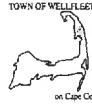




# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Date: May 20, 2022  
To: Town of Wellfleet Selectboard  
From: Nancy Civetta, Shellfish Constable  
Re: Aquacultural Research Corporation (ARC)

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Dear Selectboard members,

At the public hearing on March 22, 2022, you directed the Shellfish Department to come up with possible amendments to the Town of Wellfleet Shellfishing Policy and Regulations with regards to the fact that ARC does not meet the domicile requirements of our regulations. There had been much discussion in this hearing and with Town Counsel about the fact that the Selectboard has the authority to accommodate ARC should they choose. The discussion on March 22 focused on how to find solutions and move forward.

Here is the motion:

“Board Member Wilson Moved; Board Member Wolf Seconded, and it was voted to ask the Shellfish Department to consider and draft possible amendments to section 7.8.7 and to ask the Shellfish Advisory Board to review them and come back to the Selectboard. Roll Call Vote: 3-1-1 (Curley voted no, DeVasto Recused)”

I am acting on what I believed the intent of the Selectboard vote was given the entirety of your discussions, e.g. Janet Reinhart wanting a solution and not a simple continuance, and the discussion that ensued after the motion, which then was not specific to 7.8.7, but was general in nature about regulations.

Unfortunately, I learned from the Division of Marine Fisheries that Section 7.8.7 can't be used with a commercial town aquaculture grant license when sales are intended as part of that specific license. So, I worked with Helen Miranda Wilson and Town Counsel Gregg Corbo on an addition to the regulations on domicile exception. However, this has not yet been reviewed by the Shellfish Advisory Board and will not be discussed as part of the May 24 public hearing. I simply wanted you to know that I had put effort in to deliver on your direction.

I feel I need to propose some sort of solution under regulation Sections 7.8.1. Eligibility Requirements, 7.8.2. Domicile Requirement and Exception, 7.8.8. Aquaculture Research and Development Projects, as advertised (see attached). Based on Town Counsel's feedback that the decision is at the discretion of the Selectboard and the direction you gave me at the March 22 public hearing, I believe that the Selectboard is demonstrating some palate to accommodating ARC – with some expectations/conditions imposed by the Town specific to them.

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



Fax (508) 349-0305

Therefore, I would like to propose a simple way to accommodate ARC without further implications. This is what I am hearing that the shellfishing community would like to see.

#### 7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: **As of July 1, 1987, new** licenses shall only be issued to domiciled residents (See Sec.1 Definitions) of the Town, 18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four (4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

The addition of the date accommodates ARC because when ARC received its license, there were no domicile regulations in Wellfleet, and in fact, ARC was not domiciled here. The regulations changed on July 1, 1987, yet ARC has a pre-existing lease, therefore, it is not new.

I also believe that the Town should require a set of conditions from ARC given its role in the shellfishing industry and the accommodation the Town is making. ARC's involvement here could benefit the shellfishing industry in many ways, and it is our job to ensure that that happens. Please find here attached a draft of a specific lease for ARC with required conditions for its operation here.

I have attached some of the other documents we provided you with for earlier meetings. I look forward to discussing this at the public hearing on Tuesday, May 24, 2022.

Sincerely,



Nancy Civetta

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**WELLFLEET SELECT BOARD  
PUBLIC HEARING NOTICE**

In accordance with MGL Chapter 130 Sections 52, 57, 58, 60, and 68 and all applicable Town Shellfish Regulations, notice is hereby given that the Wellfleet Selectboard will hold a virtual and in-person public hearing on **TUESDAY, MAY 24, 2022, AT 7:00 P.M.** at the Wellfleet ACC, 715 Old Kings Hwy, Wellfleet, MA 02667 to consider the following:

The addition of a new regulation: Section 7.8.2 (b) Special Commercial Aquaculture License, to the Town of Wellfleet's Shellfishing Policy and Regulations, to create a new class of license that may be held by residents or non-residents that provide a benefit to the Town of Wellfleet and the local shellfish industry, including but not limited to projects such as environmental assessments, experimentation, education and training, or ongoing research for the purpose of developing strains of shellfish that will thrive in the Harbor.

A copy of the proposed regulation will be available in the Selectboard's May 24, 2022, meeting packet.

Published: Independent, May 12 and 19, 2022

That we, **Ryan Curley**, Chair, **Helen Miranda Wilson**, **Barbara Carboni**, **Michael DeVasto** and **John Wolf**, members of the **Selectboard** of the Town of Wellfleet, MA, in accordance with the provisions of Chapter 130 of the General Laws as amended and all other powers thereto enabling, do grant to Aquacultural Research Corporation of Dennis, MA for the term of **xxx** years beginning **xxx, 2022**, license to plant, grow, cultivate and harvest shellfish at all times during the pendency of the license, in and upon the flats and waters situated in said Wellfleet, MA, on a certain parcel of land designated as shellfish grant license # 792 bounded and described as follows:

Land lying at Indian Neck, so called, lying within the tidewaters of Wellfleet Harbor, commencing at a steel survey marker at the corner of the premises herein licensed; thence

- |   |     |     |     |   |  |
|---|-----|-----|-----|---|--|
| N | 57° | 16' | 00" | E | by grant #791, a distance of three hundred sixty and 2/10 (360.2) feet, more or less, to a steel survey marker; thence |
| S | 32° | 31' | 00" | E | a distance of three hundred sixty one and 3/10 (361.3) feet, more or less, to a steel survey marker; thence            |
| S | 57° | 19' | 00" | W | by grant #793, a distance of three hundred sixty and 2/10 (360.2) feet, more or less, to a steel survey marker; thence |
| N | 32° | 30' | 00" | W | a distance of three hundred sixty one (361) feet, more or less, more or less, to the point of beginning.               |

The above-described grant contains an area of 3 acres, more or less, and is shown on a plan filed in the Town Clerk's office and entitled, "Plan of Town Lease Shellfish Grants of Wellfleet Harbor, showing as grants # 791, 792, 793 and 794; scale: 1 in. = 100 ft., May 1979" by Slade Associates, Inc., Registered Land Surveyors. Said plan to be recorded with the Barnstable Registry of Deeds.

This grant license is granted upon the following terms and conditions and in accordance with the provisions of Chapter 130 of the General Laws.

This license does not grant any property rights. Any use of this license for other than digging and taking of shellfish upon privately owned property may not proceed over the objection of the property owner. Pursuant to General Laws Chapter 130, Section 57, the licensee may not impair the private rights of any person. This license does not authorize any injury to private property or invasion of private rights. The issuance of this license is not a determination of title or ownership. The licensee acknowledges, it is the responsibility of the licensee to obtain permission, if required, from a private property owner before exercising the rights conferred by this license other than for digging and taking of shellfish. The license holder is on notice that owners of the property described above may bring an action for trespass in a court of competent jurisdiction. A license holder may not rely on this license as a defense to an action in trespass.

