APPLICANT: Michael Sheets
ADL #107847
LOCATION: West of Karheen Passage**

The Department of Natural Resources is accepting public comment on the following preliminary decision document for the renewal of an existing aquatic farm site. **Written comments must be received on or before 5:00 p.m., Tuesday, December 8, 2009.**

PROPOSED ACTION: The applicant is requesting a 10-year aquatic farm site lease on state-owned tide and submerged land in off the northeastern shore of Heceta Island in southeast Alaska, measuring 400 ft. x 300 ft. including a 40 ft. x 40 ft. work raft for a total of 2.75 acres.

The farm site location is only accessible by boat or floatplane. A location map is attached to this decision.

AUTHORITY: AS 38.05.035; AS 38.05.070; AS 38.05.075; AS 38.05.083; AS 38.05.127;
AS 38.05.128; 11 AAC 63.020

This decision addresses and is based on those issues under the authority of the Department of Natural Resources (DNR) under Title 38. While other issues may be addressed that are not within the scope of DNR's responsibilities, this decision's purpose is to determine whether or not to issue a DNR lease and does not make any determinations whatsoever on the issuance of other agency authorizations that are necessary for aquatic farming activities.

ADMINISTRATIVE RECORD: The administrative record this application is ADL 107847. -

GEOGRAPHIC LOCATION: The proposed farm site is to be located on state-owned tidelands west of Karheen Passage in an unnamed bay on the northeastern part of Heceta Island about 10 miles west of Naukati, 40 miles from Craig and Klawock and 60 miles from Ketchikan in Southeast Alaska.

USGS MAP COVERAGE: Craig C-1

NAUTICAL CHART: 17426

LEGAL DESCRIPTION:

Township 70 South, Range 79 East, Copper River Meridian
And more specifically described as:

Section 18: SE ¼

The total area encompassed by this aquatic farm proposal is approximately 2.75 acres, more or less.

Lands are located in the Ketchikan Recording District.

LATITUDE/LONGITUDE: The four corners of the proposed aquatic farm site are to be sited at:

Northeast Corner:	55° 47.847' N,	133° 20.959' W
Southeast Corner:	55° 47.796' N,	133° 20.887' W
Southwest Corner:	55° 47.757' N,	133° 20.943' W
Northwest Corner:	55° 47.809' N,	133° 21.016' W

POLITICAL INFORMATION:

BOROUGH/MUNICIPALITY: These applications are **outside** of an organized borough.

COASTAL DISTRICT: The application lies outside of an approved coastal district. The nearest coastal district is the City of Klawock.

REGIONAL CORPORATION: Sealaska Corporation

FISH AND GAME ADVISORY COMMITTEES: Craig and Klawock.

TITLE:

ACQUISITION AUTHORITY: Submerged Lands Act of 1953. (PL 31, 83rd Congress, First Session; 67 Statute 29); Equal Footing Doctrine; Section 1 of the Alaska Statehood Act.

TITLE REPORT: A title report was requested on November 2, 2009

PLANNING AND CLASSIFICATION:

LAND MANAGEMENT PLAN: Prince of Wales Island Area Plan adopted June 1985, revised October 1998. This proposal is located in Management Unit 10, Subunit 10a, Heceta Island.

LAND CLASSIFICATION: The Prince of Wales Island Area Plan classifies state-owned tidelands surrounding the proposed aquatic farm site as dispersed recreation. A dispersed recreation classification does not preclude aquatic farming.

SURFACE MINERAL ORDERS: The proposed sites are open to mineral entry. No mineral closing order is proposed.

ALASKA COASTAL MANAGEMENT PLAN: The proposed aquatic farm is currently undergoing Alaska Coastal Management consistency review. If the project is found to be inconsistent the project can not obtain a lease.

ACCESS: Access to the proposed sites is by boat or floatplane. A fifty-foot-wide easement will

be reserved to protect public access in accordance with 11 AAC 63.050(b)(6) and 11 AAC 53. If additional specific easements are required, they will be addressed under the final recommendation section of this document.

SURVEY AND APPRAISAL:

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 applicant's expense, if boundary conflicts or disputes over acreage arise.

APPRAISAL: A site-specific appraisal is not necessary because the Division of Mining, Land and Water has approved an administrative lease fee schedule for aquatic farm sites. The most current lease fee schedule will be used to establish the fair market rental each lessee must pay. The applicant has the option to have a site-specific appraisal done, at the applicant's expense, before the lease is issued, if he or she does not want to use the fee schedule. If an applicant opts for a site-specific appraisal, the approved appraisal will establish the rental for the affected lease, and the applicant cannot later decide to switch back to the fee-schedule rate.

PUBLIC/AGENCY NOTICE AND COMMENTS: Public notice of the proposal has been sent to various newspapers, post offices, agencies, boroughs/cities, native corporations and Fish and Game Advisory committees. Public and agency comments are welcome during the comment period and will be considered in the final best interest finding. Only those who provide written comments during the comment period will be sent a copy of the final best interest finding and will be eligible to appeal. The final best interest finding will consider and address any comments related to the subject proposal. The final best interest finding will include explanation of the appeal process. The public comment period begins on November 9, 2009 and will end at 5:00 p.m. on December 8, 2009.

PENDING INTERESTS: The Alaska Department of Fish and Game has provided the following information:

The Alaska Department of Fish and Game (ADF&G) has reviewed the subject proposal and has done a partial review and determination of this proposal under its statutory and regulatory requirements.

Project Description

The applicant is requesting a proposed aquatic farm site located in an unnamed bay on the northern shore of Heceta Island under ADL 107847, approximately 8 miles Southeastwest of Naukati, Alaska, on state-owned tide and submerged lands. The northeast corner of the site is located at 55° 47.847' N, 133° 20.959' W and runs south 400 feet and west 300 feet a total of 2.8 acres.

Evaluation

I. Physical and Biological Characteristics: The proposed aquatic farm site is located in a location area that has physical and biological characteristics that are suitable for culture of oysters.

