

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

**PRELIMINARY BEST INTEREST FINDING
AQUATIC FARMSITE LEASE RENEWAL**

**APPLICANT: DARIAN AND SIRI SEAVEY
ADL #226563**

LOCATION: ELDORADO NARROWS / RESURRECTION BAY

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., Friday, November 14, 2008.**

PROPOSED ACTION: The applicant is requesting renewal of his existing aquatic farm site lease which consists of an area measuring 565 ft. x 300 ft. x 565 ft. for shellfish grow-out and an area 40 ft. x 50 ft. for shellfish hardening containing approximately 1.99 acres, more or less.

The applicant has been successfully culturing Pacific oysters.

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. Information included in the original preliminary decision document may not be included in this document if conditions have not been altered. Original preliminary decisions for this lease can be obtained by contacting the aquatic farm program manager for the DNR in Anchorage.

ADMINISTRATIVE RECORD: The administrative record for the application submitted is file number ADL 226563.

LOCATION:

USGS MAP COVERAGE: Blying Sound D-6

NAUTICAL CHART: 16709 Prince William Sound

LEGAL DESCRIPTION: Township 3 South, Range 1 East, Seward Meridian,
And more specifically described as:

Section 16: NW ¼, within Eldorado Narrows in Resurrection Bay, encompassing a triangular-shaped area measuring 565 ft. x 300 ft. x 565 ft. for grow-out and an area 40 ft. x 50 ft. for hardening. The total area encompassed by this farm site is approximately 1.99 acres, more or less..

GEOGRAPHIC: The proposed farm site is located on state-owned tide and submerged lands off the south of Humpy Cove on the east side of Resurrection Bay, opposite Renard Island, approximately 15 miles south and east of the City of Seward.

POLITICAL INFORMATION:

BOROUGH/MUNICIPALITY: This application is within the Kenai Peninsula Borough.

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

REGIONAL CORPORATION: Chugach Alaska Corporation

FISH AND GAME ADVISORY COMMITTEES: Southcentral Region Fish and Game Advisory Committees.

PLANNING AND CLASSIFICATION:

LAND MANAGEMENT PLAN: Kenai Area Plan, Region 3, Map 3B, South Resurrection Bay, January 2000.

SURFACE CLASSIFICATION: The Kenai Area Plan designates state owned tidelands at the existing farm site location as general use.

SURFACE MINERAL ORDERS: The proposed site is open to mineral entry.

ALASKA COASTAL MANAGEMENT PROGRAM: The proposed aquatic farm was found consistent with the Alaska Coastal Management Program (ACMP) on December 19, 1995, under State I.D. No. AK 9606-13AA. The applicant's request to renew and amend his lease does not require another consistency review.

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 in the future, at the applicant's expense, if boundary conflicts or disputes over acreage arise.

APPRAISAL: The Division of Mining, Land and Water has approved an administrative lease fee schedule for aquatic farm sites that meet the conditions listed within the schedule. 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 wish to use the fee schedule. If an applicant opts for a site-specific appraisal, the division-approved appraisal will establish the rental for the lease and the fee schedule will no longer be an option.

PUBLIC/AGENCY NOTICE AND COMMENTS: Public notice of the proposal has been sent to various newspapers, post offices, agencies, boroughs/cities, and native corporations. 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 or who testify at a public hearing will be sent a copy of the final best interest finding and will be eligible to appeal. The final best interest finding will include an explanation of the appeal process. The public comment period begins on October 13, 2008 and will end on November 14, 2008.

The preliminary best interest finding is subject to public comments received during the comment period. The final best interest finding will consider and address any comments related to the subject proposal and will be available on or about December 8, 2008. If significant changes occur to this decision as a result of public comments received, additional notice will be sent to those who provided comments, either in writing or by testifying at a public hearing.

ENVIRONMENTAL RISK ASSESSMENT: The applicant has submitted a signed environmental risk questionnaire. The questionnaire asks for information on potentially hazardous materials, such as plans for onsite storage of fuel or chemicals. The applicant has indicated that no on-site use, storage, transport, disposal, or otherwise, of any petroleum products will be used during the course of the proposed activities.

BONDING AND INSURANCE:

BONDING: 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 regulations require the minimum security amount of \$2,500 (or \$1,250 with an association bond) for an aquatic farm lease. Factors such as location and amount of improvements at the site are taken into consideration when the bond amount is determined. Please refer to the Recommendation section at the end of this decision for the bond amount that was determined appropriate for this proposal.