1. That the said Aquacultural Research Corporation shall pay to the Town of Wellfleet upon execution of this license the sum of Five Dollars (\$5.00) to be applied as follows: One Dollar (\$1.00) for the recording cost of said license and Four Dollars (\$4.00) as costs incurred in granting said license. He shall pay to the Town of Wellfleet an annual rental payment at the rate of Twenty-Five Dollars (\$25.00) per acre, or any portion thereof, in the sum of \$75.00 per year, the first payment to be made upon the execution of this license, commencing **xxx, 2022**.
2. That the said Aquacultural Research Corporation shall file the report required by Chapter 130, Section 65 of the General Laws annually and comply with all other pertinent sections of said chapter. Any violation of the terms of this license or of any section of said Chapter 130 as amended relating to the planting, growing, digging or taking of shellfish shall be considered as a forfeit and surrender of all

rights under this license, and the Board of Selectmen at their sole discretion and judgment may terminate the license by notice in writing which shall be effective and binding when received by the lessee.

That the said Aquacultural Research Corporation shall for the purposes aforesaid have the exclusive use of the waters and flats described in this license during the term thereof, subject only to the provision that in the event that it shall become necessary, in the judgment of the Board of Selectmen to use the said area described in said license because of the dredging or improvement of Wellfleet Harbor or channel, the license term may be suspended or cancelled after reasonable notice of at least thirty (30) days in writing to the lessee to remove any shellfish then and there located on the license premises and failure to so remove any or all of the said shellfish shall relieve the Town of Wellfleet from any liability for damage in connection with such work; and subject to the condition and restriction that the aquaculture project be in a location which would interfere with the mooring of recreational boats or other private rights to the extent that they exist.

3. That the said Aquacultural Research Corporation shall conform to the following conditions imposed by the Conservation Commission.
  - a) Access to the Indian Neck Grants shall be by boat and foot whenever feasible and practical.
  - b) Vehicle access to the Indian Neck Grants shall be by the Cove Road Town Landing only. Travel to the grants shall be restricted to a prescribed, marked route set out by the Shellfish Constable and Conservation Commission.
  - c) Vehicles having a greater than 9200 lbs GVW are prohibited.
  - d) Dual wheeled vehicles are prohibited.
  
4. **Given that said Aquacultural Research Corporation (ARC) does not meet the domicile requirements of the Town of Wellfleet Shellfishing Policy and Regulations, it shall conform to the following conditions imposed by the Selectboard.**
  - a) **A list of all the areas and grants in the harbor that ARC also uses as sites for its aquaculture and research activities shall be provided to the Town each year on May 1 and November 1. The combined total acreage shall never exceed seven (7) acres.**
  - b) **150,000 field plant quahog seed will be donated to the Town's Shellfish Department every year before July 15, unless the Shellfish Department specifies a different mutually agreeable amount and/or date.**
  - c) **Every other year, the Aquacultural Research Corporation will attend a Shellfish Advisory Board meeting to discuss potential research opportunities or other community service projects of benefit to the greater Wellfleet shellfishing community. In this public meeting, one (1) initiative can be prioritized, and Aquacultural Research Corporation can identify how it can help advance that one (1) initiative. Maximum dollar value to be committed per individual project yearly: \$2,500.**
  - d) **When such a project is undertaken, the Aquacultural Research Corporation will report to the Wellfleet Shellfish Department, Shellfish Advisory Board and Selectboard on its efforts, results and analyses each year with its annual report due to the Town on February 28, and at the conclusion of the project.**
  - e) **In addition to the annual fee required by MGL Chapter 130, §64 for all aquaculture license holders, an annual fee for Shellfish Department staff to undertake the additional monitoring and site visit inspections shall be \$200.00, to be paid to the Town annually, by or before February 28th.**
  - f) **This license is NOT transferable. ~~only in conformity with the provisions of Chapter 130 and with approval in writing of the Selectmen.~~**

Given under our hand and seal as members of the Board of Selectmen for and on behalf of the Town of Wellfleet and as provided by Chapter 130 of the General Laws as amended, which is made a part hereof by reference, this xxx, 2022.

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Ryan Curley, Chair

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John Wolf

\_\_\_\_\_  
**Michael DeVasto**

\_\_\_\_\_  
Helen Miranda Wilson

\_\_\_\_\_  
**Barbara Carboni**

WELLFLEET BOARD OF SELECTMEN

\_\_\_\_\_  
Received and recorded this day

\_\_\_\_\_  
Town Clerk

TOWN SEAL

TOWN OF WELLFLEET  
SHELLFISH REGULATIONS

These regulations are adopted by the Wellfleet Board of Selectmen pursuant to General Laws, Chapter 130, Section 52. They take effect on July 1, 1987, and supercede all previous Wellfleet Shellfish Regulations. They supplement State Regulations (MGL Ch. 130) which all persons must also observe.

**Section I**

**1.1 Purposes** - To foster, protect and preserve the Town's highly important shellfish resources and habitats, to maintain and improve conditions permitting productive shellfishing for all persons legally engaged therein, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing activity in Wellfleet Harbor, the activities identified herein are regulated as hereinafter provided.

**1.2 Harbor Management Plan** - These regulations shall be amended as and when required so as to be in consonance with the Town's overall Harbor Management Plan when it is prepared and accepted.

**Section II**

**2.1 Definitions** - The following terms, unless a contrary meaning is required by the context, or is specifically prescribed, shall have the following meanings:

**Aquaculture Permit** - Issued by Division of Marine Fisheries to relay seed shellfish from one location to another

**Channel** - The area which is marked by U.S. Coast Guard navigation markers indicating a navigable channel

**Commercially Harvested** - The taking and selling of shellfish

**Handpicking** - The picking of oyster seed by hand or a tool that is an extension of the hand

**License** - That which is issued by Division of Marine Fisheries or the Town for the purpose of raising, propagating or harvesting shellfish

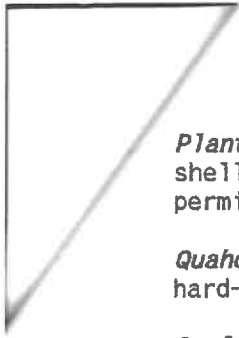
**Licensed Grant** - A duly licensed shellfish grant under Chapter 130, Section 57 of the Massachusetts General Laws

**Licensed Grantee** - A person, persons, corporation or company issued a license by the Board of Selectmen under the provisions of Massachusetts General Laws, Chapter 130, Section 57

**Manual Bullrake** - Implement used for the harvesting of hard-shelled clams, that which is similar to a standard clam hoe, but has a basket and approximately 20 teeth

**Permit** - A certificate that is issued by the Board of Selectmen or their designee which allows a person to harvest shellfish and sea worms within the Town of Wellfleet

**Permitted** - That which is allowed



**Planted Areas** - Areas where the Shellfish Department plans an abundance of shellfish for propagation purposes, where shellfish may be purchased by a permit holder for a fee that is determined by the Board of Selectmen

**Quahog** - A marine mollusk of the species *Venus mercenaria*, commonly called the hard-shelled clam

**Scallop** - A marine mollusk of the species *Aequipecten inadiana*, commonly known as the Cape scallop or bay scallop

**Seed Clam** - A soft-shelled clam less than 2 (two) inches

**Seed Mussel** - A mollusk that is less than 2 (two) inches

**Seed Oyster** - A bivalve mollusk that is less than 3 (three) inches

**Seed Quahog** - A hard-shelled clam less than 2 (two) inches

**Seed Scallop** - An immature scallop without the annual growth line

**Seed Surf Clam** - That which is less than 5 (five) inches

**Shellfish** - Clams, conches, mussels, oysters, periwinkles, quahogs, razor clams or razor fish, scallops, sea clams, sea quahogs, sea scallops, and winkles

**Sub-tidal** - The body of water or area below that of mean low water

**Tidal Lands** - Land between the lines of the ordinary high and low tides covered and uncovered successively by the ebb and flow thereof; land uncovered by ordinary tides

**Waters** - Coastal waters, tidal flats and tidal creeks of the Town of Wellfleet

### Section III

3.1 Posting - Copies of these Shellfish Regulations and any supplements thereto and of any Temporary Shellfish Regulations issued for a limited time or for a stated term shall be published and shall be posted and made available in the following public places as a minimum: Town Clerk's Office; Harbormaster's Office; Shellfish Constable's Office.

