

Proposed Lease in Manatee County



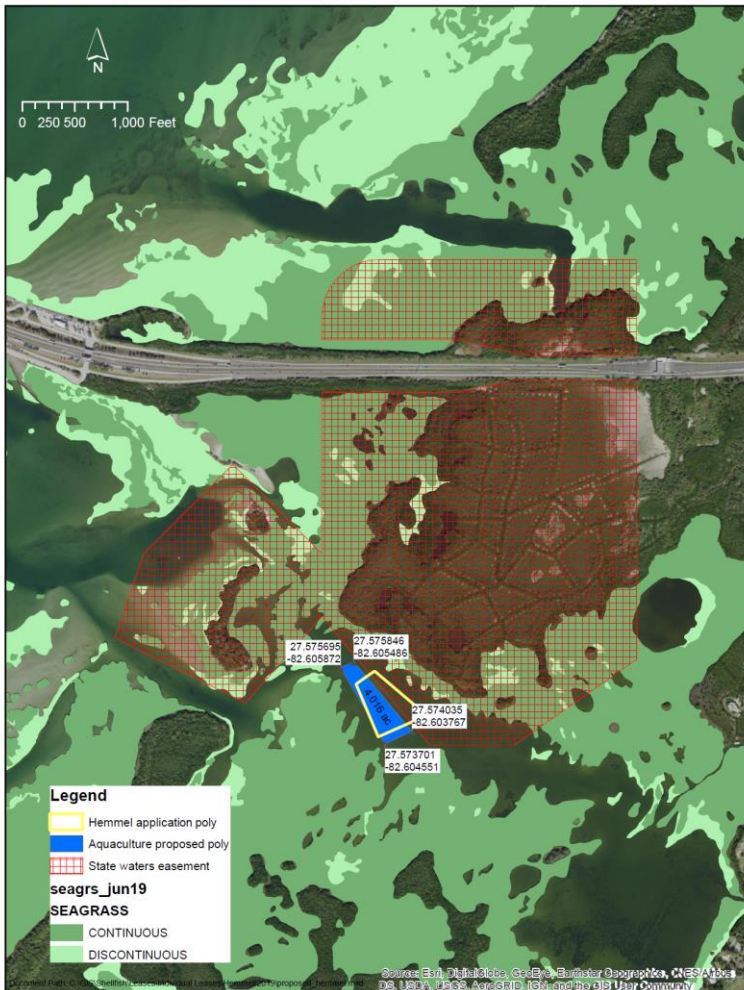
Division of Aquaculture
Aquaculture Parcel Resource Assessment
Manatee County
8/20/2020
12/16/2020 (Updated to reflect amendments and final coordinates)

Introduction

Bay Shellfish has proposed a 4-acre parcel, to be utilized for bottom, clam aquaculture in Miguel Bay in Manatee County. The original application coordinates were overlapping an existing deed for state waters easement, so the coordinates were amended (Figure 1). The parcel is located in the Terra Ceia Aquatic Preserve. Division staff, along with Aquatic Preserve staff and the applicant, assessed the site on August 18th, 2020.

Figure 1. Original site (yellow outline) with amended parcel (blue).

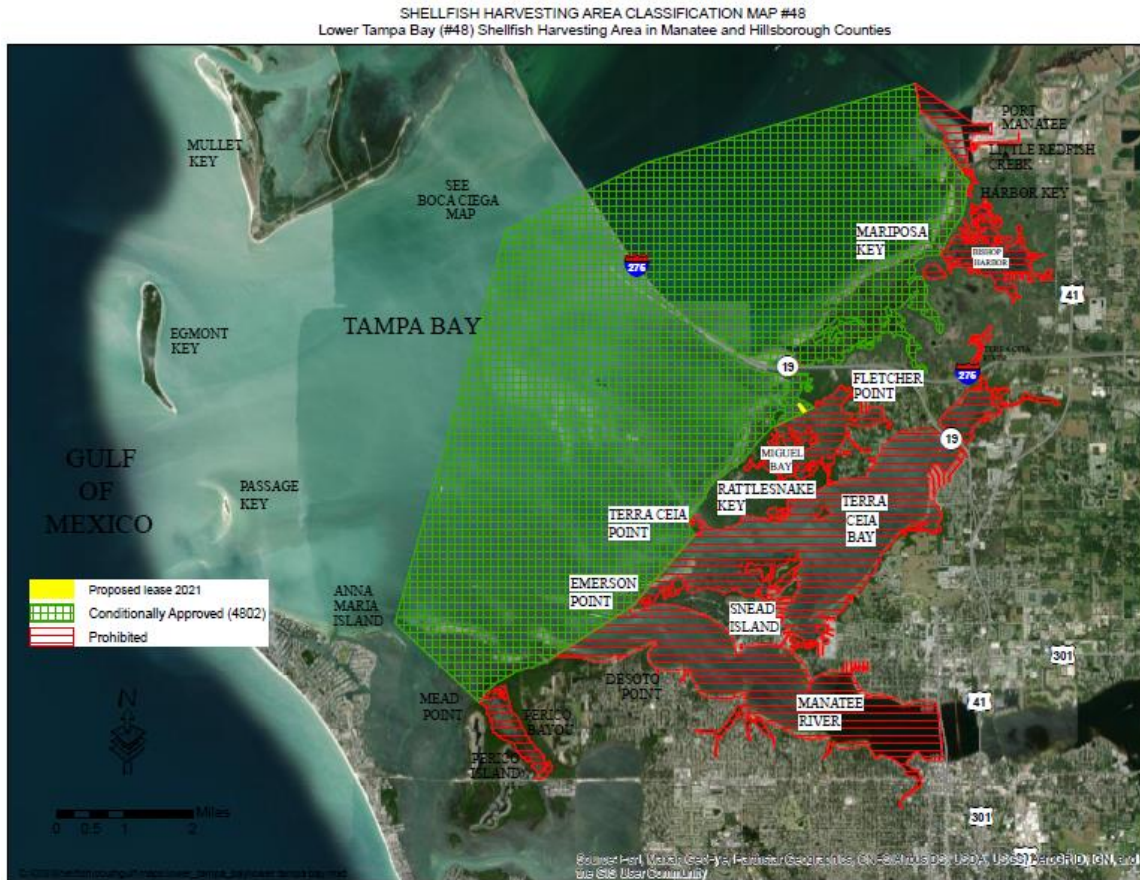
Curtis Hemmel's proposed site in Manatee County



Site Location

The site is in Miguel Bay within Lower Tampa Bay, Conditionally Approved Shellfish Harvesting Area #4802 (Figure 2).

