

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

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

**APPLICANT: DAVID SCZAWINSKI
DBA: PRISTINE PRODUCTS
ADL #225295**

LOCATION: Ragged Point, Prince William Sound

The Department of Natural Resources is accepting public comment on the following preliminary decision document for a lease amendment to an existing aquatic farm site. **Written comments must be received on or before 5:00 p.m., Friday, September 28, 2012.**

PROPOSED ACTION: The applicant is requesting a lease amendment to move his existing aquatic farm gear occupying 2.88 acres, approximately 2.5 nautical miles to the south in an unnamed cove within 0.5 miles of his other farm gear, processor and housing is currently located. The new site will allow the applicant better and closer access to his farm gear and provide a more protected area from wind and possible winter icing. No additional increase in the farm footprint is being added.

The total combined acreage of this farm site remains at 2.9 acres, more or less.

The applicant has been successfully culturing Pacific oysters and is approved to culture blue mussels, kelp and, green sea urchins.

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 225295.

LOCATION:

USGS MAP COVERAGE: Seward D-2 and D-3.

NAUTICAL CHART: 16705 Prince William Sound

LEGAL DESCRIPTION: Township 9 North, Range 10 East, Seward Meridian,
And more specifically described as:

Section 31: W ½, within an unnamed bight northwest of Ragged Point and northwest of Eaglek Island in Prince William Sound, approximately 32 miles east of Whittier, Alaska, and further described as an area measuring 260 ft x 483 ft for a shellfish grow-out area within the existing farm site lease for a total area of 2.9 acres, more or less.

GEOGRAPHIC: The proposed farm site is located on state-owned tide and submerged lands northwest of Ragged Point and northwest of Eaglek Island in Prince William Sound.
See attached maps labeled, Attachment B.

POLITICAL INFORMATION:

BOROUGH/MUNICIPALITY: This application is outside of an organized borough.

COASTAL DISTRICT: The application lies outside of a former approved coastal district. The nearest former coastal district is Whittier, Alaska.

REGIONAL CORPORATION: Chugach Alaska Corporation

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

PLANNING AND CLASSIFICATION:

LAND MANAGEMENT PLAN: Prince William Sound Area Plan, Management Unit 18, (Subunit 18G) – Eaglek Bay. Adopted in 1988, amended on April 3, 2007.

SURFACE CLASSIFICATION: The Prince William Sound Area Plan designates state owned tidelands at the proposed location as general use.

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

ALASKA COASTAL MANAGEMENT PROGRAM: The proposed aquatic farm was found consistent with the former Alaska Coastal Management Program (ACMP) on April 3, 1991, under State I.D. No. AK 900807-06A.

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, native corporations, Fish and Game Advisory committees, etc. 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 August 29, 2012 and will end on September 28, 2012.

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 October 15, 2012. 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: The bay in which the aquatic farm is being proposed is noted as an anchorage area for recreational boaters. However, the proposed area for the farm gear has many hazardous rocks and is therefore not used as an anchorage. The bay has approximately 150 acres of surface area available for anchorage. The farm site footprint within this area contains two grow-out areas for shellfish. The northern area has a footprint of 2.88 surface acres and the existing grow-out area has a footprint of approximately 1.76 acres of surface area for a combined total of approximately 4.6 surface acres. Therefore there seems to be an ample amount of anchorage area remaining to accommodate recreational boaters.

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.

PRINCE WILLIAM SOUND AREA PLAN INFORMATION SPECIFIC TO THIS PROPOSAL: This farm site lies within Management Unit 18, Eaglek Bay, subunit 18G. The state-owned tidelands are designated general use. In order to protect valuable salmon spawning and rearing habitat and to prevent conflicts with those resources, three stream and thirteen estuaries will be closed to new mineral entry.

Upland Owner/Management Intent: The uplands within this unit are managed by the U.S. Forest Service. The Forest Service's land use plan indicates that they will manage all uplands without timber harvest.

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 William Sound Area Plan, and potentially the Chugach National Forest 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 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

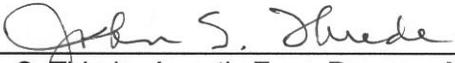
Social, Economic, and Environmental Concerns: There are no known significant social, economic, and environmental effects from the existing lease.

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.

There seems to be no obvious disadvantages of approving the amendment to the proposed site on state owned tide and submerged lands. The public should be aware that anchorages within the bay and 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.