INSURANCE: At this time the DNR does not require this type of activity to have general liability insurance. General liability insurance may be required in the future depending on the aquatic farming operations and the procedures of the department at the time changes are made to the lease or a renewal lease is issued. The lessee is responsible for acquiring other types of insurance, such as Workman's Compensation Insurance that may be required under other local/state/federal laws.

POTENTIAL CONFLICTS/PENDING INTERESTS: There have been no known potential conflicts or pending interests at the location of the existing lease.

TRADITIONAL USE FINDING: The existing aquatic farm has caused no known disruption of traditional and/or existing uses of the area, such as commercial and sport fishing, subsistence activities, boat travel, and recreation. Through agency and public input, more traditional and existing use information may surface. If such information becomes available, any potential and/or existing conflicts will be addressed in the final best interest finding.

KENAI AREA PLAN INFORMATION SPECIFIC TO THIS PROPOSAL: This farm site lies within Region 3, Unit Number 586. The general area receives extensive use by boaters for cruising, sailing, kayaking, fishing and sightseeing.

Upland Owner/Management Intent: The uplands surrounding the state tidelands are state owned.

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 and the Kenai Area 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 the nearby community of Seward.
2. Information available suggests the aquatic farm has not disrupted traditional and existing uses of the site for use as an anchorage, commercial and sport fishing, recreation, and tourism.
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

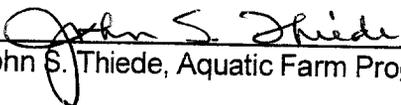
Social, Economic, and Environmental Concerns: There are no known significant social, economic, and environmental effects from the existing lease.

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).

This aquatic farm has provided opportunities to increase income and diversify the state's economy by utilizing state tide and submerged lands for this purpose. The advantage of renewing this lease on state owned tide and submerged lands is the continued employment opportunities as well as any secondary jobs created or increased from businesses involved in marketing, transport or sale of the farmed products.

After 10-years of successful operation of this site there seems to be no obvious disadvantages of renewing 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, and as mentioned above, any resultant lease would stipulate the requirement that signs be posted informing the public of their rights at the aquatic farm site.

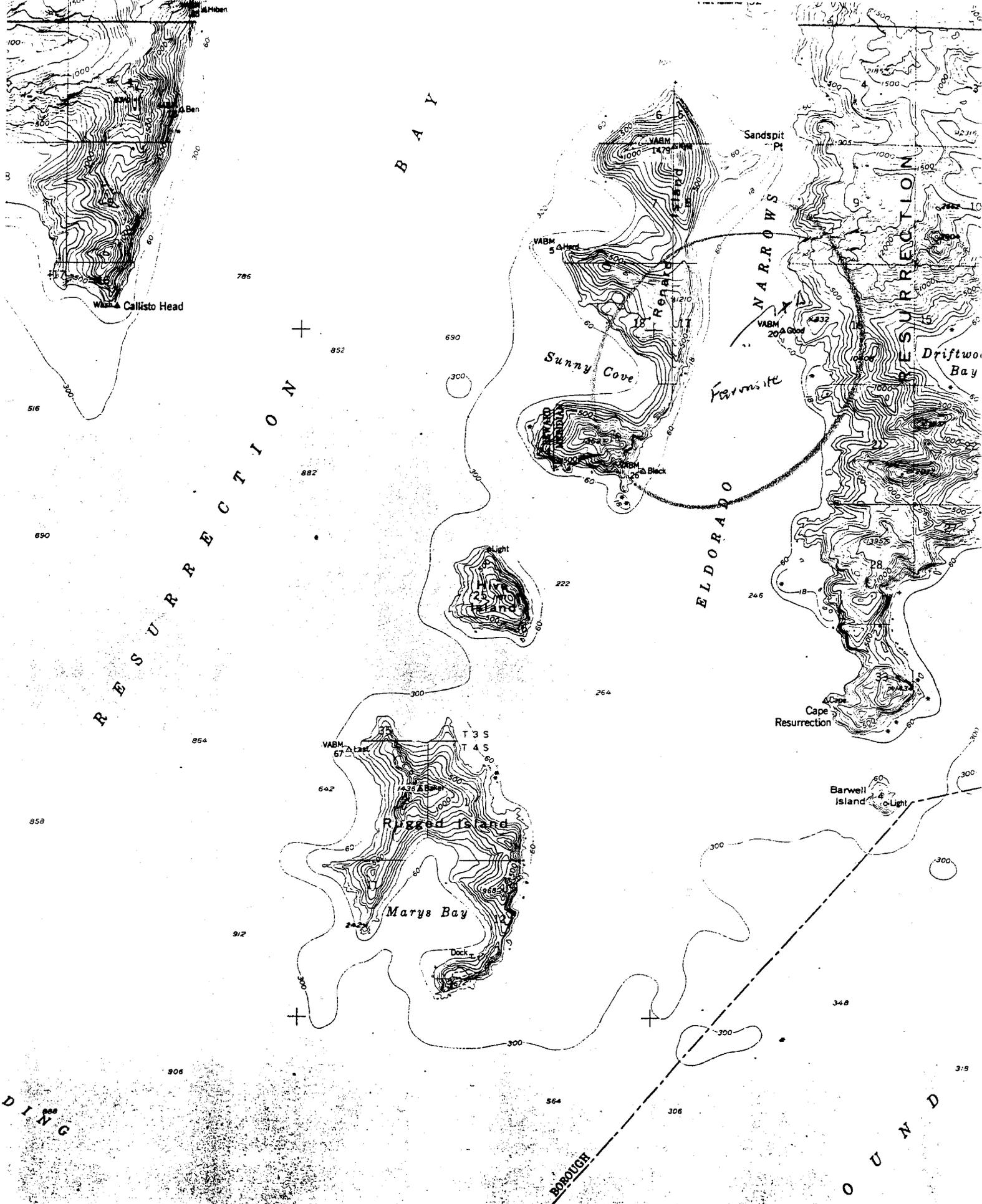
RECOMMENDATION: Considering the information known at this time and described within this decision, it appears to be in the state's best interest to renew the lease for approximately 1.99 acres, more or less to the applicant for intertidal shellfish culture. Any resultant lease will include stipulations 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.