Figure 2. Site location within Shellfish Harvesting Area #4802



Site Assessment

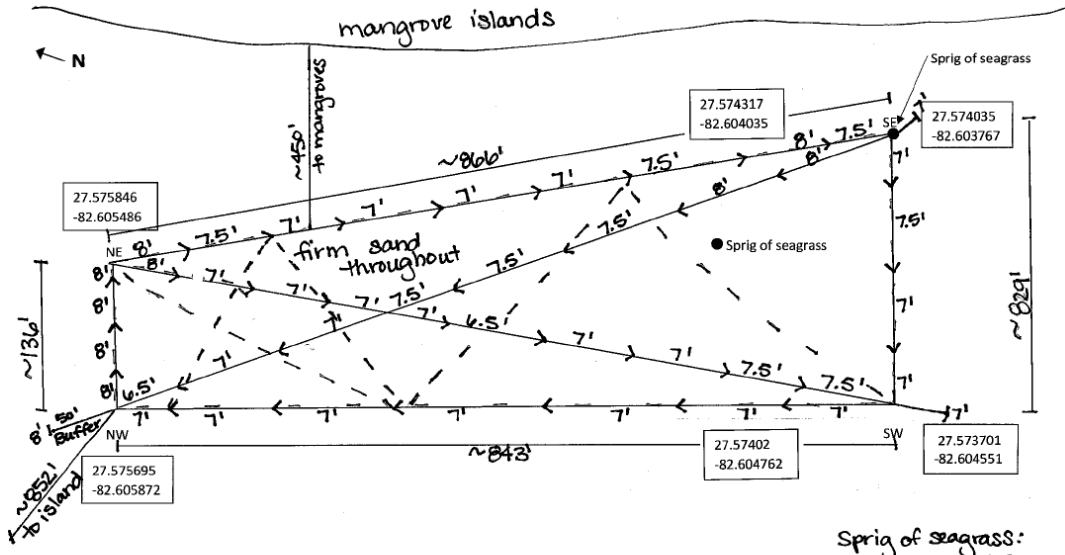
The original site encompasses approximately 4 acres and is in Miguel Bay, near Bradenton, Florida. Corner markers were established using the GPS coordinates provided by the applicant. Visibility was approximately four feet. The substrate consisted of firm sand throughout the parcel. The assessment was conducted on August 18th, 2020 by boat utilizing poling and snorkeling. Four poling transects were conducted around the perimeter and two center poling transects, with zig-zagging snorkel transects throughout the middle and perimeters (Figure 3). Depths during the assessment ranged from six and a half to eight feet throughout the parcel. The only critical habitat found was seagrass (Figure 4).

Proposed Site- GPS Coordinates and Depth:

NW Corner:	27.575695 / -85.605872	7 feet
NE Corner:	27.575846 / -82.605486	8 feet
SW Corner:	27.573701 / -82.604551	7 feet

SE Corner: 27.574035 / -82.603767 7 feet

Figure 3. Site Assessment

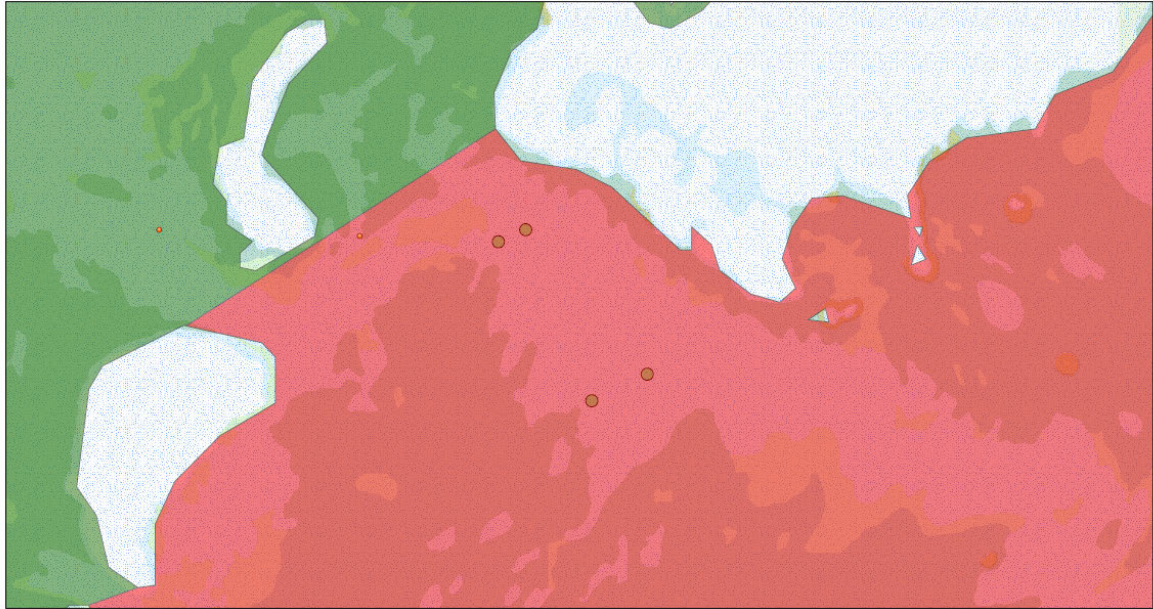


Date/Time: <u>8/18/20, 10:30am</u>	Water Body: <u>Miguel Bay</u>
FDACS staff: <u>Carrie J, Katie D, Kit H</u>	Shellfish Harvesting Area (SHA): <u>48</u>
Applicant: <u>Kurt Hemmel</u>	County: <u>Manatee</u>
AP Staff: <u>Randy Runnels + 3 Staff</u>	Tide: <u>High, rising</u>
Visibility: <u>4 feet</u>	Weather: <u>Sunny, storms in the distance</u>
Critical Habitat: <u>Aquatic Preserve</u>	Bottom Type: <u>Sand</u>

Spring of seagrass:
 27.574340°
 -82.604520°
 --- Snorkel transects
 ← poling transects

Figure 4. Critical Habitat

Revised Proposed Hemmel Lease



August 10, 2020

-  Aquatic Preserves
- Seagrass Statewide
 -  Continuous Seagrass
 -  Patchy (Discontinuous) Seagrass
 -  Oyster Beds Statewide

1:4,514
0 0.05 0.1 0.2 mi
0 0.07 0.15 0.3 km

Florida Fish and Wildlife Conservation Commission - Fish and Wildlife Research Institute, Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User

Map created by Map Direct, powered by ESRI.
Florida Department of Environmental Protection makes no warranty, expressed or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights.