Protection from Oceanographic and Atmospheric Extremes: The proposed aquatic farm operation project is in an area that appears to be protected from extreme oceanographic and atmospheric extremes. The farm gear proposed for use at the site have a similar configuration and anchoring systems as existing adjacent aquatic farms in the area and appears to be able to withstand these extremes.

Sufficient environmental conditions: The proposed aquatic farm operation project is in an area that appears to have sufficient water exchange, water temperatures, currents, salinity, and primary production to support an aquatic farm and maintain healthy environment for other marine organisms.

Sufficient Water Depth: The water depth at the aquatic farm site appears to have sufficient to prevent gear from grounding and impacting the benthos under floating structures.

Eelgrass and Kelp Beds Maintained: Based on the application information provided by the applicant there does not appear to be any eelgrass in the proposed project area. The exact locations and extent of kelp beds is not well documented in the area. If health and the abundance of kelp beds in the area are not properly maintained within the proposed aquatic farm site, project modifications to the Aquatic Farm Operations Permit will be made to correct the condition.

Anadromous Fish Streams: Anadromous streams catalogued for various salmon species are located near the proposed project¹. The proposed aquatic farm operation is not located within 300 feet of the mouth of an anadromous fish stream. The closest anadromous stream is 1.8 miles from the site being proposed. Table 1 summarizes the distance between the aquatic farm site coordinate and the mouth of the anadromous stream, the classification number for the stream, and lists all the fish species that reside or spawns there.

**Table 1: Distance of Anadromous Streams From Proposed Aquatic Farm Sites
(Source: ADF&G Division of Sport Fish, Fish Distribution Database)**

Site No.	Location	Name of Stream	Number	Dist. Between site and mouth of stream	Fish Species
107847	Heceta Island		103-90-10960	1.8 miles	coho salmon, pink salmon, sockeye salmon

II. Existing Uses not Significantly Altered: The proposed aquatic farm site is not expected to cause any significant alterations an established use defined as commercial fishery, sport fishery, personal use fishery, and subsistence fishery. Table 2 summarizes the traditional and existing uses for commercial, sport, and subsistence fisheries and anchorages in the proposed aquatic farm site area.

Table 2: Existing Uses for Commercial, Sport, and Subsistence Fisheries and Anchorages at the Sites

¹¹Johnson, J. and K. Klein. 2009. Catalog of waters important for spawning, rearing, or migration of anadromous fishes - Southeast Region, Effective June 1, 2009. Alaska Department of Fish and Game, Special Publication No. 09-04, Anchorage.

ADL-site	General Area	Species	ADF&G Stat Area	Geoduck Commercial Fishery	Sea Cucumber Commercial Fishery	Red Urchin Commercial Fishery	Salmon Gillnetting Commercial Fishery	Salmon Trolling/Salmon Purse Seining	Herring/Dungeness crab	Recreational Sport Fishery/Personal Use	Anchorage	Subsistence
107847	Heceta Island	Pacific oysters	103-90	Yes	Yes	No	No	Yes	No	Probably	No	No

Commercial Fisheries: The proposed aquatic farm is located in ADF&G Commercial Fisheries Division Statistical Area subdistrict 103-90. The proposed aquatic farm site is not expected to cause any significant alterations to the existing commercial fishery uses in the area.

Geoducks: The site is within the Turn Point geoduck commercial fishery bed in subdistrict 103-90, which has been surveyed for the fishery and listed as bed code 103-90-003. A fishery last occurred there in 2004/05 and is set to open again in 2010/11. The proposed aquatic farm site is not expected to cause any significant alterations to the existing geoduck commercial dive fishery.

Sea cucumber: This site is in the Sea Otter Sound commercial sea cucumber dive fishery harvest statistical area 010390. On a three year rotation, the last fishery occurred there in 2008/09. The number of permits (individuals) for this statistical area harvesting sea cucumbers accounted for 33% (38 out of 116) of all the 2008/09 season permits recorded that harvested in the Ketchikan Management Area. The proposed aquatic farm site is not expected to cause any significant alterations to the existing sea cucumber dive fishery in the area.

Red Sea Urchins: No commercial red sea urchin dive fishery takes place at the site.

Salmon: No salmon gillnetting fishery, salmon trolling, or gillnet salmon fishery occurs at the site. The site lies within a subdistrict area where commercial salmon seine and troll fisheries occur. In 2009, there were 381 recorded salmon landings for this statistical subdistrict area. The proposed aquatic farm site is not expected to cause any significant alterations to the existing salmon commercial fishery in the area.

Herring: No commercial herring fishery occurs in this area.

Dungeness crab: No commercial crab fishery occurs in this area.

Sport Recreational Fishery: The area is not a significant site for Sport Anglers. Traditional troll and bottom fishing area for sport fishers is not known to occur in this area. Due to their design, oyster farms have not seemed to have significant negative impact on anglers. The proposed aquatic farm site is not expected to cause any significant alterations to the existing sport recreational fishery uses in the area.

Subsistence Fishery Use: This proposed aquatic farm site is not thought to significantly alter existing subsistence fishery use in the area.

Anchorage: This area is not known to have any critical vessel anchorages.

III. Compatible with Fish and Wildlife Resources: The proposed aquatic farm site is compatible with fish and wild life resources in the area.

Predator and Pest Control Methods: Predator exclusion devices to be used at the proposed site are expected to be utilized in a manner that minimizes impacts on non-targeted fish and wild life resources in the area.

Sensitive Wildlife: The proposed aquatic farm site is not expected to adversely impact seabird colonies, sea lion haulouts and rookeries, seal haulouts and pupping areas, and walrus haulouts.

Sea Bird Colonies – There are no sea bird colonies identified within 1 mile of the proposed sites.²

Sea Mammal Habitat - There are no sea mammal haul outs within 1 mile of the proposed sites³.

ADL	General Area	Applicant Contact Name	Species	Sea Lion Haulouts	Harbor Seal Haulouts	Distances from Haulout Area (miles)
107847	Heceta Island	Sheets	Pacific oyster	No	No	5 miles

Endangered species: The proposed aquatic farm site will not adversely impact endangered and threatened species recovery and habitat efforts.