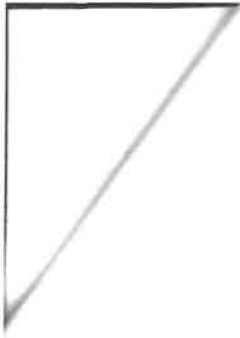
### Section IV

#### 4.1 General Regulations

4.1.1 All persons twelve (12) years of age or older engaged in taking, removing, catching or having in possession eels, clams, quahogs, surf (sea) clams, razor clams, oysters, mussels, scallops, or sea worms from the waters of the Town shall have an appropriate license or permit, said license or permit to be issued and used only in accordance with the terms, conditions and restrictions herein set forth.

4.1.2 Non-commercial resident permits may be issued to any domiciled resident of the Town (including proven owners and year-round renters of trailers permanently situated in Wellfleet). Non-commercial non-resident permits may be issued to any person 12 years of age or older. No permits are required of children under 12 years of age.





4.1.3 Persons engaged in shellfishing, eeling, or gathering sea worms must have a Town license or permit prominently displayed and show the same on demand to any shellfish constable, deputy shellfish constable, police officer, or other duly authorized agent of the Selectmen. The Selectmen may at their discretion revoke, cancel, or suspend said permit for failure to do so, or for any breach of these regulations.

4.1.4 The Selectmen may restrict the taking of shellfish by commercial or non-commercial permit holders in any areas and in such manner as they deem expedient. Such restrictions shall have the same force and effect as any regulation made herein, and any violation of such restrictions shall be punishable in like manner. No shellfish shall be taken from any area of waters in the Town unless such area has been declared open for the taking of such kind of shellfish by the Board of Selectmen, and only in the quantity specified.

4.1.5 The taking of any shellfish from the waters within the Town by any method other than those commonly known as the long rake, scratcher, tongs, or clam hoe, or by dragging is prohibited. The use of the so-called manual bullrake, except on licensed grants, is prohibited north of a line extending from the seaward end of the breakwater to the easternmost tip of Great Island.

4.1.6 No person who is not a state seed permit holder shall take or have in his possession seed shellfish, defined as: quahogs less than 2 inches; soft-shelled clams less than 2 inches; oysters less than 3 inches; or bay scallops without a well-defined raised annual growth line.

4.1.7 Non-commercial permit holders shall not take more than ten (10) quarts of common shellfish, comprising oysters, quahogs, clams and/or razor clams, per week, one (1) bushel of scallops per week, ten (10) quarts of mussels per week, two (2) bushels of surf (sea) clams per day, and twenty-four (24) sea worms per day, unless otherwise posted per Section 3.1.

4.1.8 No person shall come ashore with shellfish and return to the waters for the purpose of additional shellfishing in excess of established limits.

4.1.9 No person shall dig, pile, take, or carry away any shellfish or shells between one half hour after sunset and one half hour before sunrise by any method whatever from any waters, flats, or creeks of the Town.

4.1.10 All persons taking or carrying away or having in their possession shellfish of any kind in a boat, container, or vehicle shall exhibit such shellfish for inspection on demand by the shellfish constable, deputy shellfish constable, or police officer.

4.1.11 The Board of Selectmen may suspend for cause any permit granted by them for such time as they deem proper. Due notice in writing of such suspension shall be given to the permit holder. Any person whose permit has been suspended shall surrender same to the office of the Town Administrator until the period for which it was suspended has expired.

4.1.12 Scallop season shall open October 1 and close April 1 of the following year, except when otherwise provided.



4.1.13 Except on grants, no shellfishing shall be carried on when the air temperature is below 28 degrees Fahrenheit.

4.1.14 A special fee in an amount determined by the Board of Selectmen may be charged for a permit holder to take shellfish from planted areas in order to compensate the Town for expenses associated with the acquisition and planting of shellfish.

4.1.15 No person holding a non-commercial permit shall dig, take, or carry away shellfish, eels, or sea worms for the purpose of sale.

4.1.16 No raking of seed shall be allowed except in areas approved by the Shellfish Constable, Shellfish Advisory Committee, and Board of Selectmen.

## Section V

### 5.1 Commercial Shellfishing Regulations

5.1.1 Commercial permit holders must abide by all applicable General Regulations as well as regulations pertaining to commercial shellfishing.

5.1.2 Commercial permits may be issued to any person 15 years of age or older who is a bona fide domiciled resident of the Town of Wellfleet. Written proof of residency is required: tax bills, rent receipts, utility bills, driver's license, car registration, etc. Bona fide domiciled residents 15 and 16 years of age may be issued junior commercial permits. Any commercial permit shall be forfeited if the holder ceases to be a bona fide domiciled resident of the Town. Commercial permits will not be issued to unnaturalized foreign-born persons who have not resided in Barnstable County at least five years prior to making application.

5.1.3 Annual commercial permits valid for the calendar year will be issued from January 1 to April 30 of the permit year subject to a 30-day review of the application. The Board of Selectmen may at its discretion grant permits after April 30 if the applicant demonstrates:


- a) that unusual circumstances existed which would reasonably excuse a failure to file an application prior to May 1; and
- b) that a manifest injustice and substantial hardship would be caused by the refusal of the permit; and
- c) that the granting of the late permit would not affect the opportunity of timely applicants to harvest a reasonable quantity of shellfish.

5.1.4 No drag or dredge with or without teeth having a width greater than fifty (50) inches shall be used in Wellfleet Harbor.

5.1.5 No vessel which operates a drag or dredge by any mechanical means shall have more than one drag or dredge in a position ready for use at any time.

5.1.6 No vessel shall operate a drag within the area three hundred (300) feet or more northerly of a line drawn from the easternmost tip of Great Island to the seaward end of the breakwater or within one hundred (100) feet of the edge of the buoyed channel or of a licensed buoyed shellfish grant, with the exception that a grant holder may drag over his own grant.

5.1.7 Hydraulic harvesting of surf (sea) clams as authorized by the Division of Marine Fisheries is permitted. Aerobic (hydraulic) harvesting of quahogs from vessels by means of a drag provided with a blade no longer



than eighteen (18) inches and with hoses of a diameter no greater than four (4) inches for the ejection through nozzles of water under pressure is permitted in the sub-tidal area south of a line running from the seaward end of the breakwater to the easternmost tip of Great Island and north of the Eastham/Wellfleet line, except within 100 feet of the buoyed channel or of any buoyed, licensed grant, but only in such areas and during such periods as may be specified by Temporary Regulations issued by the Board of Selectmen.