Figure 5. Proposed site looking North.



Figure 6. Shoreline looking Southeast



Recommendations:

After review of the pertinent information, Division staff recommend the proposed site, with amended coordinates to avoid the one rhizome of *Thalassia testudinum* seagrass found on the southeastern corner, as well as movement of the Prohibited Shellfish Harvesting Area classification line for shellfish harvesting area classification management (Figure 7 and 8).

Comments:

The Division seeks to preclude impacts to seagrass beds and other sensitive habitats. Division staff could make an accurate assessment of the proposed lease areas as well as adjacent areas. This area has minimal localized boat traffic and little to no commercial and recreational fishing. This site is being proposed for bottom culture, so navigation should not be a conflict with the site and there is a navigational channel to the west and east of the proposed site. Mangrove islands were over 450 feet away from the proposed site and only two rhizomes of seagrass were found during the assessment.

Figure 7. Revised Parcel to Exclude Seagrass and Buffer and the new Conditionally Approved Classification Line – 3.2 acres



Figure 8. Final amended proposed parcel- 3.187 acres
 Proposed Lease in Manatee County





Florida Department of Agriculture and Consumer Services
Division of Aquaculture

NICOLE "NIKKI" FRIED
COMMISSIONER

**APPLICATION FOR A STATE-OWNED
SOVEREIGNTY SUBMERGED LAND
AQUACULTURE LEASE**

Section 253.69, Florida Statutes – Rule 19-21.021, F.A.C.

Application No. _____ (Official Use Only)

Please Type or Print Legibly

PART I - Applicant Information

Name: CURTIS HEMMEL

Company Name: BAY SHELLFISH CO.

Lease Title: MIGUEL BAY

Aquaculture Certificate of Registration Number: AQ1351012

Address: PO BOX 289

City: TERRA CEIA State: FLORIDA Zip: 34250-0289

Telephone Number: [REDACTED] Fax Number: ----

E-Mail Address: CURT@BAYSHELLFISH.COM

I certify that I am 18 years old or older (please initial): CH

Describe your capability to conduct your proposed aquaculture activities (including training, experience and education that you have obtained or will obtain).

We have 23 years of experience in the Florida bivalve industry. We have been involved in every aspect of the industry from seed to value added products. For seed supply, we have been producing over 100 million seed per year over the last decade and encompass the broadest diversity of species on the Eastern seaboard.

PART II - Parcel/Site Information

- Bottom Lease (use of up to 6 inches off the bottom)
- Water Column Lease (use of the full water column) Please contact the division to determine if the parcel can be issued for full water column usage.

A. Existing/Approved Parcels

County _____

Aquaculture Use Zone _____

Parcel # _____ Alternate Parcel # _____

You may enter an alternate parcel in case your first choice is already taken.

Remit payment of application fee of \$200.00 by check or money order to:
Florida Department of Agriculture & Consumer Services
P. O. Box 6700
Tallahassee, FL 32314-6700

Org. Code: 42150300000
EO A2
Object Code: 001237 \$200.00

Lease Title: A lease can be issued to persons or to a company or LLC. Please use the full legal name for a lease to be issue in a personal name. If entering a company or LLC name, please provide incorporation or registration documentation as proof that the business entity is registered and that you are authorized to conduct business on behalf of the entity.

B. New Site (for newly proposed areas, complete section B)

County MANATEE

Water body LOWER TAMPA BAY

Size of Proposed Lease Area 5 acres

Shallowest water depth at mean low water 4.5 feet

Deepest water depth at mean low water 6.5 feet

Average tidal range in area 1.5 feet

Shellfish Harvesting Area (SHA) 4802

Do you own the riparian upland property?

Yes No

If "yes" please attach a copy of the warranty deed and complete the following:

Linear feet of waterfront property: _____

Local zoning and specific use: STATE WATERS

If "no" please describe the location of access to the proposed lease site.

OUR CERTIFIED AQUACULTURE DOCK, ACCESS AND HATCHERY ARE 6000' FEET AWAY

Approx. distance to nearest shoreline 2400 FEET FROM UPLANDS feet

For areas within 500 feet of a riparian landowner, a list of the names and addresses of each owner of property lying within 500 feet of the proposed area, as shown on the latest county tax assessment roll is required to be included in this application package.

Corner coordinates for proposed area in Decimal Degrees (DD.ddddd):

NE	<u>28.46111111 N</u>	<u>83.08722222 W</u>
SE	<u>28.34527778 N</u>	<u>82.93333333 W</u>
NW	<u>28.42638889 N</u>	<u>83.14194444 W</u>
SW	<u>28.28888889 N</u>	<u>83.07527778 W</u>

A vicinity map of the proposed area is required to be included in this application package. The vicinity map may be hand drawn or computer generated.

See Attachment 1 for guidance and at a minimum include the following items in the diagram:

- Legend with applicant name, county, water body and date.
- Label the dimensions of the proposed area.
- Include corner GPS coordinates in Decimal Degrees.
- Illustrate any natural resources adjacent to the proposed site.
- Illustrate any boat navigation channels or paths in the immediate vicinity of the area.

Describe the substrate/bottom composition at the proposed site (i.e., sand, silt, mud, etc.).

Average - 95.48% sand, 2.88% clay, 1.64 silt (analysis done by University of Florida)

For newly proposed site, mail completed application to:
Division of Aquaculture
Attention: Portia Sapp
600 South Calhoun Street, Suite 217
Tallahassee, Florida 32399-1300
or transmit via email to
Portia.Sapp@FDACS.gov

NO APPLICATION FEE IS DUE AT THIS TIME.

For the SHA code, please visit our website at:

<https://www.FDACS.gov/Agriculture-Industry/Aquaculture/Shellfish-Harvesting-Area-Classification/Shellfish-Harvesting-Area-Maps>

Proposed shellfish leases must be sited in Approved or Conditionally Approved waters.

Briefly describe your reasons for selecting the proposed site (i.e., substrate type, location, water quality, etc.). The proposed area selected should have minimum environmental, social and use impacts (e.g., seagrasses, natural shellfish resources, navigation, recreation and commercial uses, etc.).

The site was chosen for substrate type, water quality and water flow. Once those parameters were met the importance of its location and proximity to our facility was the most critical. We supply a large amount of seed in the S.E. and balancing seed production to demand requires massive production at certain times which means we need overflow capabilities. We currently use our existing lease for this purpose. A problem occurs when storms prohibit us from getting into Tampa Bay. The seed cannot wait and crowding it creates a poor product. When Cedar Key has low salinity events, we simply cannot move clams that are ready. Having this lease site is critical to future seed supply.