IV. Operation and Development Plan:

Increase Productivity: The operation and development plan for this project sufficiently describes how the operation will improve the productivity of the species intended for culture above what would occur in natural conditions using approved methods such as predator exclusion, reduction of competing species, destiny manipulation, import of naturally produced seed, import of hatchery produced seed, programming harvest to optimize growth and shellfish condition, and habitat improvements.

Maintenance: The operation and development plan for this project indicates that support facilities and culture gear and anchoring system will be installed with sufficient anchors and maintained.

² U.S. Fish and Wildlife Service, (current year). Beringian Seabird Colony Catalog -- computer database. U.S. Fish and Wildlife Service, Migratory Bird Management, Anchorage, Alaska 99503.

³ Analysis completed by NOAA Fisheries Service, Alaska Region, Protected Resources Division. Specifically, the data used to complete this analysis were provided by researchers from NOAA Fisheries Service, Alaska Fisheries Science Center, and National Marine Mammal Laboratory.

Rotation Schedule: The projected rotation schedule is consistent with the life history of the species intended for culture.

V. Species to be Cultured and Site Suitability

The department has not conducted a site suitability study for this site. Based on information provided by the applicant, the proposed site is capable of supporting the activities proposed. The proposed parcels in this aquatic farm operation project are located in an area that is thought to be suitable for suspended oyster culture.

BONDING AND INSURANCE: Bonding, or another form of security, is required under AS 38.05.083 and 11 AAC 63.080. The bond must cover the costs of site cleanup and restoration, any associated cleanup costs after termination of the lease, including any unpaid rentals or other obligations accruing until site restoration is complete. The bond regulations require:

The minimum security amount for a lease is \$2,500. However, if three or more lessees post an association bond to cover all of their leases, the minimum security amount is 50 percent of the amount individually calculated for each lease. The association must designate an agent for notification purposes. The association has the right to be notified of the termination of a lease covered by its association bond. If neither the former lessee nor the association completes the site restoration as required by AS 38.05.090, the department will use the association bond for this purpose, up to 100 percent of the amount individually calculated for that lease. The association may remove a lease in good standing from the coverage of its association bond after a 60-day notice to the department, during which time the affected lessee must make other arrangements to comply with 11 AAC 64.080(b). A lease that is in default or that has been terminated with site restoration still pending may not be removed from the coverage of an association bond.

At this time, the Department does not require these operations to have insurance. Insurance may be required in the future depending on the operation and the policies of the department at the time changes are made to the lease or another lease is issued. Insurance, such as Workman's Compensation Insurance, may be required under other state laws.

TRADITIONAL USE FINDING: Information available at this time suggests that an aquatic farm would not disrupt traditional uses such as subsistence activities. Through agency and public input, more traditional and existing use information may surface. If such information becomes available, any potential conflicts will be addressed in the final decision.

Existing aquatic farms in southeast Alaska have caused no known disruption of traditional and/or existing uses such as commercial and sport fishing, subsistence activities, boat travel, and recreation.

PRINCE OF WALES ISLAND AREA PLAN INFORMATION SPECIFIC TO THIS PROPOSAL:

The proposed aquatic farm site lies within Management Unit 10, Subunit 10a, Heceta Island identified in the plan as (r) dispersed recreation. That plan states that aquatic farming should locate in a place and in a manner that will have minimum impacts on designated primary uses and will not preclude upland uses, including access or planned disposal of land.

UPLAND OWNER MANAGEMENT: The U.S. Forest Service (Tongass National Forest) is the upland owner of lands adjacent to the aquatic farm.

ENVIRONMENTAL RISK QUESTIONNAIRE: The applicant has indicated that this proposed activity will not generate, use, store, transport, disposal of, or otherwise come in contact with toxic and/or hazardous materials, and/or hydrocarbons.

ALASKA COASTAL MANAGEMENT PROGRAM COMMENTS: Comments that are received during the coastal consistency review will be included in the final finding along with any stipulations.

CONSIDERATIONS: The following criteria, set out in 11 AAC 63.050(b), has been considered and represents what is known at this time:

Land Management: There are no known land management policies or designations, other than those in the Alaska Coastal Management Program, the Prince of Wales Island Area Plan, and potentially the Tongass Land and Resource Management Plan that may impact this proposal. Measures taken to mitigate impacts on the resources identified in the above-mentioned plans are listed below.

Pending/Existing Uses:

1. There are no known pending use conflicts or potential impacts to nearby communities or residential land due to the placement of this farm at the proposed location.
2. Information available at this time suggests that placement of an aquatic farm at this location would not disrupt the traditional and existing uses of the site for use as an anchorage, commercial and sport fishing, recreation, and tourism.

Issuing a lease for an aquatic farm would not compete with commercial and sport fisheries as access to those resources being sought after would be protected and stipulated in any resultant lease agreement.

In order to inform the public of their continued access rights, any resultant lease would stipulate the requirement that signs be posted with information that informs the public of their rights of access through the farmsite as well as access to those fish and wildlife resources not being cultured at the aquatic farmsite.

3. There are no historic and cultural resources known to exist in the area.
4. There are no commercial or industrial facilities known to exist in the area.

Public Access: Public access has been and will be protected in accordance with 11 AAC 63.050(b)(6) and 11 AAC 53 and will be addressed in any resultant lease agreement.

Public Trust Doctrine: Any resultant lease agreement is subject to the principles of the Public Trust Doctrine in order to protect the public's right to use navigable waters and the land beneath them for navigation, commerce, fishing, and other purposes.

Mitigation Measures: In addition to the mitigation measures identified above under Pending/Existing Uses, paragraph 2, any resultant lease renewal may include additional stipulations necessary to mitigate conflicts identified during the public/agency comment period

Social, Economic, and Environmental Concerns: There are no known significant social, economic, and environmental effects from the existing lease.

Surface Area: The proposal does not encumber more than a third of the surface area of a bay, bight, or cove in accordance with 11 AAC 63.050(c).