5.1.8 Shellfishing by holders of commercial permits by any means is prohibited in areas designated for the use of non-commercial permit holders only.

5.1.9 No person engaged in commercial shellfishing or aquaculture shall operate on any tidal beach or flat or other land below the mean-high water line a motorized vehicle at a speed in excess of fifteen (15) miles per hour or a motorized vehicle which is dual wheeled or which has greater than 9,200 lbs. GVW.

5.1.10 Persons engaged in commercial shellfishing or aquaculture operating motorized vehicles on any tidal beach or flat or other land below the mean-high water line shall drive only on the foreshore of the tidal area below the high tide line but above the tidal flat, closely rounding any groin or other obstruction extending below the high water line, to a point opposite a grant and thence to the grant. Traffic not directed to a grant shall be confined to the area below the high tide line above the tidal flat, closely rounding any groin or other obstruction extending below the high water line.

## 5.2 Bay Scallops

5.2.1 All scallops taken under a commercial permit shall be landed at the Town Pier.

5.2.2 All bags holding scallops shall be tied prior to landing.

5.2.3 No more than ten (10) bushels (tied) of scallops, including shells, per commercial permit shall be taken in any one day. No more than twenty (20) bushels, shells included, shall be taken by any vessel having two or more permit holders aboard in any one day, except by special express permission of the shellfish constable.

## 5.3 Mussels

5.3.1 No more than one (1) bushel of mussels per commercial permit shall be taken per day unless otherwise posted per Section 3.1.

## 5.4 Oysters

5.4.1 No more than five (5) bushels of oysters, including shells, per commercial permit holder shall be taken from a vessel in any one day. No more than ten (10) bushels, including shells, shall be taken by any vessel having two (2) or more holders of commercial permits aboard in any one day.

5.4.2 No drag or dredge without teeth shall be used for the purpose of dragging oysters within the Town of Wellfleet.

5.4.3 No more than five (5) bushels of oysters, including shells, per commercial permit shall be taken by hand picking in any one day unless otherwise posted.

5.4.4 Cultch for the collection of spat shall be replaced in the same areas from which oysters have been taken by commercial permit holders.

5.4.5 No oyster of any size shall be taken out of the Town of Wellfleet for the purpose of transplanting or to be placed in any waters outside the limits of the Town.

#### 5.5 Quahogs

5.5.1 No more than fifteen (15) bushels of quahogs, including shells, per commercial permit shall be taken from a vessel in one day.

5.5.2 No more than twenty-five (25) bushels, including shells, shall be taken in any one day by a vessel having two or more permit holders aboard, except by special express permission of the shellfish constable.

5.5.3 No more than five (5) bushels of quahogs, including shells, per commercial permit shall be taken by hand raking in any one day unless otherwise posted.

#### 5.6 Razor Clams

5.6.1 No more than two (2) bushels of razor clams per commercial permit shall be taken per day unless otherwise posted.

#### 5.7 Sea Worms

5.7.1 No more than forty-eight (48) sea worms per commercial permit shall be taken per day unless otherwise posted.

#### 5.8 Soft-shelled Clams

5.8.1 No more than three (3) bushels of soft-shelled clams per commercial permit shall be taken per day unless otherwise posted.

#### 5.9 Surf Clams

5.9.1 No more than two hundred (200) bushels of surf (sea) clams per vessel per day shall be taken within the waters inshore of the 12-foot depth (at mean low water) line by commercial permit holders.

5.9.2 No more than two (2) bushels of surf (sea) clams per commercial permit shall be taken by hand raking per day.

#### 5.10 Eels

5.10.1 See Section 7.1.4 for quantities permitted to be taken.

### Section VI

#### 6.1 Licensed Grants

6.1.1 The annual fee for a shellfish grant license shall be \$25.00 per acre or part thereof, as provided in MGL Ch. 130, Sec. 64.

6.1.2 All grants shall be licensed for a period of five (5) years, except for the initial grant to new applicants which will be for two (2) years. Subject to the approval of the Board of Selectmen, a license may be renewed at any time not more than twenty-four (24) months prior to the expiration date. The new license is to be valid commencing on said expiration date of the preceding license.

6.1.3 A list of applicants for grants in order of date of application shall be kept on file by the Town Administrator, and an up-to-date copy shall be permanently posted on the official bulletin board in the Town Hall. Applications shall be acted upon in the order of dates of application.

6.1.4 Grant licenses may be suspended or revoked by the Board of Selectmen only in accordance with the provisions of the Mass. General Laws, Wellfleet Shellfish Regulations, the regulations of the Division of Marine Fisheries, or the conditions of the grant license.

6.1.5 No licensed grant shall be issued for an area of substantial seed production within the Town.

6.1.6 Licensed grant areas are issued for the exclusive use of the grantee, who may contract or employ others to perform certain necessary activities. Subleasing or sublicensing of the grant area or portion thereof is prohibited.

6.1.7 As of the date of this regulation, all new leased or licensed grant (areas) will be assigned only to a person who is a bona fide domiciled resident of the Town of Wellfleet. Written proof of residency is required: tax bills, rent receipts, utility bills, driver's license, car registration, etc. may serve as proof. Any leased grant area shall be forfeited if the holder ceases to be a bona fide domiciled resident of the Town.

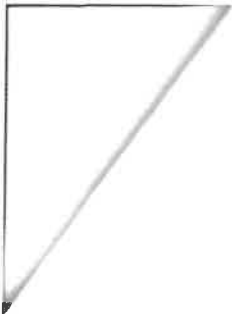
6.1.8 Grant licensees shall file annual reports in accordance with State Law, Chapter 130, Section 65 prior to October 20 covering the shellfish grant year, October to October. This report shall include any changes in the development plan filed with the original application for the grant, and be subject to approval.

6.1.9 No shellfish grants shall be approved in areas above mean high water.

6.1.10 No person shall plant, place or transplant shellfish in or on any water or flat within the Town without first obtaining a state seed permit or aquaculture permit.

6.1.11 No structure (fixed to the bottom) within the boundaries of a grant and (above the mean low-water line) shall be in any part more than eighteen (18) inches above the natural ground level.

6.1.12 Any area containing a structure or structures above the natural ground level within a grant shall be marked by red and white underwater-obstruction-warning buoys, as prescribed by Coast Guard regulations, and shall be registered with the Coast Guard. Insofar as possible, within grants such obstructions shall be clustered, and the appropriate warning buoys shall encompass groups of obstructions. From April 1 to November 1, all shellfish grants shall be marked with twenty-inch (20) or larger in circumference orange or yellow fluorescent international balls at each corner, and said buoys shall be attached to their moorings only by metal chains, cables, or non-floating lines. These buoys shall bear the painted number of the grant, and the figures of said numbers shall not be less than two inches (2") in height. They shall not be interconnected to



obstruct navigation. Evidence of Coast Guard registration of all underwater obstruction buoys shall be provided to the Harbormaster. Additionally, each grant holder shall obtain written confirmation from the Shellfish Constable that he or she has otherwise marked his or her grant in accordance with this regulation. Failure to observe this regulation shall be cause for immediate forfeiture of the grant license in accordance with MGL Chapter 130, Section 61. Effective June 1, 1989, the orange balls mentioned above shall be changed from orange to yellow.