John S. Thiede, Aquatic Farm Program Manager

10/1/08

Date



ATTACHMENT # 1

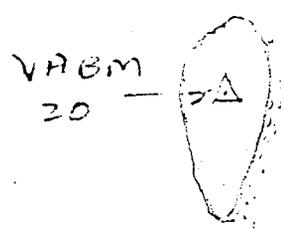
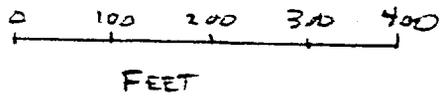
ADL No. 226563

TERRAIN DROPS OFF STEEPLY
 HORIZONTAL DISTANCE
 BETWEEN MHHW
 AND MLLW < 50'

SITE PLAN & VICINITY MAP

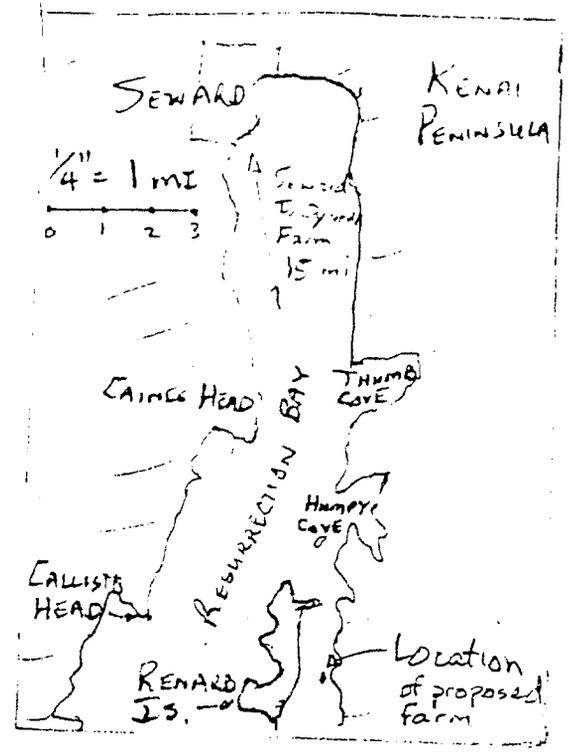
PROPOSED OYSTER FARM
 IN: GULF OF ALASKA
 AT: RESURRECTION BAY
 LOCATION: T35, R1E, SEC. 16, S.M.
 BY: [Signature]

SCALE: 1" = 200'