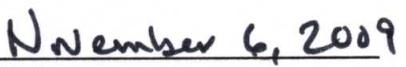
ADVANTAGES AND DISADVANTAGES OF THE PROPOSAL: This aquatic farm could provide opportunities to increase income and diversify the state's economy by utilizing state tide and submerged lands for this purpose. The advantage of this lease on state owned tide and submerged lands would be possible employment opportunities as well as any secondary jobs created or increased from businesses involved in marketing, transport or sale of farmed products.

There are no obvious disadvantages of this activity on state owned tide and submerged lands. The public should be aware that access through the site, as well as access to any of the common property resources not being cultured at the site are public uses that remain intact. Therefore, any resultant lease would stipulate the requirement that there is proper signage of the aquatic farm sites to inform the public of the owner's name, address, ADFG and DNR permit and lease numbers.

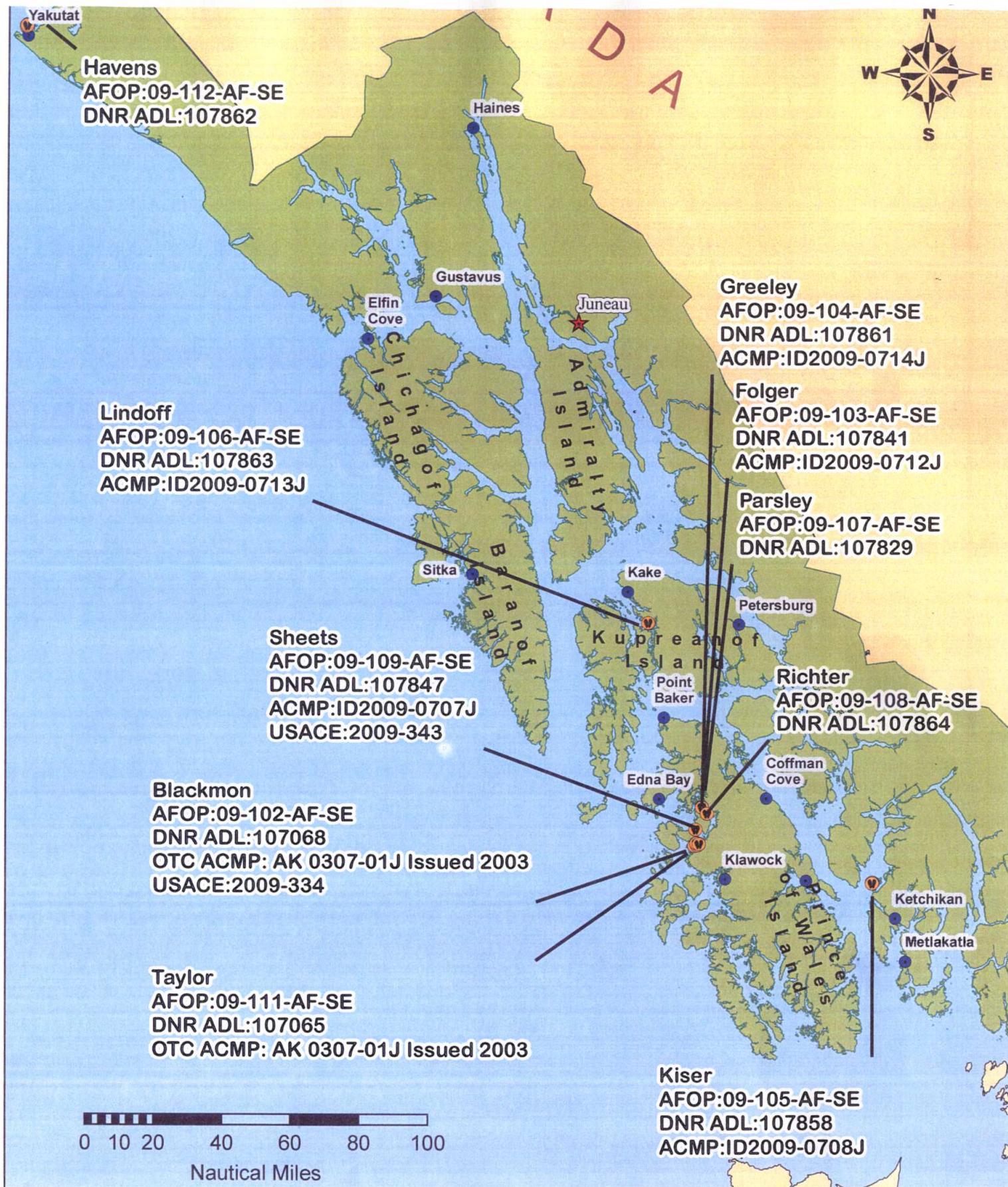
RECOMMENDATION: Considering the information known at this time and described within this decision, it appears to be in the state's best interest to issue a lease for approximately 2.75 acres more or less to the applicant for intertidal culture. Any resultant lease will include stipulations that may be identified as a result of public comments. Approval of the application is recommended with a security bond set at \$2,500 or \$1250 with an association bond. Should the Division of Governmental Coordination find the project inconsistent with the Coastal Management Program, the lease would not be issued.