6.1.13 Upon the death of any licensee, his immediate family shall have a period of one year or such other time as is provided for under Section 57 of Chapter 130 of the Mass. General Laws, to remove adult and seed stock that was planted by said licensee in the territory covered by his license. The Shellfish Constable shall, in this event, take appropriate measures to assist in preventing, during this time period, the stock from being unlawfully removed or disturbed by any person. Any person determined to have caused an unauthorized removal of stock shall be subject to the full penalty provided by law and these rules and regulations. The Town will not be liable for any damage or theft.

6.1.14 No holder of any shellfish grant shall hold liable the Town of Wellfleet or the Commonwealth of Massachusetts for any damage to any grant as the result of harbor improvements.

6.1.15 The Board of Selectmen or its representative may allocate certain parts of the oyster-seed-producing area in the Town to be used by holders of grant licenses who are state seed permit holders for the sole purpose of placing cultch to obtain spat, the right to said spat to be held by said licensee, from June 15 to December 15. Any cultch or spat remaining in said parts after December 15 shall be the property of the Town.

6.1.16 The quantity of seed oysters that may be taken and the area or areas from which seed may be taken during any calendar year by a grant holder holding a valid state seed permit shall be limited and regulated from time to time by the Shellfish Constable and such restrictions shall be published in the Temporary Shellfish Regulations. All seed shall be hand picked.

6.1.17 No grant holders shall dig, pile, take, harvest or carry away any shellfish or shells between the period of one-half hour after sunset to one-half hour before sunrise by any method whatsoever, from any waters of the Town. In cases of impending natural emergency due to storm or ice and only after advance notification and permission of the Shellfish Constable or deputy shall the grant holder engage in the securing of threatened stock, the repair of propagation boxes, bottom pens, nets, or other shell-fishing equipment during the period from one-half hour after sunset to one-half hour before sunrise.

6.1.18 Rafts, floats or surface work platforms relative to the operation of shellfish grants shall be approved by the Harbormaster and comply with appropriate regulations.

## Section VII

### 7.1 Eeling

7.1.1 No person shall take, remove, catch or have in his possession eels from the waters of the Town of Wellfleet without first obtaining from the Board of Selectmen an eel permit on which shall be plainly marked the height and color of the eyes and hair of the permittee and any other identification deemed expedient by the Board of Selectmen.

7.1.2 No eels shall be taken within the Town of Wellfleet by the use of a fyke unless a special permit therefore is obtained.

7.1.3 On the demand of any duly authorized officer or agent of the Board of Selectmen, every permittee shall display in full view his entire catch of eels for examination.

7.1.4 Permits issued for the catching or taking of eels from the waters of the Town of Wellfleet shall be issued to Wellfleet commercial permit holders for the taking of unlimited number of eels, and to Wellfleet non-commercial permit holders for the taking of not more than twenty (20) pounds of eels per day.

## Section VIII

### 8.1 Shellfishing by Diving

8.1.1 There shall be no diving for shellfish from October 1 to April 1 south of a line drawn at Indian Neck Breakwater to the easternmost tip of Great Island.

8.1.2 There shall be no diving within one hundred (100) feet of any shellfish grant, except for grant holders diving on their own grants.

8.1.3 Divers for shellfish are subject to the same limits as those of hand pickers or draggers, depending on the area fished.

8.1.4 All divers shall display a flag when in the water and must stay within one hundred (100) feet of the diver flag.

8.1.5 Diving for shellfish in the channel is prohibited.

## Section IX

### 9.1 Scuba Diving - General Laws, Chapter 90B, Section 13A

9.1.1 Every scuba diver or group of scuba divers while swimming on or under the surface of the waters of the commonwealth shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so-called, constructed of rigidly supported material at least twelve inches by fifteen inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred (100) feet of such flag shall proceed at a speed not to exceed three miles per hour.

9.1.2 Scuba diving in the channel is prohibited.

Section X Enforcement and Penalties

10.1 The Board of Selectmen reserves the right to suspend for a period of thirty (30) days for the first violation, the shellfish permit of any person found violating the Town rules and regulations on shellfishing.

10.2 Public hearings will be afforded on revocation of shellfish permits.

10.3 All regulations and specifications made prior to the date of acceptance of these regulations and specifications are hereby revoked.

10.4 These regulations and specifications shall remain in full force and effect until revoked by vote of the Board of Selectmen.

10.5 All sections of Chapter 130 of the Massachusetts General Laws which apply to shellfish shall be enforced.

10.5.1 Criminal Complaint - whosoever violates any of the above rules and regulations or laws shall be punished by a fine of not less than ten (10) nor more than one thousand (1,000) dollars in addition to the suspension or revocation of any license at the discretion of the Board of Selectmen. The penalty, upon conviction of poaching or stealing of shellfish, shall be the loss of license for six (6) months for the first offense.

10.5.2 Non-Criminal Disposition - whoever violates any provision of these rules and regulations may, in the discretion of the Shellfish Constable, be penalized by a non-criminal complaint in the District Court pursuant to the provisions of General Laws, Chapter 40, Section 21D. For the purpose of this provision, the penalty to apply in the event of a violation shall be as follows: \$25.00 for the first offense; \$50.00 for the second offense; and \$100.00 for the third and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.





# Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

Date: March 17, 2022  
To: Town of Wellfleet Selectboard  
From: Nancy Civetta, Shellfish Constable  
Re: Aquacultural Research Corporation

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Dear Selectboard members,

We have been in discussions with Town Counsel Gregg Corbo about the situation with Aquacultural Research Corporation (ARC). It is our understanding that the public hearing on March 22, 2022, will focus on how to proceed given the opinion he provided us all. Given this opinion, it appears that ARC is not grandfathered into the Town's Shellfishing Policy and Regulations domicile requirement as the Department previously believed, and in fact, they do not meet the regulations' domicile requirements.

We hope to get guidance from this conversation on whether the Selectboard, as the regulatory authority, intends to enforce the domicile regulations and give ARC a timeframe within which to relinquish grant #792, or whether you will direct us to work on regulation changes and/or other avenues to accommodate ARC's aquaculture operations in Wellfleet.

We have given this considerable thought and hereby provide you with the opinion of the Wellfleet Shellfish Department and some ideas for finding a framework to potentially accommodate ARC.

It has been the experience of this Shellfish Department that ARC personnel and management have always responded to any of our inquiries and concerns in a timely and professional manner. They have been good stewards of our shellfish areas, have provided support and resources to assist in biological issues that arise in Wellfleet shellfish, and have always contributed staff time and company equipment to assist with aquaculture gear cleanups in hard to access areas.

In going through their folder of documents in the Principal Clerk's Office, we found the attached document from 1994 and believe that what then-Shellfish Constable Paul Somerville expressed in it is still valid today.

In addition, we have held informal talks with ARC management regarding seed donations and possible disease monitoring and mitigation activities and found them very receptive to working with us to improve our aquaculture yields and to help better the aquaculture industry overall in Wellfleet.