List any recreational and commercial uses of the proposed area (e.g., fishing, tourism, etc.).

I have lived next to Miguel Bay for 12 years fishing, diving and working in the area. As a dead end Bay with no public boat ramps for nearly 10 miles, it receives very little boat traffic. There are no boat channels marked or otherwise and the seagrass areas are deep enough which allow boats to crisscross the Bay in nearly any direction. What little fishing that does occur is close to the mangrove wetlands, off one of the two small oyster bars in the Bay or in the inlet areas.

Describe the potential impacts of the proposed use on the ecology of the area (including fish habitat, threatened and endangered species and other natural resources).

The lease area should not have an impact on the local ecology outside of transforming manmade excess nutrients, which are taken up by microalgae and consumed by bivalves, and turning them into useable forms of nitrogen for increased seagrass growth, contribution to the substrate biome and gas off to become safe atmospheric nitrogen. Not to forget the clarification of the water through filtering which allows for better light penetration and increased ecological photosynthesis.

Provide a statement explaining why the lease is in the public interest or is not contrary to the public interest.

The lease composition is ideal for sunray venus clams, a predominant local species. Using the lease for the turnover of seed supply will have a positive exponential effect on seed availability in the Southeast U.S. along with ensuring seed quality which translates into economic productivity. The proposed lease area has no other public use more significant than other existing leases in the area and around the State.

For dock applications, describe any aquaculture-related structures proposed (a detailed and dimensioned site plan is required pursuant to subsection 18-21.021(1) (d) (3), Florida Administrative Code).

PART III-Lease Development Plan (complete this section for all applications)

Proposed aquaculture activities are (check only one):

Commercial Experimental

Product(s) to be cultivated:

(Please check all that apply)

Hard Clam (*Mercenaria spp.*)

Sunray Venus Clam (*Macrocallista nimbosa*)

Eastern Oyster (*Crassostrea virginica*)

Live Rock

Other _____

Describe the aquaculture activities to be conducted including planting and harvesting activities.

Planting of seed clams in the substrate as overflow to our hatchery/nursery operations and planting of sunray clams for commercial harvest purposes. We have already been stuck with 2.6 million sunrays that the farming community did not wish to purchase. We may wish to plant southern hard clams for growout if demand does not absorb the estimated needed production.

Effective cultivation is required to be performed on all aquaculture leases. Minimum effective cultivation is the planting of 100,000 seed clams or 70,000 seed oysters per acre per year. Provide below a detailed business development plan including the amount of product to be planted and harvested each year throughout the term of the lease (Year 1-Year 10).

Year 1	50 mill H. clams(planted/pulled), sunrays clams- 1 mill planted
Year 2	50 mill H. clams(planted/pulled)*, sunrays clams- 1 mill planted
Year 3	50 mill H. clams(planted/pulled)*, sunrays clams- 2 mill planted/ 350k pulled
Year 4	50 mill H. clams(planted/pulled)*, sunrays clams- 3 mill planted/800k pulled
Year 5	50 mill H. clams(planted/pulled)*, sunrays clams- 3 mill planted/1.2M pulled
Year 6	50 mill H. clams(planted/pulled)*, sunrays clams- 4 mill planted/1.6M pulled
Year 7	50 mill H. clams(planted/pulled)*, sunrays clams- 4 mill planted/1.6M pulled
Year 8	50 mill H. clams(planted/pulled)*, sunrays clams- 4 mill planted/1.6M pulled
Year 9	50 mill H. clams(planted/pulled)*, sunrays clams- 4 mill planted/1.6M pulled
Year 10	50 mill H. clams(planted/pulled)*, sunrays clams- 4 mill planted/1.6M pulled

*PLANTED CLAMS NOT GROWN TO FULL MARKET SIZE

Describe the supply source of seed stock or rock products.

Seed will come from our own hatchery

Describe the distribution of the product after harvest.

The seed clams will go to our existing markets for clam farmers and restoration projects throughout the Southeast U.S., The sunray market will need to be further developed though there are active wholesalers ready to process and sell this product. Bay Shellfish Co. is willing to vertically integrate if needed to help in market development.

PART IV- Proposed Gear (complete this section for all applications)

Describe the maximum dimension (length x width x height) and characteristics of the gear to be used (material type, wire gauge, brand, etc.).

Standard 4'x4' polyester clam bags with pvc stakes. We currently purchase the Rick Veile & Island Bags product.

A cross section diagram of the proposed area is required to be included in this application package. See Attachment 2 for guidance and at a minimum include the following items in the diagram:

- Legend with applicant name, county, water body and date.
- Label the dimensions of the proposed area with GPS coordinates in Decimal Degrees.
- Water depth at Mean High Water and Mean Low Water.
- Location and number of proposed gear and support poles.

Images or sketches of proposed structures for aquaculture production are required to be included in this application package. This includes all cages, bags, anchors etc. See Attachment 3 for guidance.

The leaseholder is responsible and liable for equipment and gear placed on the lease. All off bottom gear must be permanently and individually marked with the name of the leaseholder. Additionally all gear must be properly disposed of following use or displacement off the lease. Please provide a description of marking methods for off bottom gear and a gear recovery plan to meet these requirements.

Additional Information

I understand prior to signing the lease agreement, it is my responsibility to read and comply with all terms and conditions of the lease agreement.

I understand that upon final approval of a new lease area, I will be responsible to provide two prints of a survey of the parcel pursuant to section 18-21.021(1)(i)&(j), Florida Administrative Code.

I understand that I will be responsible to install and maintain lease markers pursuant to an approved U.S. Coast Guard Private Aids to Navigation permit.

For existing parcels, an application fee of \$200.00 is required to be submitted with the lease application.

For new site nominations, do not include the application fee at this time. However, upon review and approval of an application for a newly proposed area, the division will contact you for the required \$200 application fee.

For questions regarding this form or the application process, please call the
Division of Aquaculture at (850) 617-7600.