John S. Thiede, Aquatic Farm Program Manager



Date

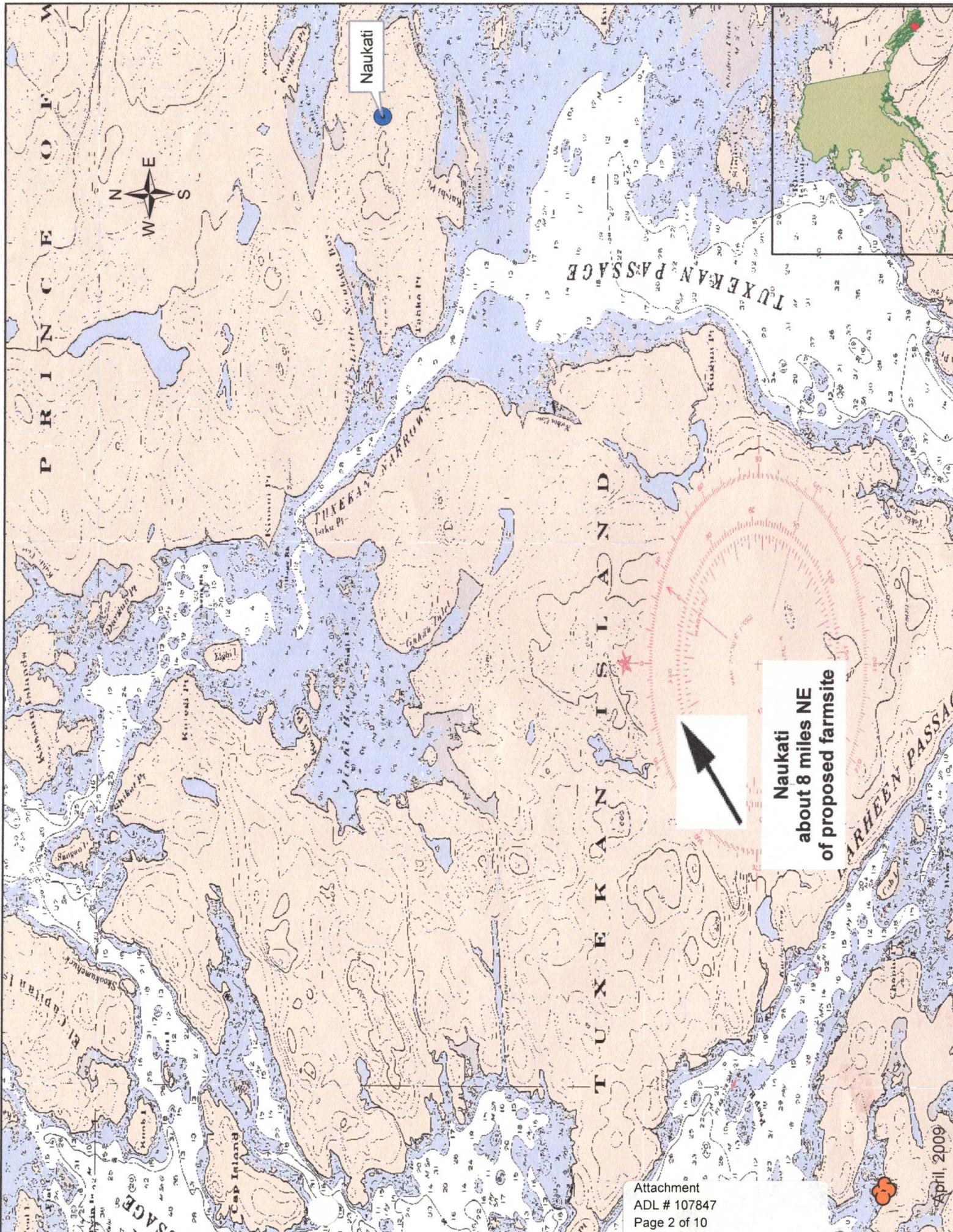


2009 Aquatic Farm Opening Sites Southeast Alaska

Attachment
ADL # 107847
Page 1 of 10

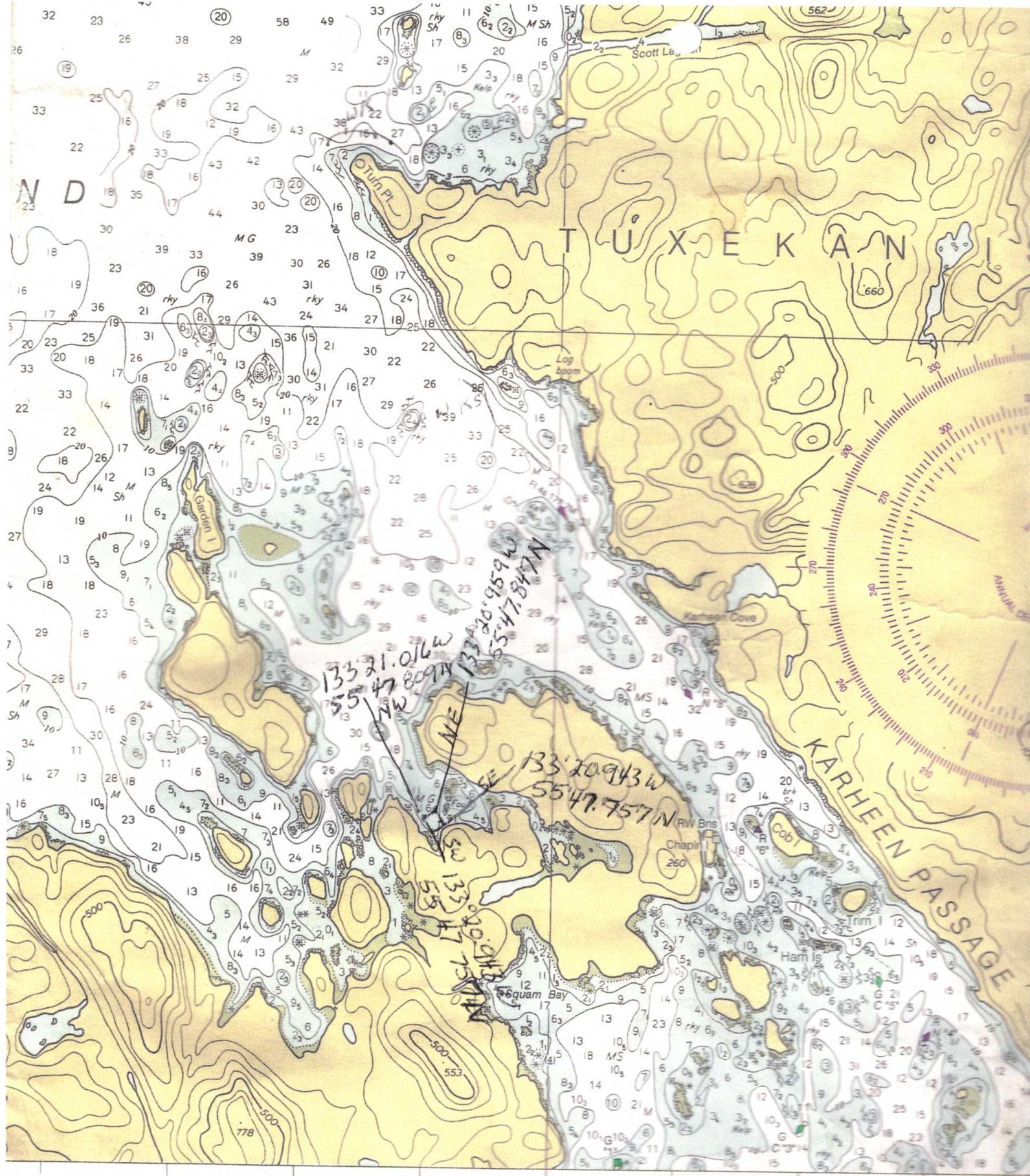
-  2009 Aquatic Farm Application Sites
-  Capital