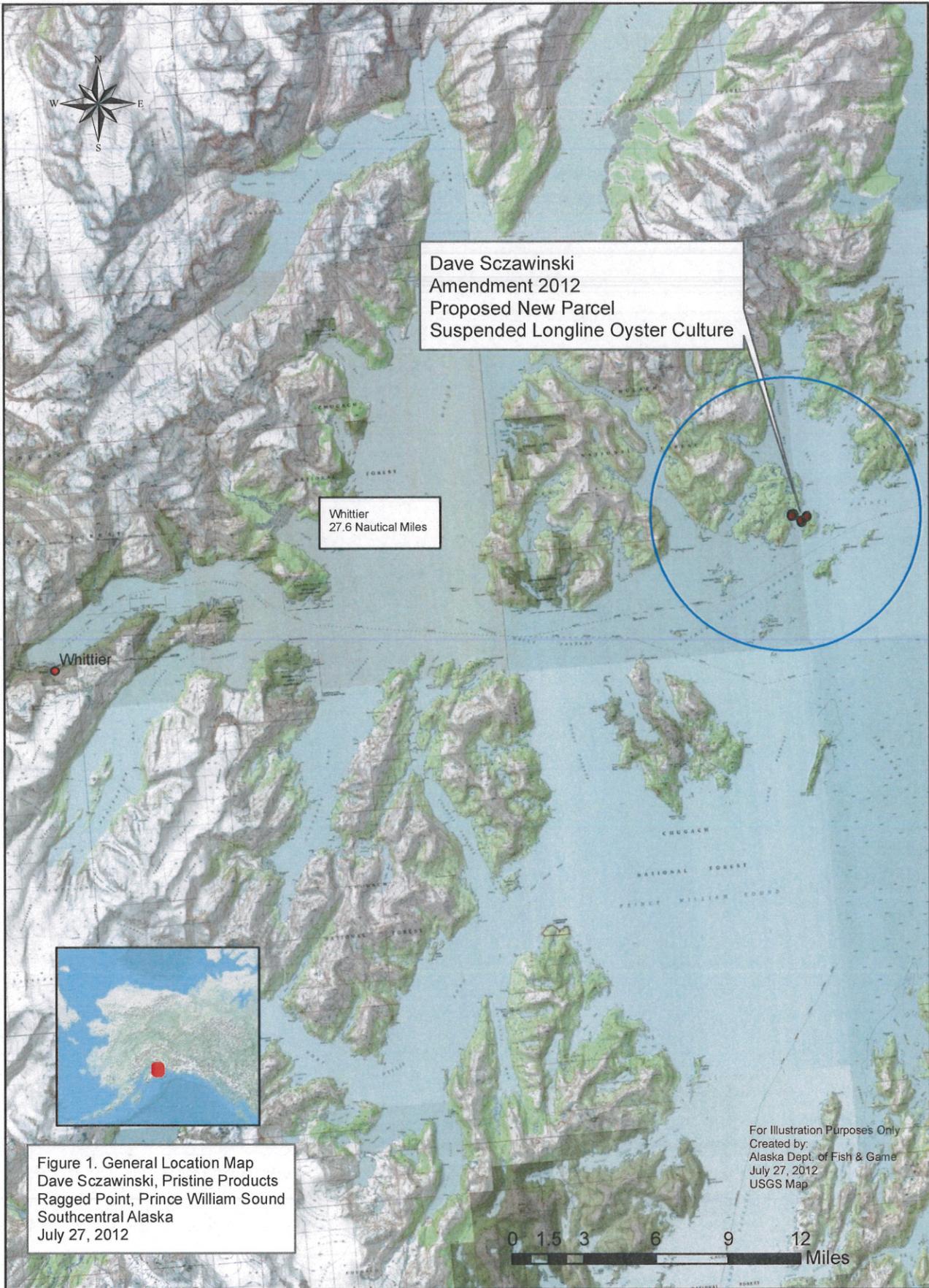
RECOMMENDATION: Considering the information known at this time and described within this decision, it appears to be in the state's best interest to approve the lease to the existing lessee for a new shellfish grow-out area. Any resultant lease will include stipulations that may be identified as a result of public comments. The lessees security bond will remain in effect.