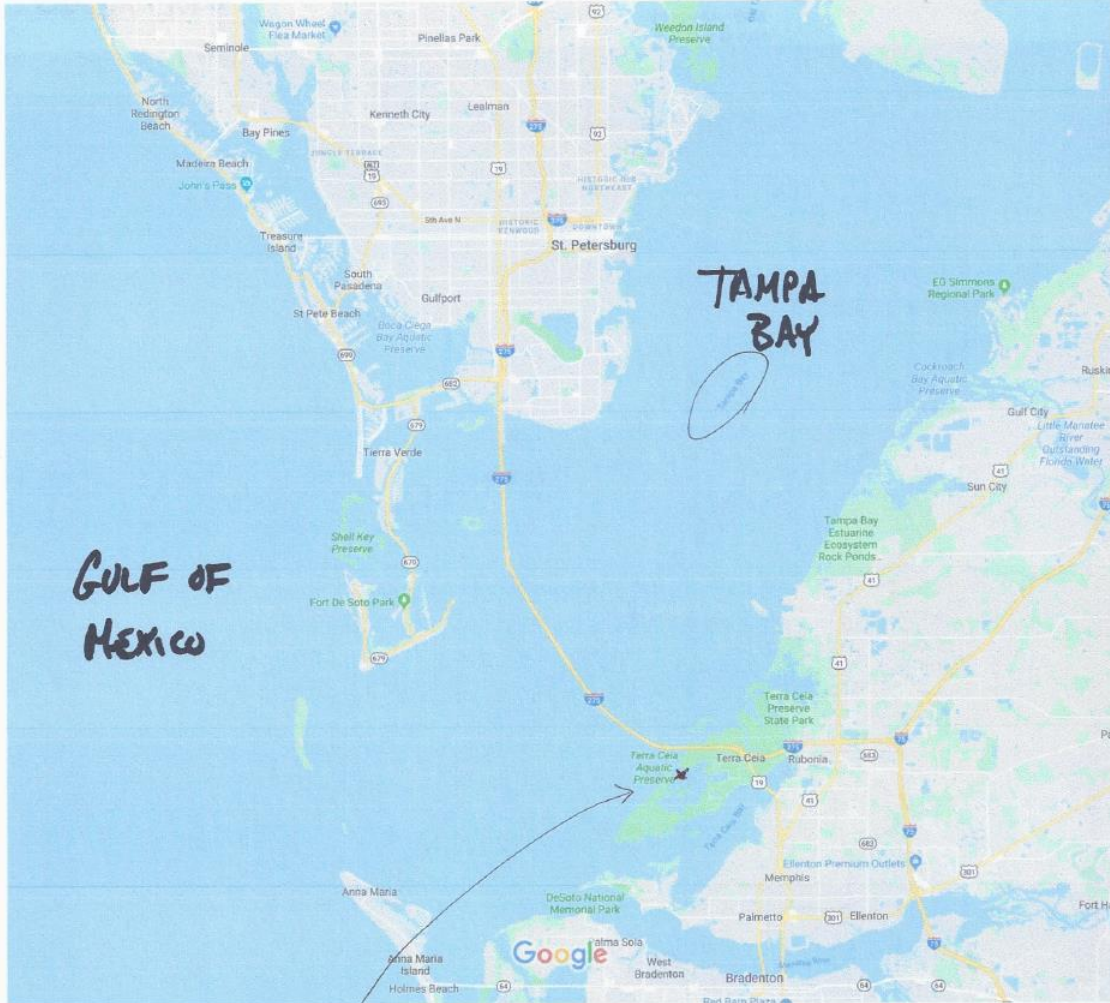
Applicant's Signature:  _____

Date: 4/7/2020

Google Maps



CURTIS HEMMEL
MANATEE CNTY, FLORIDA
MIGUEL BAY
1/7/2020



GULF OF
MEXICO

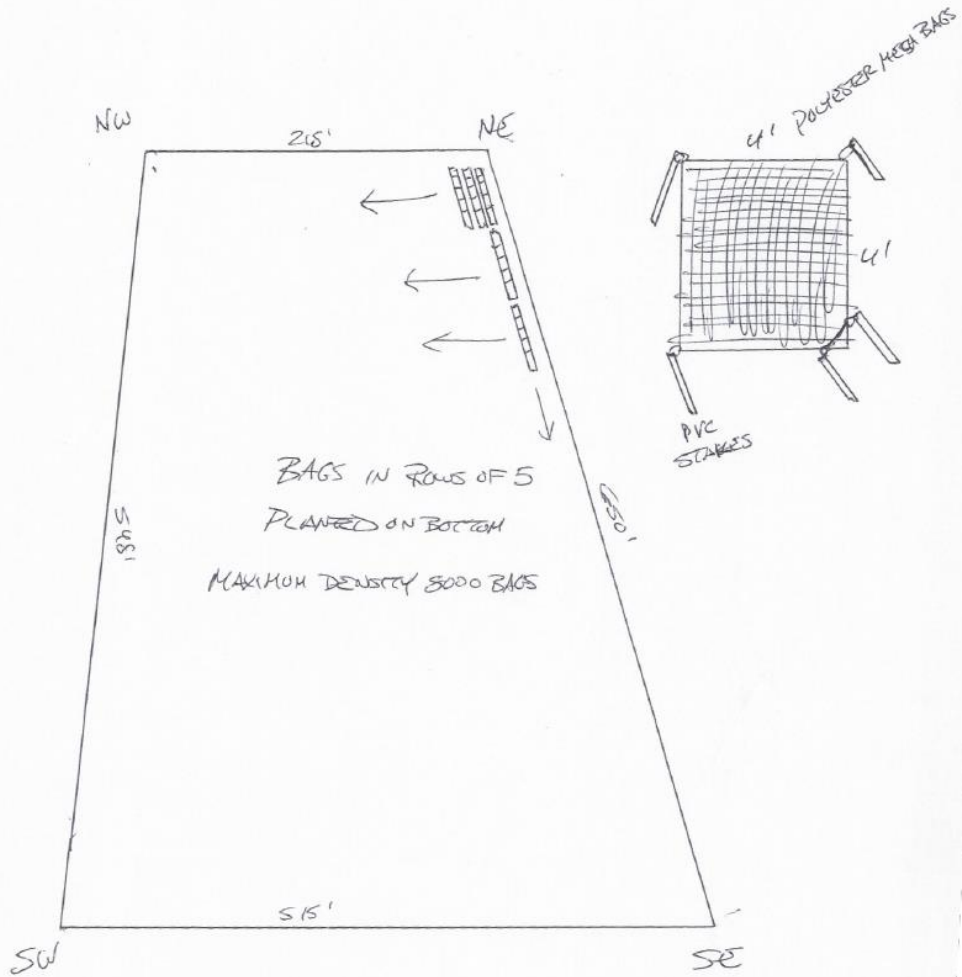
TAMPA
BAY

PROPOSED LEASE

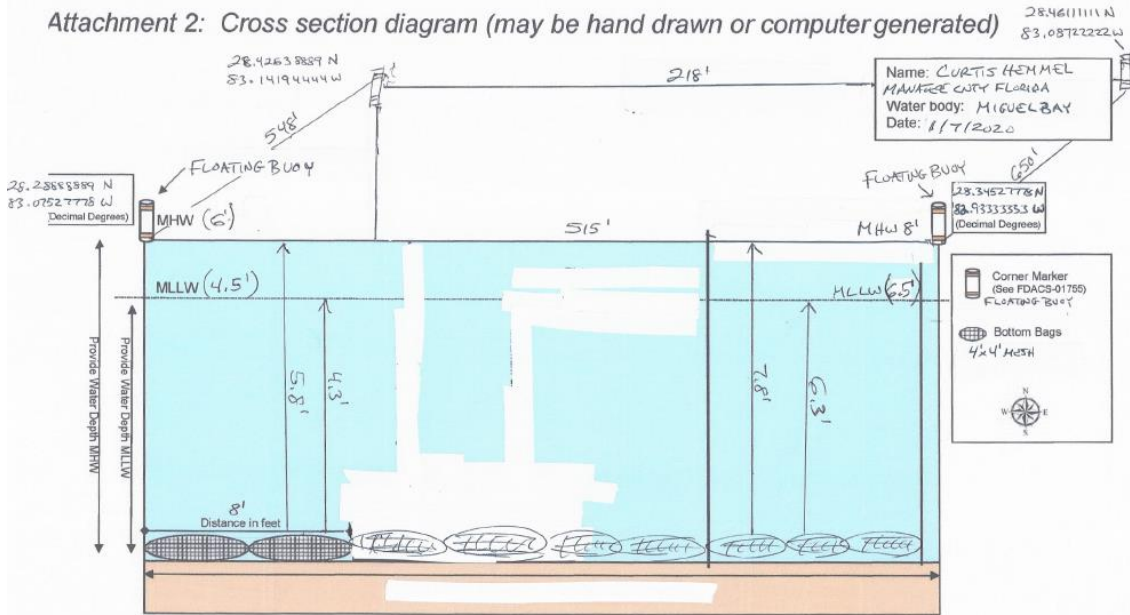
Map data ©2020 INEGI, Google 2 mi



CURTIS HEWEL
MANATEE CNTY, FLORIDA
MIGUEL BAY
1/7/2020



Attachment 2: Cross section diagram (may be hand drawn or computer generated)





Florida Department of Agriculture and Consumer Services
Division of Aquaculture

SOVEREIGNTY SUBMERGED LAND AQUACULTURE LEASE

NICOLE "NIKKI" FRIED
COMMISSIONER

Section 253.71, Florida Statutes

This Instrument Prepared by:
Division of Aquaculture
600 South Calhoun Street, Suite 217
Tallahassee, Florida 32399

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA**

No.

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the "Lessor."

WITNESSETH: That for and in consideration of payment of the lease fees hereinafter provided, and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to _____, hereinafter designated as the "Lessee," the sovereignty submerged lands described as follows:

A parcel () of sovereignty, submerged land lying in the Aquaculture Use Zone, near _____, in _____ County, Florida, containing _____ acres, more or less, of sovereignty, submerged lands described and shown on Attachment A.

TO HAVE THE USE OF the hereinabove described premises for a period of ten years from _____, the effective date of this lease. The terms and conditions upon and for which this lease is granted are as follows:

1. The Lessee is hereby authorized to undertake aquaculture activities on the lands described above.
2. Lessee shall pay to Lessor an annual lease fee of \$ _____, representing a base annual rental fee of \$16.73 per acre or fraction thereof and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to rule 18-21.022, Florida Administrative Code (F.A.C.). The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S. The first year's base rent and surcharge shall be paid to Lessor within 30 days of the effective date of this lease. Thereafter base rent and surcharge shall be paid annually to Lessor on or before January 1 of each succeeding year of the lease term. Lessee understands that from time to time the lease fee may be increased by the Lessor, and the Lessee agrees to pay the increased lease fee, as adopted by the Board of Trustees.
3. Failure of the lessee to pay rent within 30 days of January 1 shall constitute ground for cancellation of the lease and forfeiture to the state of all works, improvements, and animal and plant life in and upon the leased land and water column.
4. The Lessee shall maintain complete and accurate production documents and shall provide same to Lessor upon request.

5. Failure of the Lessee to perform effective cultivation, or otherwise comply with the terms of this lease, shall constitute cause for termination of the lease and forfeiture to the State of all the works, improvements, and animal and plant life in and upon the leased land and water column. Effective cultivation shall consist of the reasonable and bona fide attempt to grow-out shellfish in a density suitable for commercial harvesting, in accordance with the Lessee's business plan submitted to the Department of Agriculture and Consumer Services (hereafter "Department") as part of the lease application and shall be extended throughout the entire ten-year term of this lease.