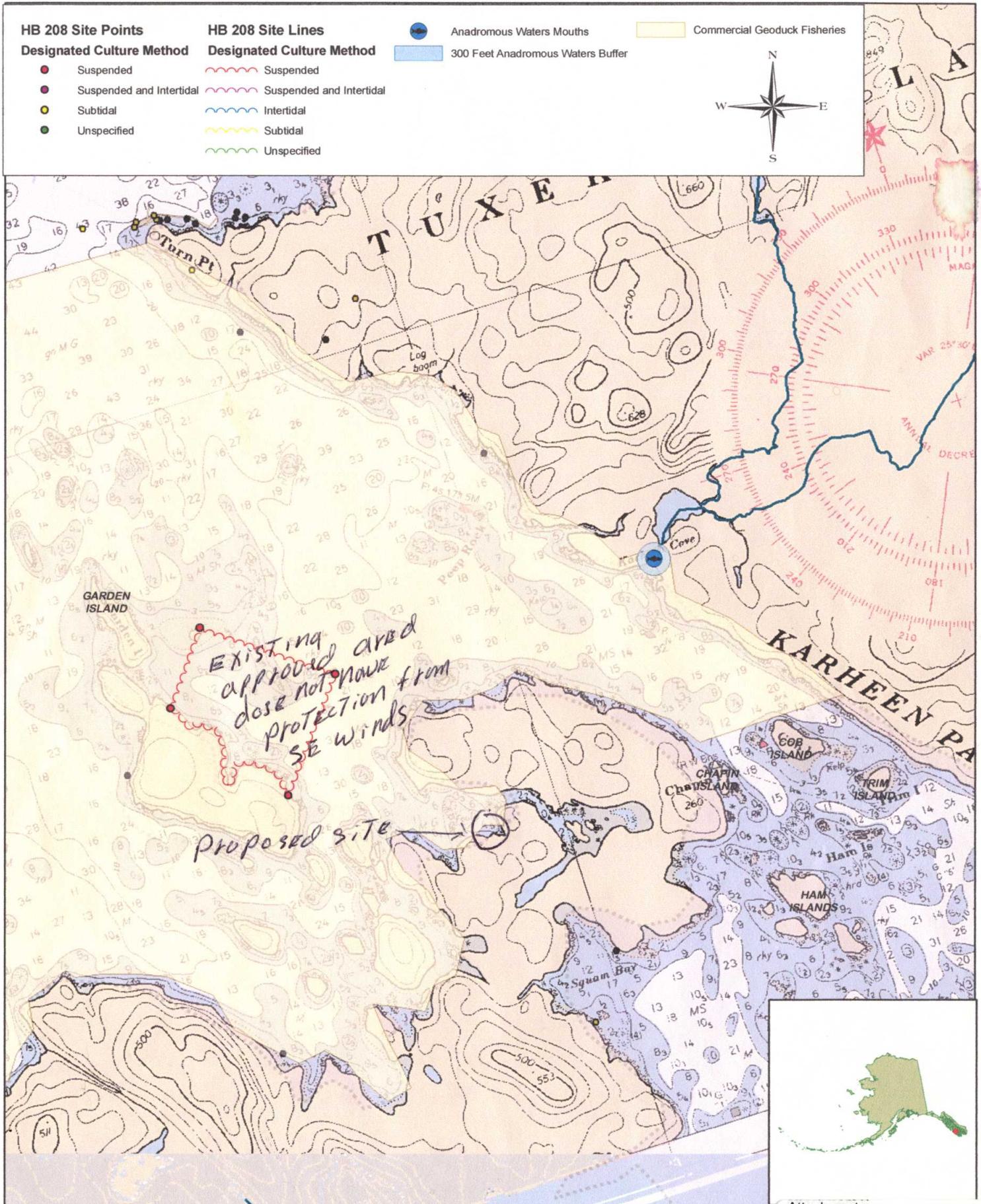


Naukati

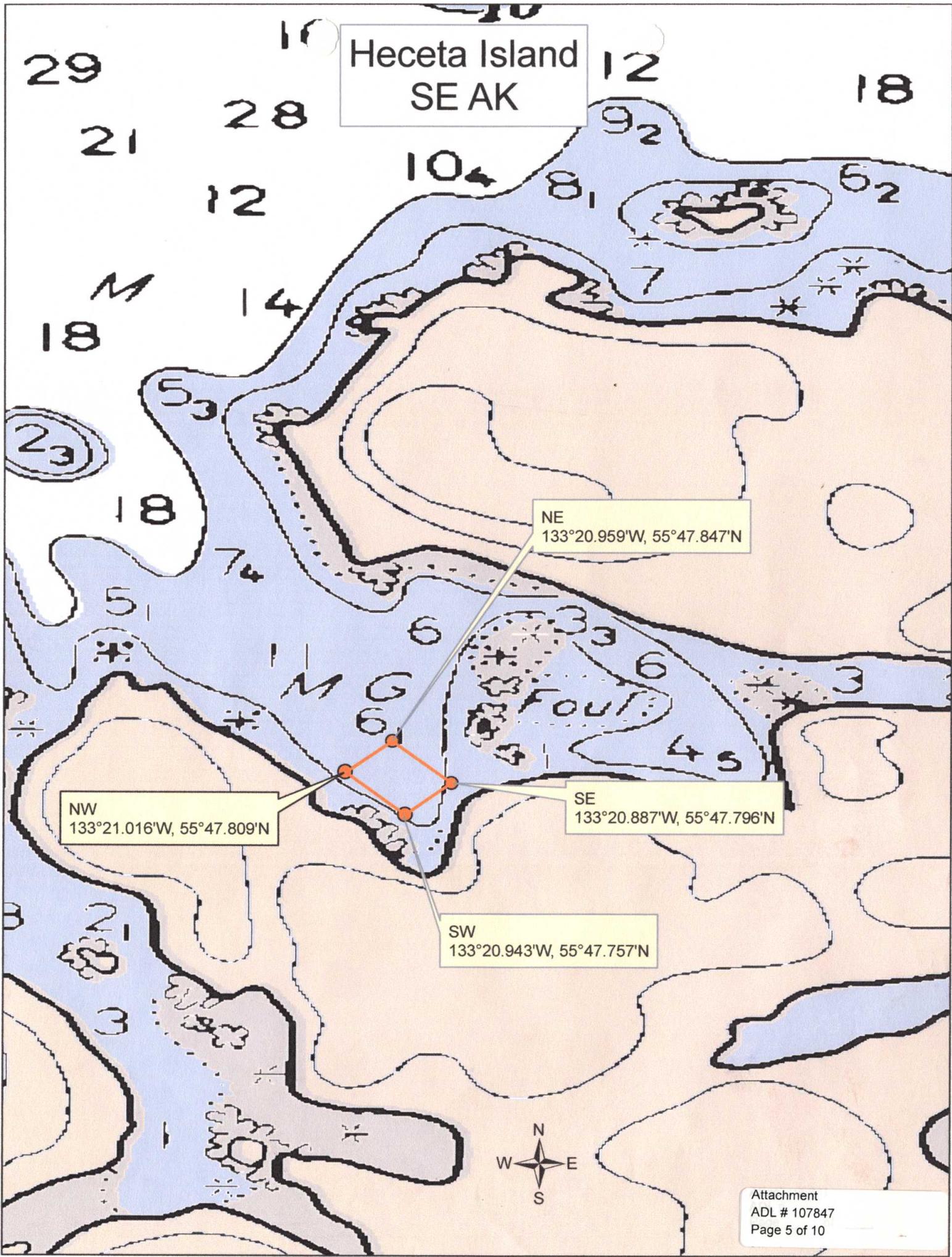
Naukati
about 8 miles NE
of proposed farmsite



Karheen Passage Area, near Hereta Island SE Alaska



Heceta Island
SE AK





55° 47.847' N, 133° 20.959' W NAD83
NE Corner

55° 47.796' N, 133° 20.887' W NAD83
SE Corner

55° 47.757' N, 133° 20.943' W NAD83
SW Corner

55° 47.809' N, 133° 21.016' W NAD83
NW Corner

AK Scale: 1" = 0.088Mi, 142Mi, 465Ft, 1 Mi = 11.345", 1 cm = 56Mt

NW

NE

Anchor

Floating Anchor

Anchor

LINE

Anchor

Floats

Floats

OYSTER FLOATS
16 X 20

OYSTER FLOATS can be moved to process
for tumblering / sorting / cleaning

SW

anchors will be concrete
with 1" Reop

40x40 Main float

with 16x16 work shed with covered work area in front

SW corner

300'

SE

11' x 11' work
frame

Tumble oysters here

40x40
float w 20 fingers
15x15 work SARD

float will be constructed with untreated
local wood - flotation will be stink wrapped
STYROFOAM - The wood frame will NOT touch water

anchors will on SW corner - following
lines to NW corner and SE corner one
10' from ~~the~~ one to NE corner