To that end, at the Shellfish Department's request, they are participating in a quahog neoplasia study with Roger Williams University (Dr. Roxana Smolowitz), Cape Cod Cooperative Extension and the Wellfleet Shellfish Department. They are making a

[wellfleet-ma.gov/shellfish-department](http://wellfleet-ma.gov/shellfish-department)

Phone (508) 349-0325



Fax (508) 349-0305

\$20,000 investment in this collaborative effort, which was awarded a Northeastern Regional Aquaculture Center grant.

The Wellfleet Shellfish Department has anecdotal information from a diversity of grant holders that value their relationship with ARC and its presence in the Town of Wellfleet as a fellow grant holder.

We note that since 1982, the Selectboard has always renewed the ARC grant lease without incident. We believe this is because the Town and the shellfishing industry have always attached importance to ARC's presence here and believed it to be a benefit to the Town and the greater good of the industry overall. We think this still holds true today.

Yet, it is time to modernize the Town's relationship with ARC. We think that the original offer that ARC made back in 1982 (letter attached) to donate 50,000 field plant quahogs to the Wellfleet Shellfish Department each year, should be updated to be 150,000 field plant quahogs to be donated annually. This will allow the Department to conduct its own experiments without risking its budget, e.g. a study of large quahog field planting without nets but with a closure and comparing that to a different set of the same clams planted in rigid cages for one growing season.

In addition, while we believe that the above outlined level of investment (i.e. neoplasia study at \$20K) would not be possible to maintain sustainably, the Town should ask ARC to contribute concretely to the overall betterment of the industry here over time, and that identifying appropriate areas for them to contribute research and public service projects should be decided at the community level during a Shellfish Advisory Board (SAB) meeting every other year. A required level of investment – in staff time, resources, product, seed, or financial – not to exceed a value of \$5,000, every other year would be appropriate and warranted, and regular reporting back to SAB and the Selectboard would provide accountability.

The Selectboard has the authority to waive regulation requirements and/or to craft new regulations regarding domicile (as it has done with the Domicile Exception for those shellfishermen who lose housing here through no fault of their own) and/or revise regulations, such as the section on Aquaculture Research and Development Projects. The Shellfish Department would be happy to work with Shellfish Advisory Board and the Selectboard on regulations, should that be your decision. Then, the Town could craft a license agreement specific to ARC with a clear order of conditions imposed by the Selectboard, containing requirements such as those we outlined above.

We look forward to discussing this at the public hearing on Tuesday, March 22, 2022.

Sincerely,



Nancy Civetta



Johnny Clam Mankevetch



Chris Manulla

TOWN OF WELLFLEET



on Cape Cod

JE

TOWN OF WELLFLEET

RR1, Main Street  
Wellfleet, Massachusetts 02667



Tel. (508) 349-3707

TO: Board of Selectmen  
FROM: Paul Somerville  
DATE: April 11, 1994  
RE: ARC Grant Recommendation

First, let me apologize to the Board for not having this information available last Friday. Given the complexities and sensitivities involved, I really didn't make up my own mind on this matter until late Saturday. As a matter of fact, up until last Thursday I was not quite sure if I was going to make a recommendation in this matter or if my assistant Jerre Austin was going to do this. After consulting the Ethics Commission on Thursday afternoon, I realized that there is no reason that I can't make recommendations and decisions in matters regarding ARC. The EC Attorney did not feel that there was any conflict of interest on my part due to the length of time that had elapsed since I worked for ARC (11 years this month), the length of time since I have done business with ARC (6 years) and the fact that I have no intention of working for ARC in the near future. On the advice of the EC attorney, I will make these facts known at the hearing, and I will not address the subject again unless someone else brings it up. [As a matter of fact, Jerre had a higher potential of conflict because his wife Barbara does business with ARC.] Anyway, on to the main issue:

Ever since Dick Kraus first mentioned his intention to request additional acreage, my feelings on the matter have ranged across the full spectrum of options available to the Board in this situation. I believe that I have considered as many of the relevant factors and viewpoints applicable to this situation as possible. I think the Board should always keep in mind the ultimate purpose of the Town with respect to the aquaculture industry, which is to provide and foster economic opportunities for as many Wellfleet residents as is reasonable and feasible. This may lead you to the conclusion that the best course of action would be to squeeze ARC out and give their acreage to someone else. However, I believe that ARC's unique role in the present quahog aquaculture industry should be examined and understood. I have drawn a diagram that I believe illustrates this role, which I will explain at the public hearing. The basic realization here is that ARC is an important part of the whole system that many people depend on to some degree or another. The fact is that 1) ARC is a major supplier of seed quahogs, 2) ARC purchases the adult stock back from many grantholders when the stock is ready and 3) ARC purchases wild harvest shellstock from non-grantholders as well.

I am not saying that ARC is the only supplier of seed quahogs available to our aquaculturists, nor are they the only market to sell to. I will say that many people in Town have developed good working relationships with ARC, and I have been approached by many people over the last couple of weeks who have said that they hope they will be able to continue this. You need to realize that if ARC does have to look to other towns to find a suitable number of acres to achieve their purposes, then it is quite possible that they would drop out of the Wellfleet system altogether; this would probably cause a good deal of hardship for those already associated with ARC. It could also take several seasons before similar arrangements could be reestablished with other entities.

Recommendation to the Board of Selectmen  
April 11, 1994 -- RE: ARC

My recommendation to the Board is as follows:

ARC has had a lot of problems with the present site #792. The depth of water is not conducive to those methods of quahog cultivation which they have developed and which they feel are most desirable. I have also spoken to Irving Puffer who had attempted to raise oysters in this area. He said that ice damage to his beds in this area was severe. Also, Keith Scott, owner of F/V Norman Scott publicly expressed his opinion at the last Shellfish Advisory meeting that he is strongly against beds that extend out this far towards the fleet's dragging grounds. All of these factors lead me to make the recommendation that ARC should give up grant 792 by a date to be agreed upon.

This leads us to address the option as to where ARC could go. I have drawn a plan which I will present to you at the hearing. It calls for 1) leaving open the possibility for the present 3 acre beds to expand to 4 acres total. 2) leaving a buffer zone of 50' on the outside of the 4-acre boundary lines. 3) Establishing beds outside of there that extend 200 feet out and run parallel to the beach. This would result in beds in shallower water, which seems to be preferable for most operations growing quahogs, and the fishing fleet as well.