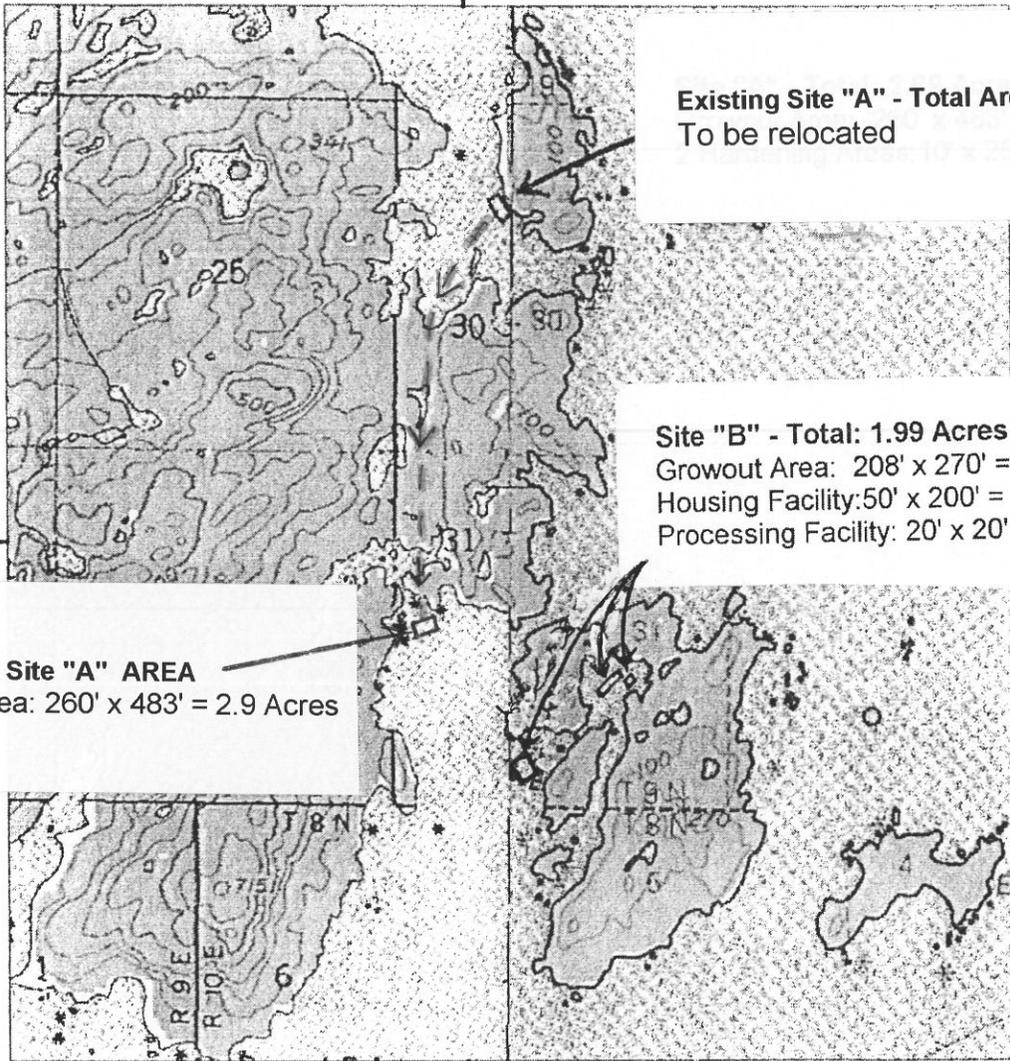


John S. Thiede, Aquatic Farm Program Manager

10/25/12

Date



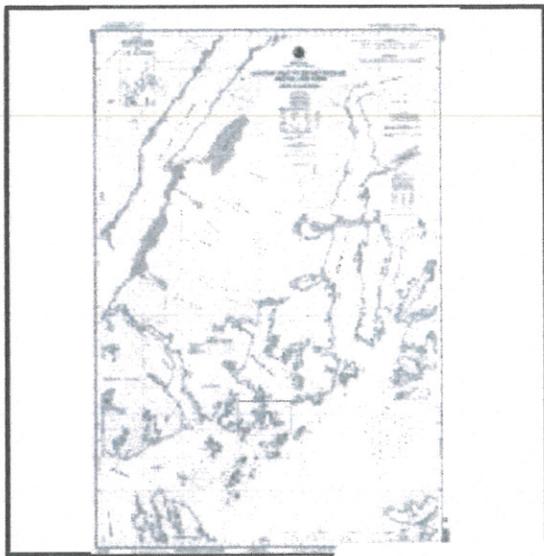


Existing Site "A" - Total Area 2.9 Acres
 To be relocated

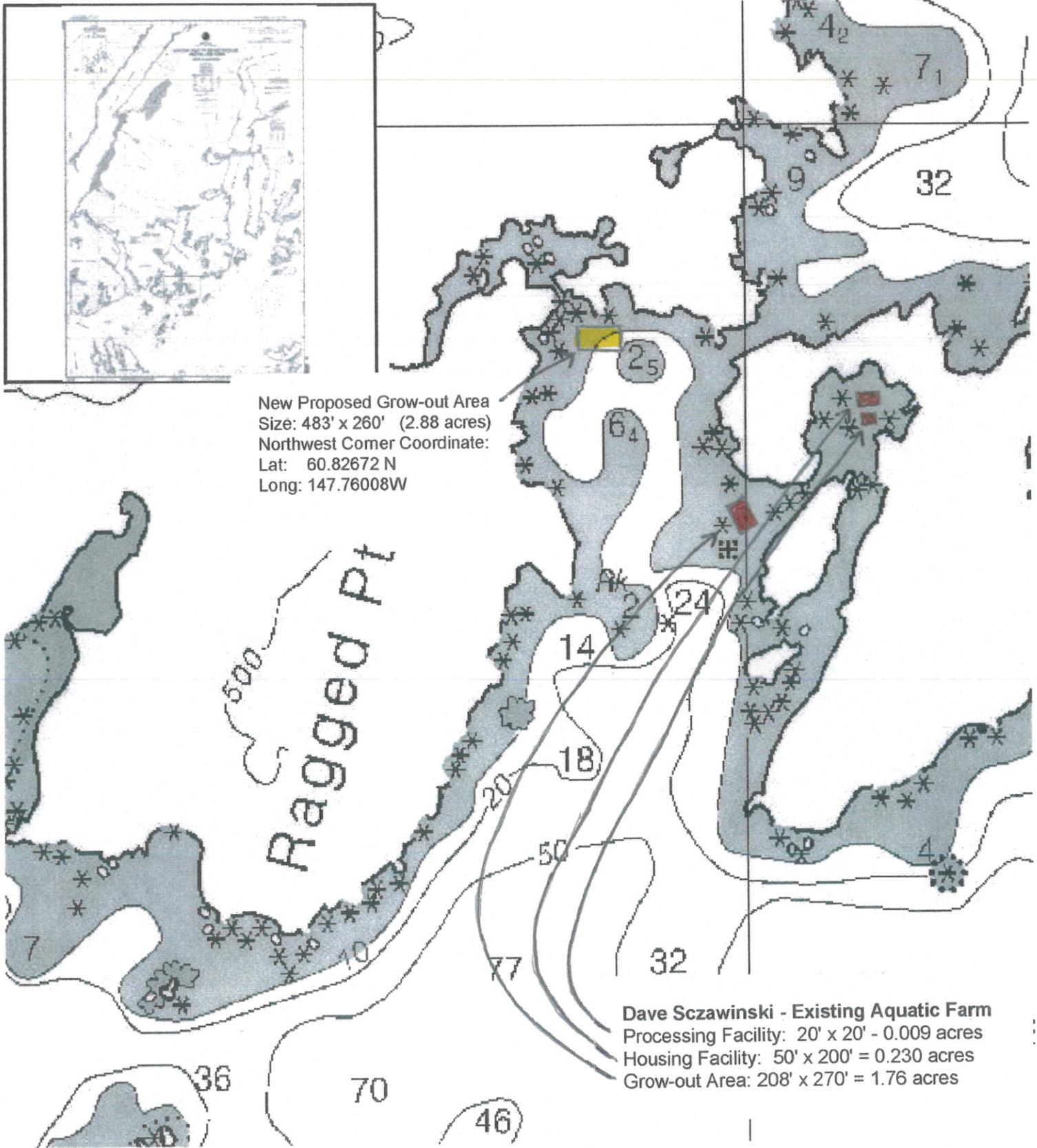
Site "B" - Total: 1.99 Acres
 Growout Area: 208' x 270' = 1.760 Acres
 Housing Facility: 50' x 200' = 0.230 Acres
 Processing Facility: 20' x 20' = 0.009 Acres

PROPOSED Site "A" AREA
 Growout Area: 260' x 483' = 2.9 Acres

Aquatic Farm Lease - David Sczawinski
ADL # 225296 - AFG # 91-08A-AF-SC
Total Acres = 4.88