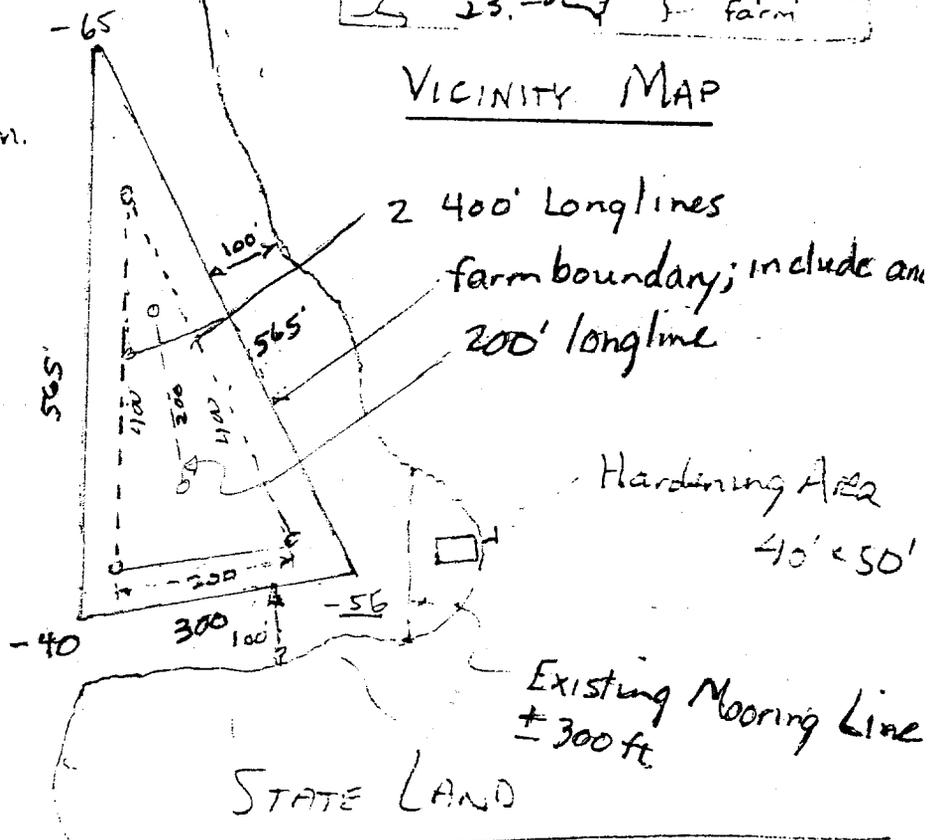


ATTACHMENT # 2
 ADL No. 226563

STATE LAND



VICINITY MAP



2 400' Longlines
 farm boundary; include an
 200' longline

Hardening Area
 40' x 50'