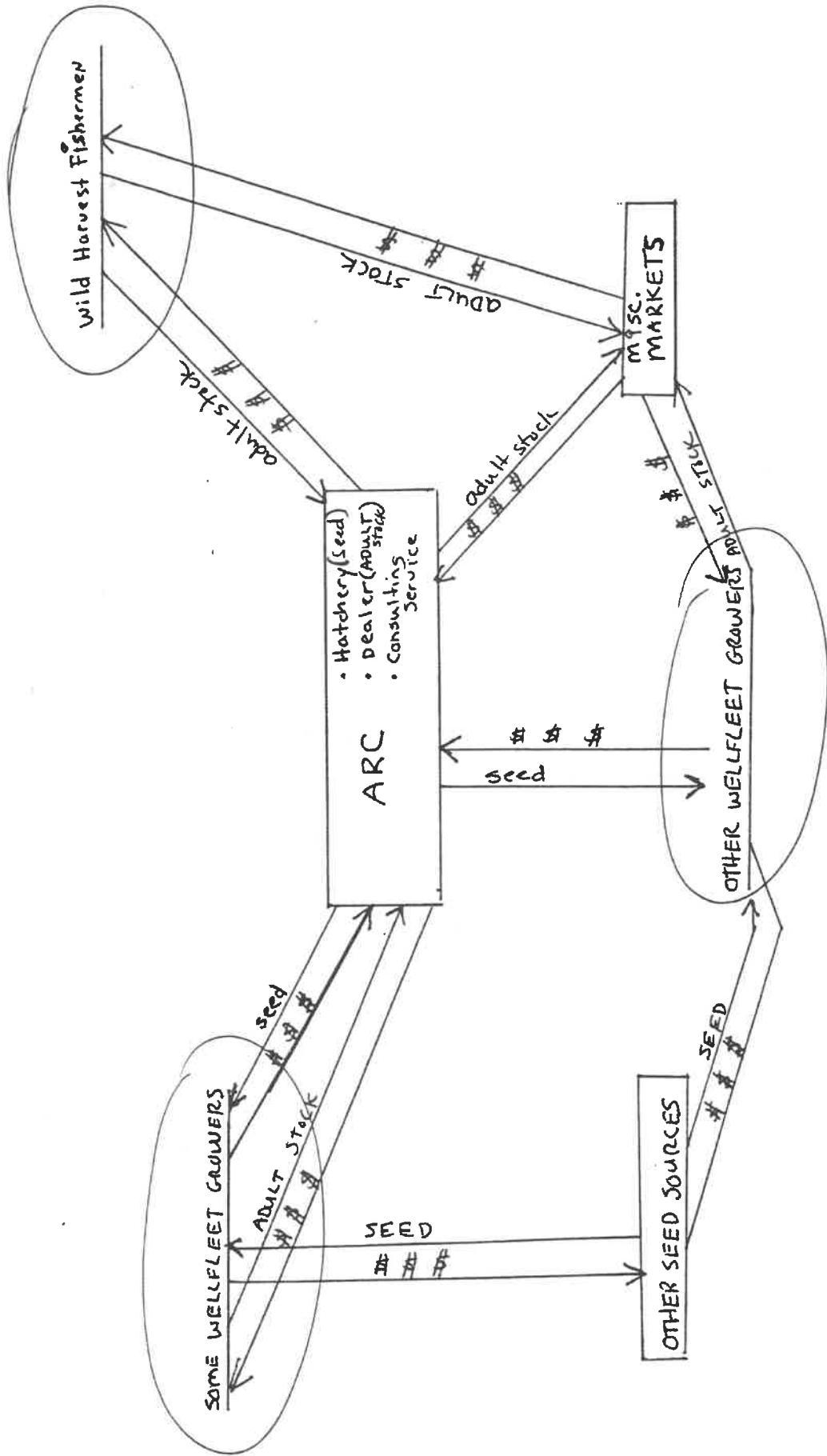
As for the size of ARC's portion, I am recommending a 6-acre parcel. I have made it clear to Mr. Kraus that I would not support anything over 7 acres, a policy of mine that is well documented.

All of my recommendations for additional acreage over the last two years have been for individuals who only had 1 or 1½ acres. I have been attempting to bring them up closer to the Town average of 3 to 3½ acres, keeping in line with the Town's policy of giving out parcels that are as equal in size as possible. Most of those and other parcels in Town have reached the physical and topographical limits appropriate to the area where they are located. I am recommending a six-acre parcel for ARC. This is short of their request by 9 acres, and hopefully enough to help them achieve the financial goals that they feel are necessary for their survival. As I have stated previously, a number of other grantholders feel that their viability hinges on ARC's survival. Therefore, I feel that the compromise I have put forth is justified, and in the best interests of all involved. Please notice that there are also some new grants that would be available as a result of this plan. This is in addition to several other locations presently being discussed by the Shellfish Adviosry Committee and myself.

I realize there will be a need for further discussion at the hearing. I would also recommend to the Board that it should make a decision prior to the "changing of the guard" at the end of this month.



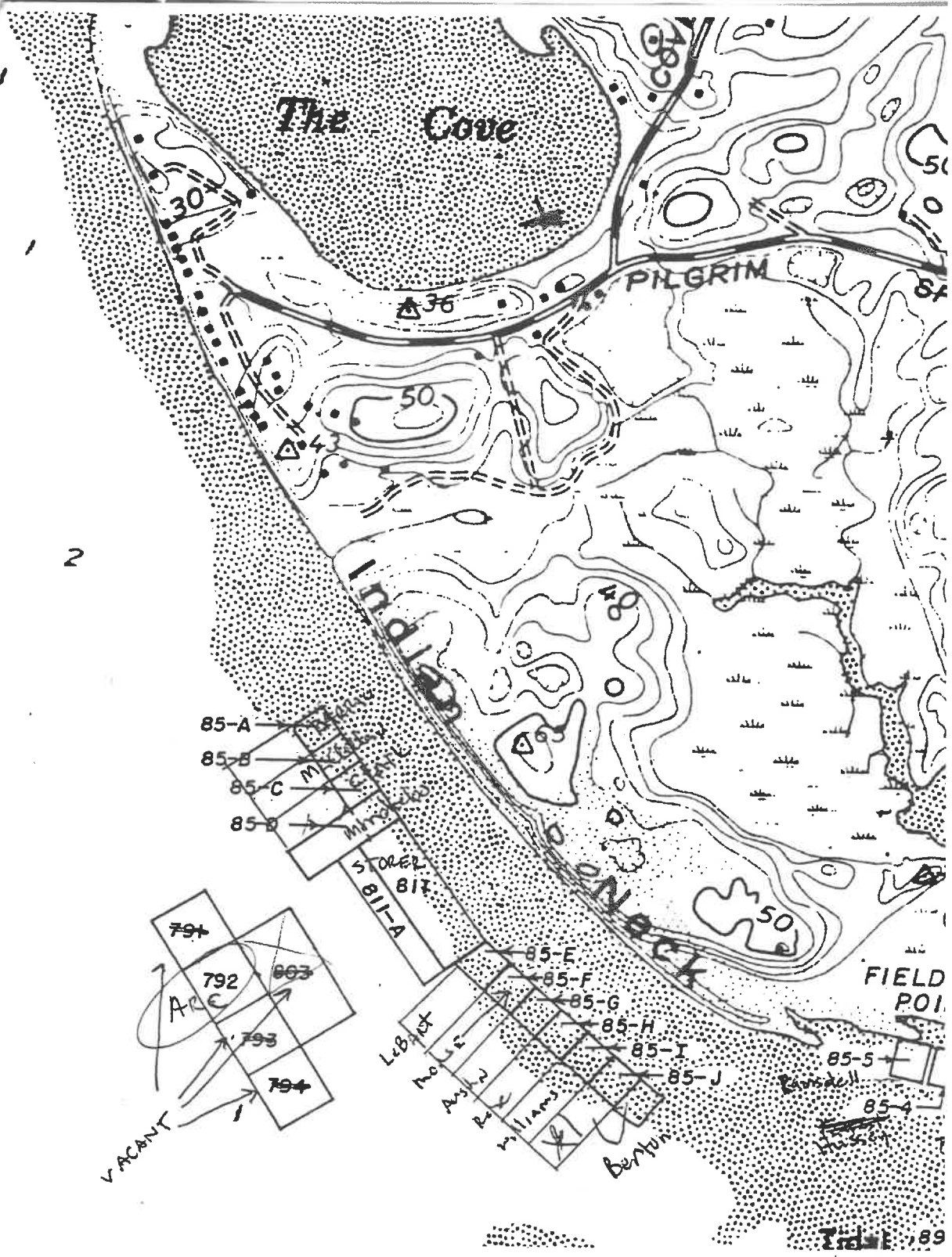
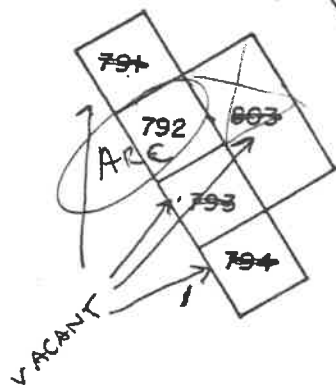
FLOW CHART OF ARC/JN...  
RELATIONSHIP