6. This lease may be terminated upon the Lessee's written request.

7. The Lessee, in accepting this lease, does hereby agree that no claim to title or interest to said lands hereinbefore described shall be made by reason of the occupancy or use thereof and that all title or interest to said land hereinbefore described is vested in the Lessor.

8. The Board of Trustees will not approve lease transfers or assignments during the first five years of the initial lease term. However, after five years from the effective date of the initial lease, Lessee, upon written consent from the Lessor, may sublease, assign or otherwise transfer the lease granted to the Lessee.

9. The Lessee shall neither permit the sovereign lands described in this lease nor any part thereof to be used or occupied for any purpose or business other than herein specified; nor shall the Lessee knowingly permit or suffer nuisances or illegal operations of any kind on the sovereign lands described in this lease.

10. The Lessee agrees to maintain the sovereign lands described in this lease in good condition in the interest of public health, safety and welfare. The Lessee agrees that the sovereign lands described in this lease are subject to inspection by the Lessor or its designated agent at any reasonable time.

11. The Lessee hereby covenants and agrees to investigate all claims of every nature at its expense, and to indemnify, defend, hold, and save harmless the Board of Trustees of the Internal Improvement Trust Fund, the State of Florida, and the Department from all claims, actions, lawsuits and demands arising out of this lease or any activity conducted hereunder. The Lessee further agrees to be solely responsible for any injury or property damage resulting from any property conditions or activity on the leased area.

12. The Lessee agrees that upon expiration or termination of this lease all permission granted to undertake the activities, as described in paragraph 1 of this lease, shall cease and terminate, and Lessee shall immediately vacate and surrender possession of the premises to Lessor subject to the provisions of paragraph 23.

13. If requested by Lessee, this lease may be renewable for additional ten-year terms upon such terms and conditions as are acceptable to the parties hereto. The request must be in writing and delivered by the Lessee to the Lessor no later than 90 days before the expiration date of the then existing lease agreement. Upon receipt of the request for an additional ten-year term, the Department will either take final action on behalf of the Board of Trustees where the circumstances meet the delegation of authority provided to the Department by the Board of Trustees, or the Department will submit the Lessee's request for an additional ten-year term to the Board of Trustees for final action.