Existing Mooring Line
 ± 300 ft

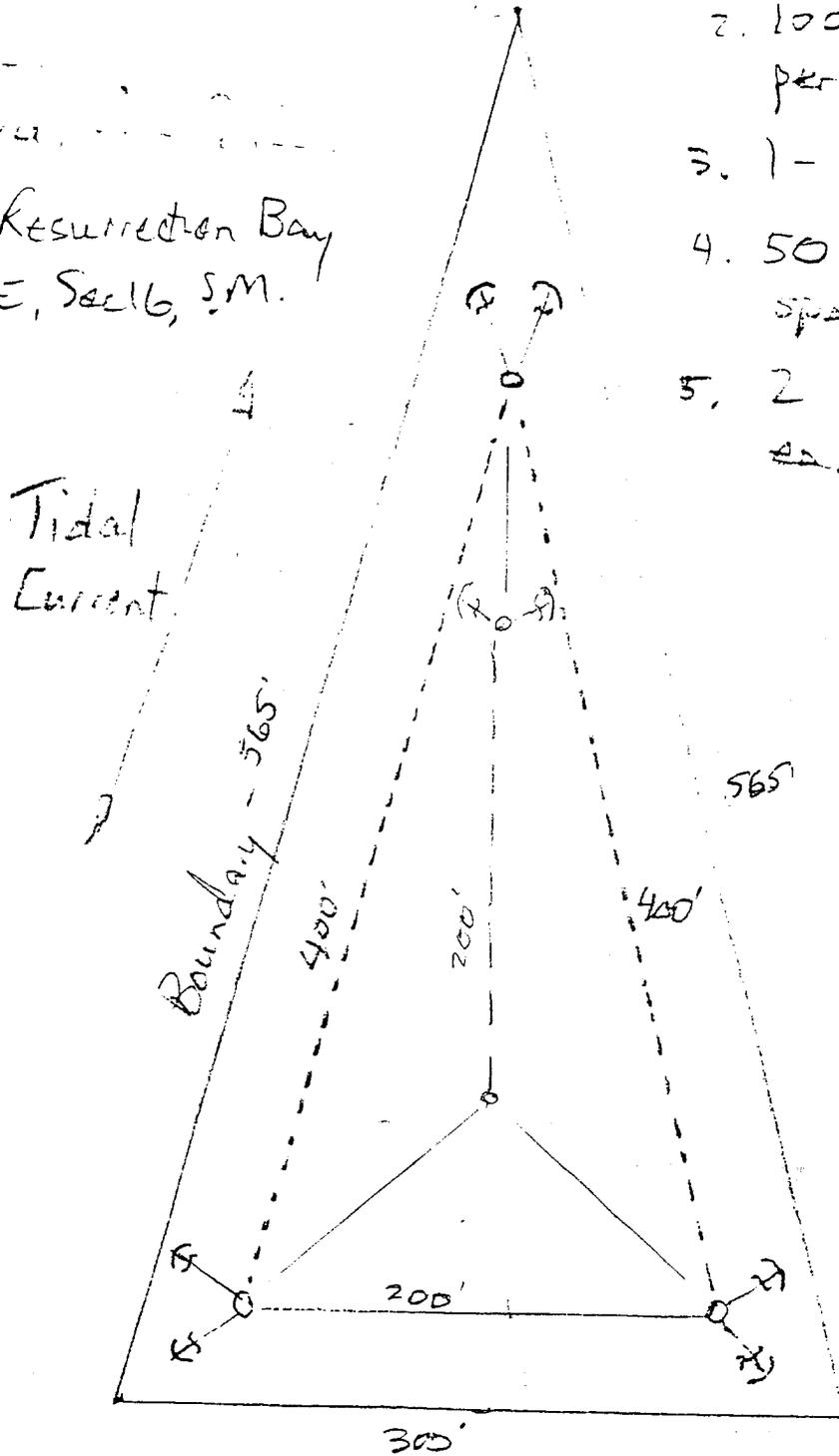
NOTES:

1. Anchor plan: Ea. corner of triangle will be anchored with 2-100 lb ledges with 30 ft. 3/8" chain. SCOPE: 2 to 1.
2. Existing mooring line was installed by the Linvilles 15 years ago. We've never seen anyone else use it.
3. No streams or lakes exist in this area.
4. All waters are owned by State of A.

DETAILED DRAWING

By: _____

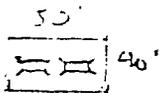
Location: Resurrection Bay
T3S, R1E, S216, S.M.



Description:

1. 2 400 ft. Longlines
1 200ft longline
2. 100 10 tier lantern net
per 400' line
3. 1 - AS buoy each corner
4. 50 - AI buoys per line
spaced 8' apart
5. 2 lantern nets between
each pair of buoys

Farm Area: 1.94 ac



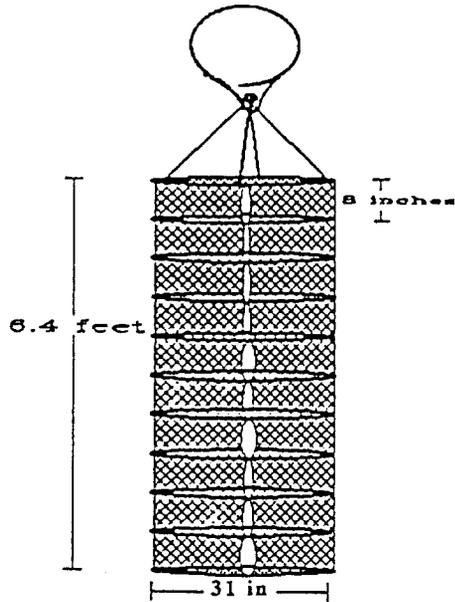
Harvesting Area
.046 ac.