New Proposed Grow-out Area
Size: 483' x 260' (2.88 acres)
Northwest Corner Coordinate:
Lat: 60.82672 N
Long: 147.76008W



Dave Sczawinski - Existing Aquatic Farm
Processing Facility: 20' x 20' - 0.009 acres
Housing Facility: 50' x 200' = 0.230 acres
Grow-out Area: 208' x 270' = 1.76 acres

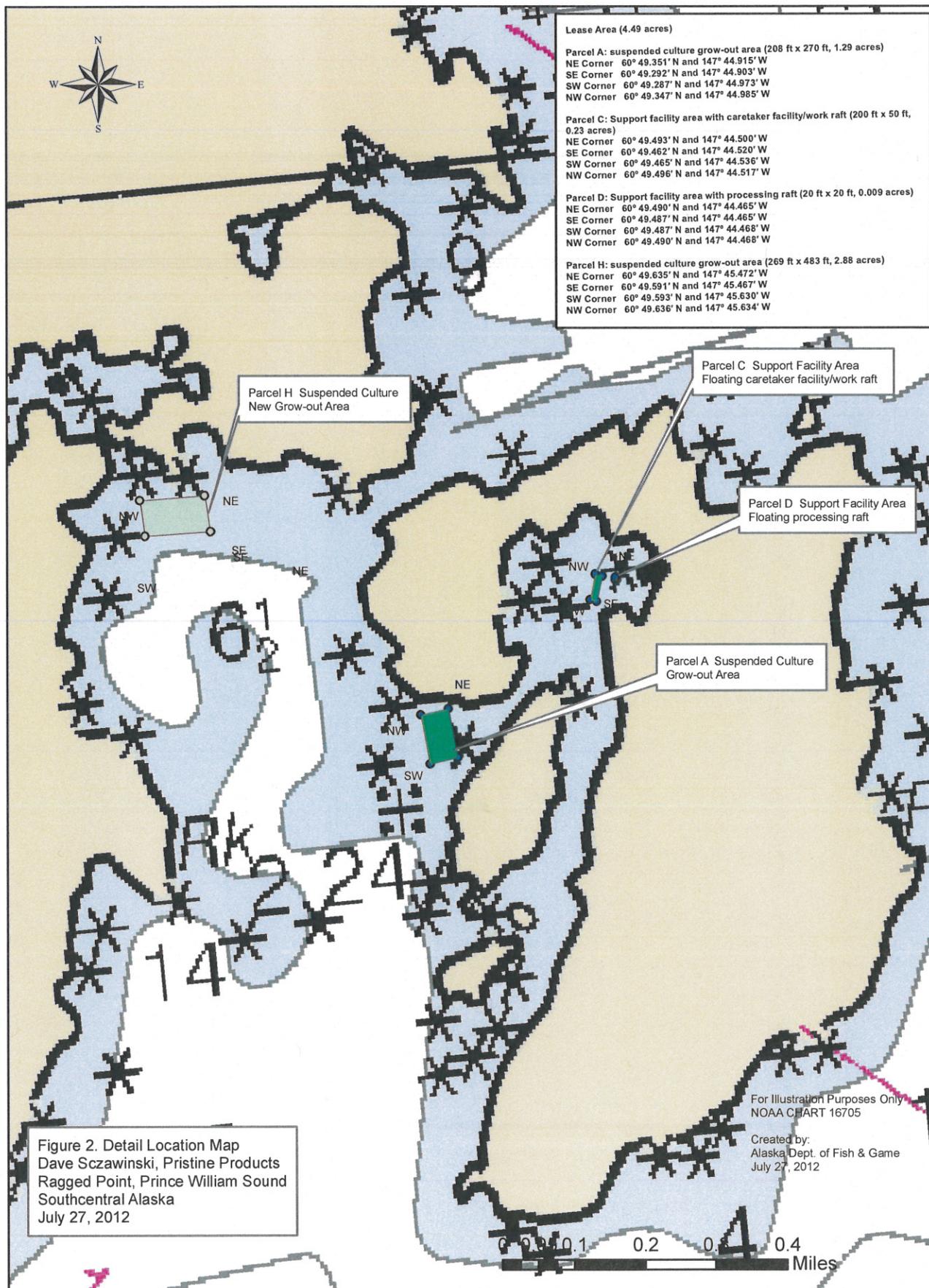


Figure 2. Detail Location Map
 Dave Sczawinski, Pristine Products
 Ragged Point, Prince William Sound
 Southcentral Alaska
 July 27, 2012