14. Neither failure or successive failures on the part of the Lessor to enforce any provision, nor any waiver or successive waivers on its part of any provision herein, shall operate as a discharge thereof or render the same inoperative or impair the right of the Lessor to enforce the same upon any renewal thereof or in the event of subsequent breach or breaches.

15. The Lessee, by acceptance of this lease, binds itself to abide by the provisions and conditions herein set forth, and said provisions and conditions shall be deemed covenants of the Lessee. In the event the Lessee fails or refuses to comply with the provisions and conditions herein set forth, or in the

event the Lessee violates any of the provisions and conditions herein, except for the provisions of paragraph 25, this lease may be terminated by the Lessor after notice in writing by certified mail to the Lessee. Upon receipt of such notice, the Lessee shall undertake to correct such noncompliance or violation for which the Lessor has given notice to correct within 30 days of receipt of notice. In the event Lessee fails or refuses to timely correct the violation, the Lessor, at its option, shall be entitled to terminate this lease and, if terminated, all rights of Lessee hereunder shall cease. All costs, including reasonable attorney fees, incurred by the Lessor to enforce any provisions of this lease shall be paid by the Lessee. The Lessee, by acceptance of this lease, agrees to accept service by certified mail of any notice required by this lease or Chapter 253, F.S., in addition to Chapter 18-14, F.A.C., at the following address:

STREET OR P O BOX NO

CITY STATE ZIP

The Lessee agrees to notify the Lessor by certified mail of any change in this address at least ten days before the change is effective. If Lessee's mail is returned for any reason (unclaimed, unable to deliver, no longer at address, etc.), and Lessor is unable to locate Lessee, Lessor has the option of canceling the lease.

16. The Lessee agrees to assume all responsibility for liabilities that accrue to the subject property or to the improvements thereof, including any and all special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property and associated improvements during the effective period of this lease.

17. Unless the mooring of a security vessel is specifically approved in writing by Lessor, no security vessel shall be moored on or adjacent to the lease area. Lessee further agrees that no vessel required to be registered or titled under Florida law shall be allowed to moor or dock within or adjacent to, or otherwise use the area described within this lease unless such vessel is registered or titled in accordance with Chapters 327 and 328, F.S. Lessee agrees that no vessel of any description shall be moored on or adjacent to the leased premises for a period exceeding twenty-four hours, irrespective of whether the vessel is periodically moved, unless authorized by the terms of this lease.

18. NOTICE: The undertaking of any unauthorized activities, including the erection or placement of any permanent or temporary structures, shall constitute a violation of Chapter 253, F.S., and subject the Lessee to administrative fines under Chapter 18-14, F.A.C., and the terms of this lease. Any such violation may result in the imposition of administrative fines, judgment for damages, and/or the termination of this lease.

19. As a condition to obtaining this lease, the Lessee hereby agrees not to discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring within the area subject to this lease or upon lands adjacent to and used as an adjunct of the area described within this lease.

20. Lessor and Lessee agree that Lessor has venue privilege as to any litigation arising from matters relating to this lease. Therefore, any such litigation between Lessor and Lessee shall be initiated and maintained only in Leon County, Florida.

21. This lease is the entire and only lease between the parties. Its provisions are not severable. Any amendment or modification to this lease must be in writing and must be accepted, acknowledged and executed by the Lessee and Lessor.

22. This lease shall be deemed to have been executed and entered into in the State of Florida. Any dispute arising hereunder shall be governed by the laws of the State of Florida. This lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators and assigns of the parties hereto, but nothing contained in this paragraph shall be construed as a consent by Lessor to any assignment of

this Lease or any interest therein by Lessee.

23. Lessee shall remove all works, equipment, structures and improvements from the sovereign lands described in this lease within 60 days following the date of expiration or termination of this lease. Lessee shall also provide to the Department an attestation statement from a third party, acceptable by the Lessor, verifying that all works, equipment, structures and improvements have been removed. Failure to remove all equipment and improvements within 60 days and provide the attestation statement may result in cancellation of all other aquaculture submerged land leases held by Lessee and Lessee will be prohibited from executing, acquiring, subletting, or the authorized use of any state owned aquaculture submerged land lease for ten years from date of cancellation of the lease in which the works, equipment, structures and improvements were not removed.

24. The Lessee shall be bound by present and future enactments in Florida law as expressed in Chapter 253, F.S., or elsewhere in Florida Statutes, and by present and future provisions of the Florida Administrative Code promulgated thereunder, and by any present and future enactments adopted by the Board of Trustees pertaining to this lease agreement.

25. Conviction of a violation of Chapter 597, F.S., and/or rule 5L-1, F.A.C., or other rules promulgated by the Department, or the Florida Fish and Wildlife Conservation Commission, may be cause for this lease to be terminated without further notice to Lessee and shall result in the forfeiture to Lessor of the works, improvements, and shellfish in and upon the leased premises.

26. SPECIAL LEASE CONDITIONS

a) Pursuant to Chapter 253.71 (7), F.S., lease agreements may contain special lease conditions that provide for flexibility in surveying and posting lease boundaries, incorporate conditions necessary to issue permits pursuant to Part IV of Chapter 373, F.S. and Chapter 403, F.S., and provide for special activities related to aquaculture and resource management.

- (1) Pursuant to Chapter 597, F.S. authorized activities include, but are not limited to, planting shellfish cultivated from eggs, transplanting and relaying live stocks, placement of cultch material, harvesting clams, the installation and removal of nets, bags, or other devices, and the placement of markers that designate the corners and perimeters of the culture area.
- (2) All culture materials, cover nets, bags or other designated markers placed on or in the water shall be clean and free of pollutants; including petroleum products such as creosote, oils and greases, or other pollutants. Compounds used as preservatives must be used in accordance with product label.
- (3) Culture materials (cultch) placed on the grow-out area must be a suitable substance for attachment of oyster larvae: such as natural molluscan shells; fossilized shell; fossilized coral and other aquatic organisms; lithic materials, such as crushed and graded limestone, granite, and gravel which contain calcium carbonate and/or fossilized organisms; or recycled materials which contain lithic fractions and calcium carbonate, including crushed and graded concrete. Exceptions to this list of generally accepted cultch materials must be specifically approved and identified within the aquaculture lease agreement.
- (4) Bags and/or trays used in the culture operation shall be removed from the water during all mechanical cleaning, maintenance and repair operations. Mechanical or hydraulic devices shall not be used below the water for the cleaning of the submerged structures. The Lessee may use hand tools for cleaning shellfish, bags, and other structures under water.