EXISTING IMPROVEMENT GRANT AREA

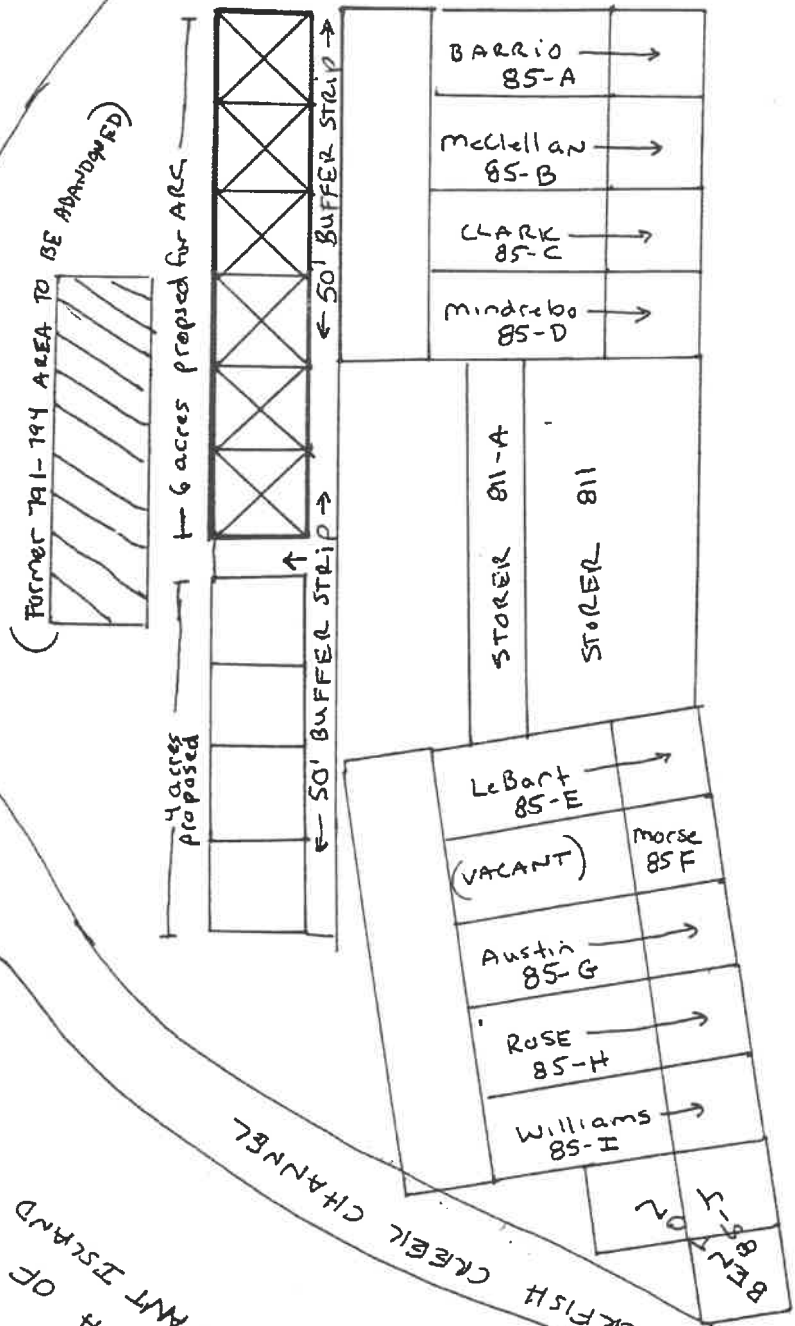
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Index 89

Proposed re-organization of  
Indian Neck Grant AREA



(Former 791-794 AREA TO BE ABANDONED)

6 acres Proposed

← 50' BUFFER STRIP →

BARRIO 85-A →  
McClellan 85-B →  
CLARK 85-C →  
Mindrebo 85-D →

STORER 81-A  
STORER 811

LeBart 85-E →  
(VACANT) Morse 85F  
Austin 85-G →  
ROSE 85-H →  
Williams 85-I →

BENTON 85-J

BLACKFISH CREEK CHANNEL

PLAT NORTH OF  
LIEUTENANT ISLAND

$\frac{1}{2}'' = 1 \text{ acre } (200 \times 200)$   
 $= \frac{1}{4}'' = 1 \text{ square}$

*Aquacultural Research Corporation*

---

RICHARD H. LORING  
VICE PRESIDENT

P.O. BOX 597  
DENNIS, MASSACHUSETTS  
02638

TELEPHONE  
305-3933  
AREA CODE  
617

March 29, 1982

Board of Selectmen  
Town of Wellfleet  
Box A  
Wellfleet, MA 02667

RE: AQUACULTURE GRANT APPLICATION

Dear Sirs:

On February 19, 1982 Aquacultural Research Corporation filed an application for a shellfish grant. This application is for two grant locations adjacent to one another: Indian Neck #792 and #793. A term of five years is requested.

This area is currently non-productive for seed stocks and does not support any adult shellstock population. Aquacultural Research Corporation is requesting this area for experimental plots of hardshell quahaug grow-out. If the experimental plots show good growth, a production phase of quahaug growth will be instituted.

We think that the granting of these areas for use by Aquacultural Research Corporation will be of benefit to shellfish growing in the town. Any spat thrown by the planted animals will be genetically superior to natural stocks in terms of fast growth. The net covers may act as potential spat collectors for quahaugs as well as other species such as softshell clams, mussels and oysters. The working area will not constitute a navigational hazard nor will it be aesthetically obtrusive.

Aquacultural Research Corporation has worked successfully in this manner with the Town of Barnstable for several years and has been approached by the Town of Harwich to set up a similar program within their town waters.

In return for the use of the grants, Aquacultural Research Corp. would be willing to donate to the Town of Wellfleet 50,000 1/4" seed quahaugs in the spring of each growing season of the term of the grant. If the Town prefers, Aquacultural Research Corporation will plant the 50,000 seed quahaugs in the same manner its own seed will be planted and the Town may take the resulting animals in the fall with whatever growth and mortalities have occurred.



March 29, 1982

Page 2

Thank you for your consideration of this request.

Yours truly,



Richard H. Loring  
Vice President

RHL:gh  
Encl.