SCALE: 1" = 80'

TOTAL AREA: 1.99 ACRES

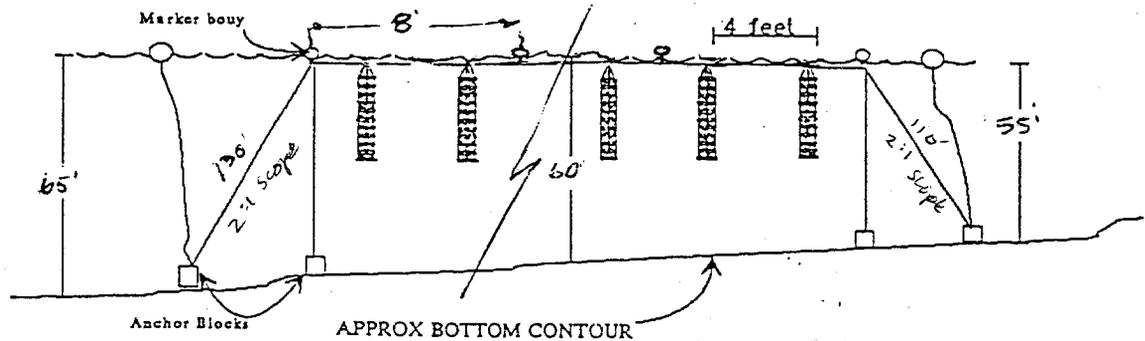
Attachment # 3
ADL No. 226563

Detail of Lantern Net
for use in Oyster Culture



Cross-Sectional View of Long Line at MLLW for Suspending Lantern Nets

NOT TO SCALE



Notes:

1. Longline: 1" polypro, 450 ft. long
2. Anchor Lines: 1" polypro with 60' $\frac{3}{8}$ " chain; 2:1 slope

Detailed and Cross-Sectional Views
of
Culture Equipment
to be used in
Oyster Culture