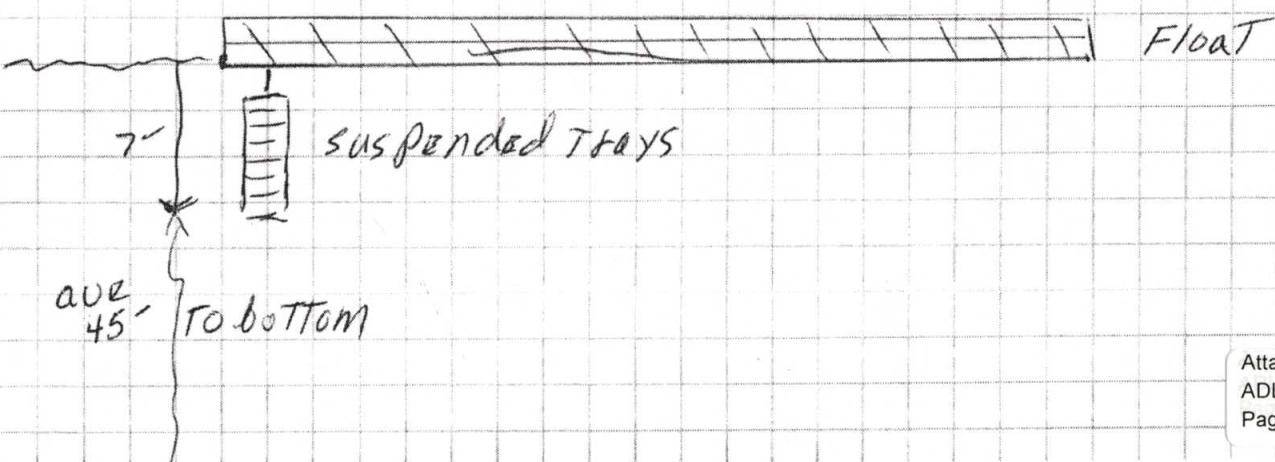
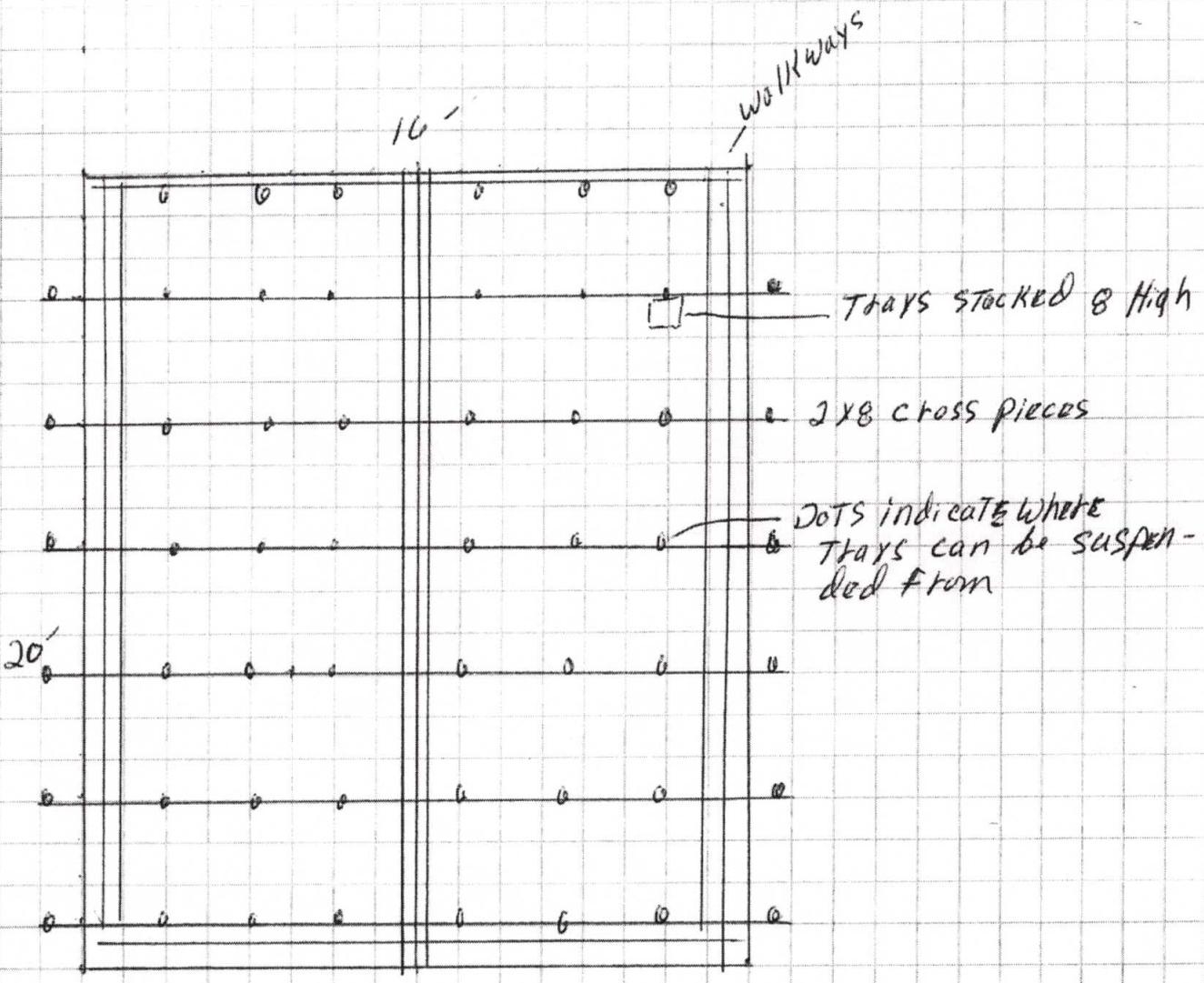
16x20 floats
for hanging trays

10' x 10'

trays will be stacked 8 high
start with 100,000 oysters
in 100 trays thin to 300 trays
on each raft beyond of year
floats will be constructed
same as work float

400'

10'



Trays to be used

TOP TRAY ABOUT
3' UNDER WATER
LINER ON BOTTOM
OF EACH TRAY

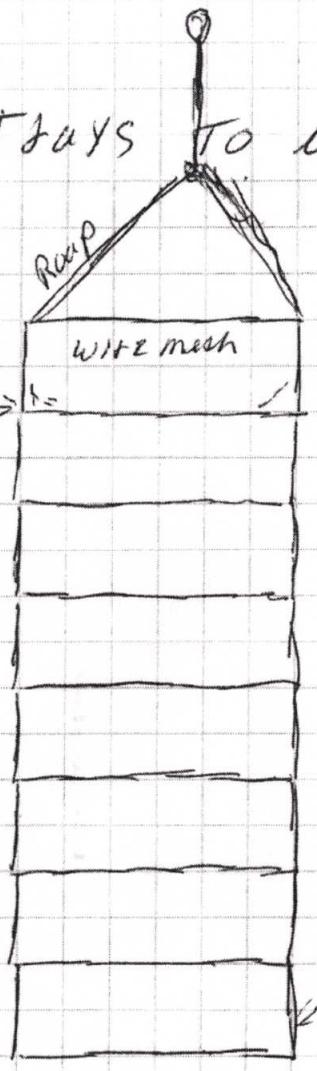
Each Tray Has
clips on all four
corners for floats

Each Tray Will
Have 1,000 Hatchery
SEED AT START

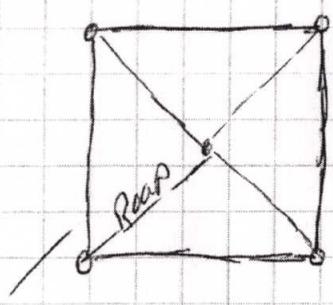
100,000 on each
float

Trays will be
added as OYSTERS grow
100 TO START about 300 by growout

BOTTOM OF TRAYS will be about 7' under water
water will be 40 to 60' deep



$22" \times 22" = 6"$ High Each Tray



$22 \times 22 = 6"$