- b) The Lessee agrees that mechanical harvesting is prohibited on the lease site, unless expressly approved in this lease agreement.
- c) No aquaculture activities will be allowed over bottoms that contain biological resources consisting of submerged seagrass communities, naturally occurring oyster and clam beds, corals, attached sponges or attached macro marine algae beds.
- d) The Lessee shall, prior to commencement of the aquaculture activities on the approved lease site, and no later than 120 days from the date of such approval, provide to the Lessor a Department of Environmental Protection, Division of State Lands approved survey and legal description of the parcel to be included in the lease. If an acceptable survey is not received from the Lessee within 120 days it may be cause for immediate termination of the lease.
- e) The Lessee shall, within 90 days from the date of execution of this lease, properly post the lease boundaries to delineate the corners and perimeters of the lease. Lessee must install and maintain a buoy or post at each of the remaining lease corners of the lease area. Markers shall be installed in a consistent manner (i.e., utilizing all buoys, or all posts on site).
 - (1) Buoys must be white with international orange bands of reflective tape with black block characters at least one-inch in height and include each corner designation (i.e., NE, NW, SE, and SW) and parcel number or FDACS Lease No. -AQ-. Each buoy must be maintained upright at a minimum height of 14-inches above the mean high water mark.
 - (2) Posts must contain a field at least 2-1/2" wide and 10" long. The background shall be white with international orange bands of reflective tape above and below the field. Parcel number or FDACS Lease No. -AQ- and each corner designation (i.e., NE, NW, SE, and SW) shall be displayed in black block characters of at least one-inch in height. The bottom of the identifying field on the post shall extend a minimum of 18-inches above the mean high water mark. Posts may be made from carsonite, fiberglass, and/or PVC.
 - (3) For theft prevention, Lessee may install a sign with a white background and include: (a) the language "HARVESTING PROHIBITED EXCEPT BY LESSEE" in one-inch black letters; (b) the "circle symbol" using international orange reflective tape; and (c) a two-inch border using international orange reflective tape. The bottom of the sign shall extend a minimum of three-feet above the mean high water mark.
- f) This lease is limited to the exclusive use of the bottom only. The overlying water column exceeding six-inches above the bottom is specifically excluded.
- g) The Lessee, and any sublessee and/or authorized user, must possess and maintain a valid Aquaculture Certificate of Registration from the Department of Agriculture and Consumer Services pursuant to Chapter 597.004, F.S. As certified, the Lessee, sublessee and authorized user shall implement the best management practices adopted in Chapter 5L-3, F.A.C.
- h) The Lessee shall employ best management practices to protect endemic shellfish populations from the potential introduction and transfer of diseases. The best management practices shall be employed during all production and transport phases to provide responsible resource management, and reduce or eliminate the risk of disease introduction

or transfer. Best management practices will include but not be limited to the following provisions.

- (1) The source of brood stock for seed stocks to be cultured shall be from native stocks. Lessee shall provide documentation to the Department stating that seed stocks are from native brood stocks. The Lessee shall obtain such documentation from the hatchery or nursery from which seed stocks are obtained. Hatchery-reared seed stocks may not be obtained from facilities that cannot document the use of native (regional) stocks in their brood stock and genetic programs.
 - (2) The Lessee shall provide documentation that seed stocks are free of diseases that may threaten endemic populations. Such documentation should be obtained from the hatchery or nursery from which the seed stocks were obtained. Seed stocks, obtained from hatcheries or nurseries located outside of the specific region referenced in section 26, h. (1), of this lease must be certified by a recognized shellfish pathologist as free of diseases that may threaten endemic populations.
 - (3) The documentation required in section 26, h. (2), of this lease, as well as the source and destination, must accompany each shipment of seed stocks and market size shellfish, and a record of all documents and transactions shall be maintained by the Lessee and submitted to the Department in the annual lease audit. Shellfish seed stocks, for the purpose of this section, shall be defined as shellfish that are less than ten percent of market-size or require a minimum of six months to reach market-size.
- i) Shellfish aquaculture products from certified aquaculture operations may be possessed, transported and sold when such shellfish are segregated in distinct containers, with each container being appropriately labeled as to source and certificate of registration number.
- (1) The Lessee shall obtain authorization from the Department to relay market-size shellfish stocks from leases that are temporarily closed to direct-to-market sale. The Lessee shall document that the receiving lease is closed for direct-to-market sale of shellfish for at least 30 days when market-size shellfish are obtained from another shellfish lease or source that is closed for direct-to-market sale at the time of the transaction. Shellfish aquaculture products which are harvested from a lease that is temporarily closed to direct-to-market sale shall be documented as to date of harvest and transport. The authorization to relay may include requirements for bacteriological analyses.
 - (2) Transplanting or relaying wild shellfish stocks to a lease is prohibited.
- j) Shellfish aquaculture products which are harvested from the lease for direct-to-market sales for human consumption shall comply with other applicable provisions of Chapter 597, F.S., Chapter 5L-1, F.A.C., and any other applicable provisions of law and administrative code.
- k) The Lessee shall perform the aquaculture activities in such a manner that will not have an adverse impact on significant resource habitats such as seagrass beds or on endangered species such as manatees and sea turtles.
- l) If the activity and/or gear proposed by the Lessee are not covered under the Department's Programmatic General Permit (SAJ-99) for Live Rock and Marine Bivalve Aquaculture, the Lessee will need to apply for an individual permit from the Army Corps of Engineers and comply with all provisions of the permit. Specifications regarding placement, type and function of appliances and devices used in culture practices and predator exclusion should be expressly approved by the Division of Aquaculture.

- m) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The Lessee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850/245-6333). Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, F.S.

(Remainder of page intentionally left blank)

“LESSEE”:

By _____ Original Signature of Lessee or
Executing Authority

_____ Typed/Printed Name of Lessee or
Executing Authority

_____ As:
capacity in which (If Lessee is a corporation, please enter
i.e, President, Executing Authority is authorized to sign,
Vice President, etc.)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of
, 20____, by _____, who is personally known to me, or who has
produced a _____ as identification.

(SEAL) Notary Public

OF FLORIDA

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE STATE

(SEAL)

By:

Administration

Services, Designee

Improvement Trust Fund

Joey B. Hicks, Director, Division of

(or his designee)

Department of Agriculture and Consumer

For the Board of Trustees of the Internal

“LESSOR”

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Joey B. Hicks, Director (or his designee), Division of Administration, who is personally known to me.

Notary Public

(SEAL)