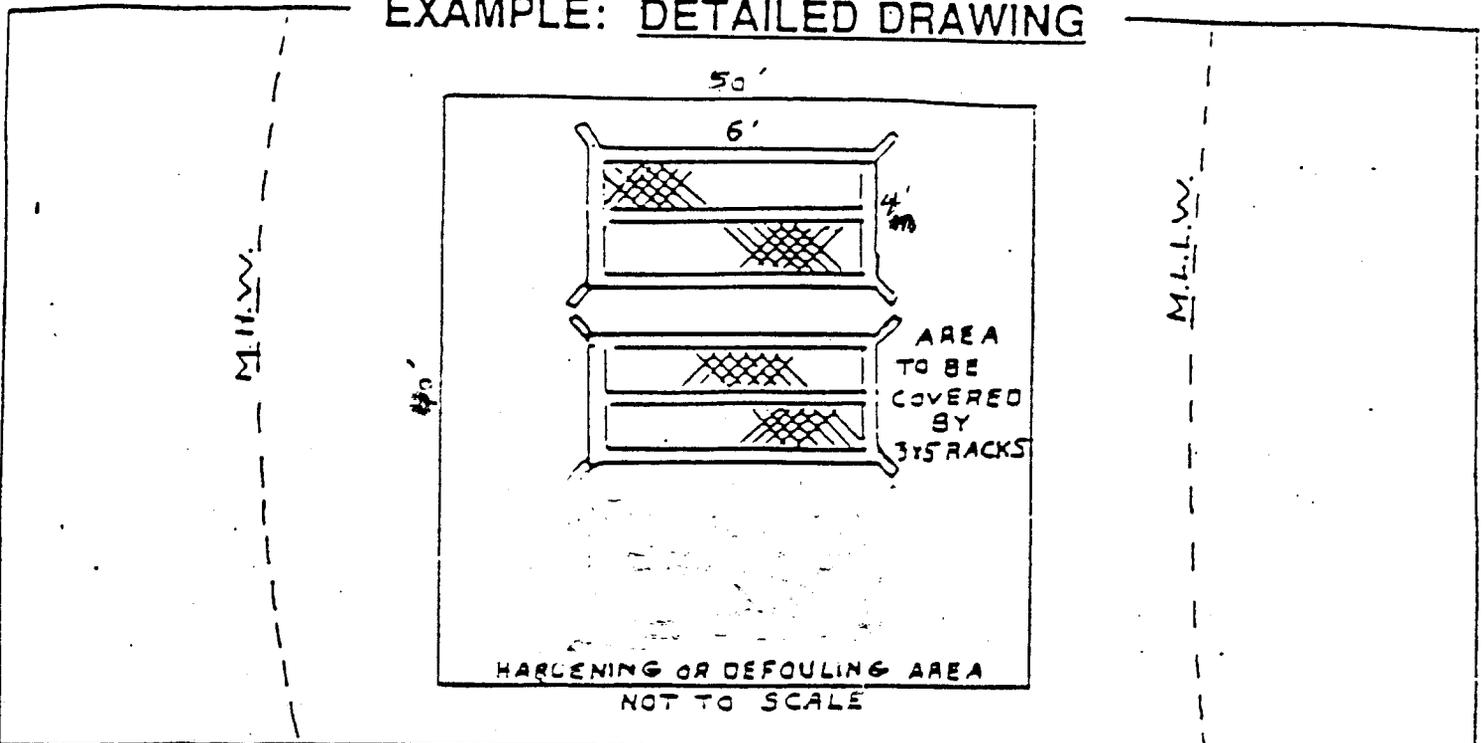
Attachment # 4
ADL No. 226563

NAME: _____

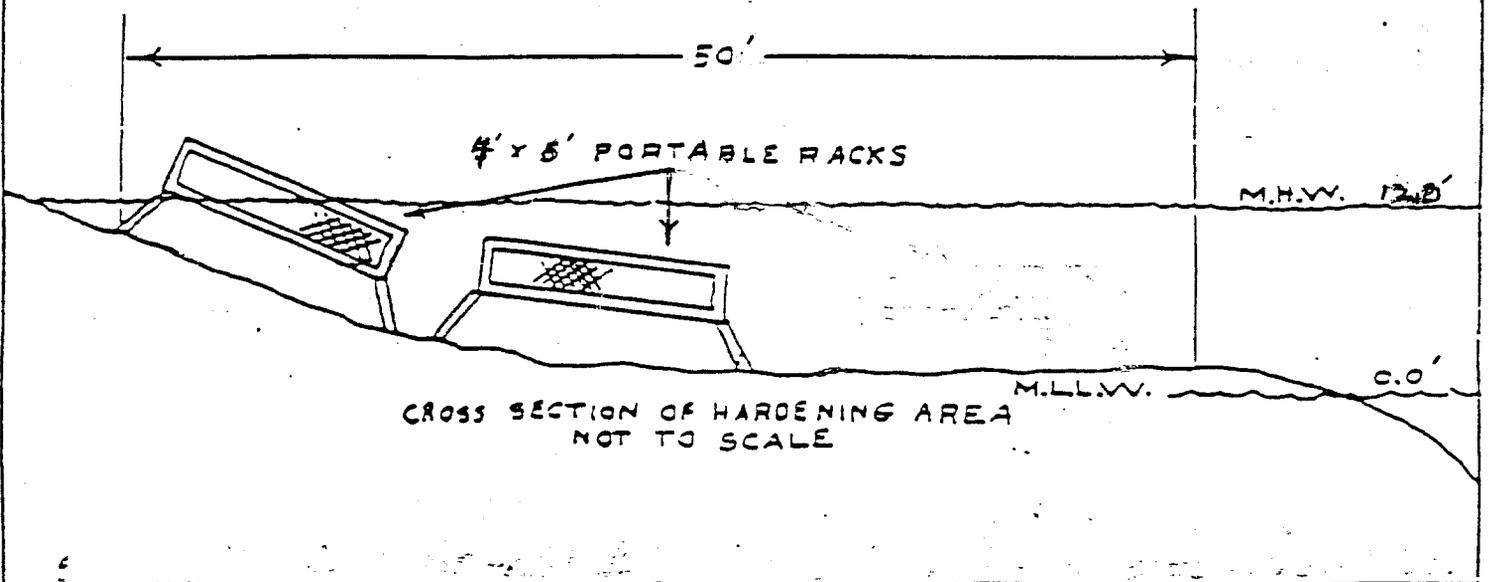
LOCATION: RESURRECTION BAY
T35, R1E, Sec. 16 S.M.

* Only two racks w^{ill} be used. They w^{ill} be located at the optimal level in the tidal range.

EXAMPLE: DETAILED DRAWING



EXAMPLE: CROSS-SECTIONAL DRAWING



PURPOSE: COMMERCIAL OYSTER FARM
OWNERS:

Bob. & Patty Linville
Seward, AK

Attachment # 5
ADL No. 226563

SECTION
VIEW
OF
HARDENING OR
DEFOULING
AREA
NOT TO SCALE

PROPOSED OYSTER FARM

BY: _____

LOCATION: T3S, R1E, Sec 16, SM.