

Memorandum

Date: November ²⁰10, 2014

To: Sonke Mastrup
Executive Director
Fish and Wildlife Commission

From: Charlton H. Bonham
Director



Subject: **Request for One-Year Extension of Santa Barbara Mariculture State Water Bottom Lease (M-653-02)**

The Department of Fish and Wildlife (Department) requests an additional one-year extension of Santa Barbara Mariculture's state water bottom lease (M-653-02), which will expire January 27, 2015. (The timeline of extensions applied to this lease is attached to clarify previous memoranda on this subject.)

Upon extensive review and cooperative work with the leaseholder, and staff from the State Lands Commission, the City of Santa Barbara (both the Planning and the Harbor Operations Departments), the Commission and the Department over the past year, the complex, multiple layers of resolution needed for this lease are still in process. That said, there is a clear pathway toward resolution, and this requested extension will provide the time needed to finalize the process that is underway.

Background

The narrative location-description in the lease, based on landmarks and compass bearings, has been found to be deficient for accurately describing an offshore lease, and led to the erroneous placement of shellfish culture gear by the original leaseholder (Pacific Seafood Industries) dating back to the 1980's. Upon transfer of the lease to the current leaseholder (Santa Barbara Mariculture) in 2005, gear placement was not questioned and the operation has continued without conflict or dispute for over nine years since that transfer.

Issues related to City of Santa Barbara (City) annexations and corporate city boundaries overlapping this state water bottom lease location have now been resolved and differentiated from tidelands granted from the State Lands Commission to the City; it is now understood that those State-granted tidelands do not interfere with this lease consideration. Although the City has annexed an unusual claim to submerged state tidelands beyond that granted by the State, the City cannot supersede state jurisdiction over the location of the existing lease or a

new location/configuration being proposed by the current leaseholder (See Fig.1).

Using GPS technology, a certified, professional survey recently contracted by the leaseholder has more accurately captured the locations of both the existing gear in the water and the desired location and configuration of a future lease. Also, the legal narrative description of the existing lease may now be described using GPS coordinates based on this certified survey.

The Department, with review by the Office of General Counsel is recommending the following two-step process:

1. First, reconcile the error between the current legal description of the lease (Fig. 2 – Green Box) and the actual location of the mussel culture gear in the water (Fig. 2 – Yellow Box) while still retaining the original's 72-acre total size and relative configuration shape, starting from the northeast corner of the actual gear's installation. The Department believes that this modification does not constitute a "new lease" and has recommended this corrective action in light of new information from the survey.
2. As proposed to the Commission in June 2013, Santa Barbara Mariculture requests a reconfiguration of the shape of its lease, following a long, linear-shape that is parallel with the coast instead of its current broad rectangular shape – along the examples in Fig. 2 of either the Blue or Red Boxes. This reshaping of the lease would allow Santa Barbara Mariculture to expand in a fashion that is more compatible with both the operator's long-line culture methods, and the coastal navigation of other boat traffic and observed marine mammal habits. However, such a reconfiguration of the lease would constitute a "new" lease, and would trigger first: an open bidding process, and then: CEQA review by the applicant awarded control of the new lease location. The time required to provide public notice of such an open bidding process is central to this request for an additional extension of the existing lease (#M-653-02) held by Santa Barbara Mariculture. The determination of an appropriate lease rate for this unique offshore shellfish culture lease site will be reached during the upcoming bidding process.

The Department recommends the Commission approve a one-year extension of lease #M-653-02 with Santa Barbara Mariculture under its current conditions, incorporating a corrected GPS-coordinate-based location description.

For additional information on this matter, please contact Randy Lovell, State Aquaculture Coordinator at 916-445-2008, or at randy.lovell@wildlife.ca.gov.

Attachments

Sonke Mastrup, Executive Director
Fish and Game Commission
November 10, 2014
Page 3

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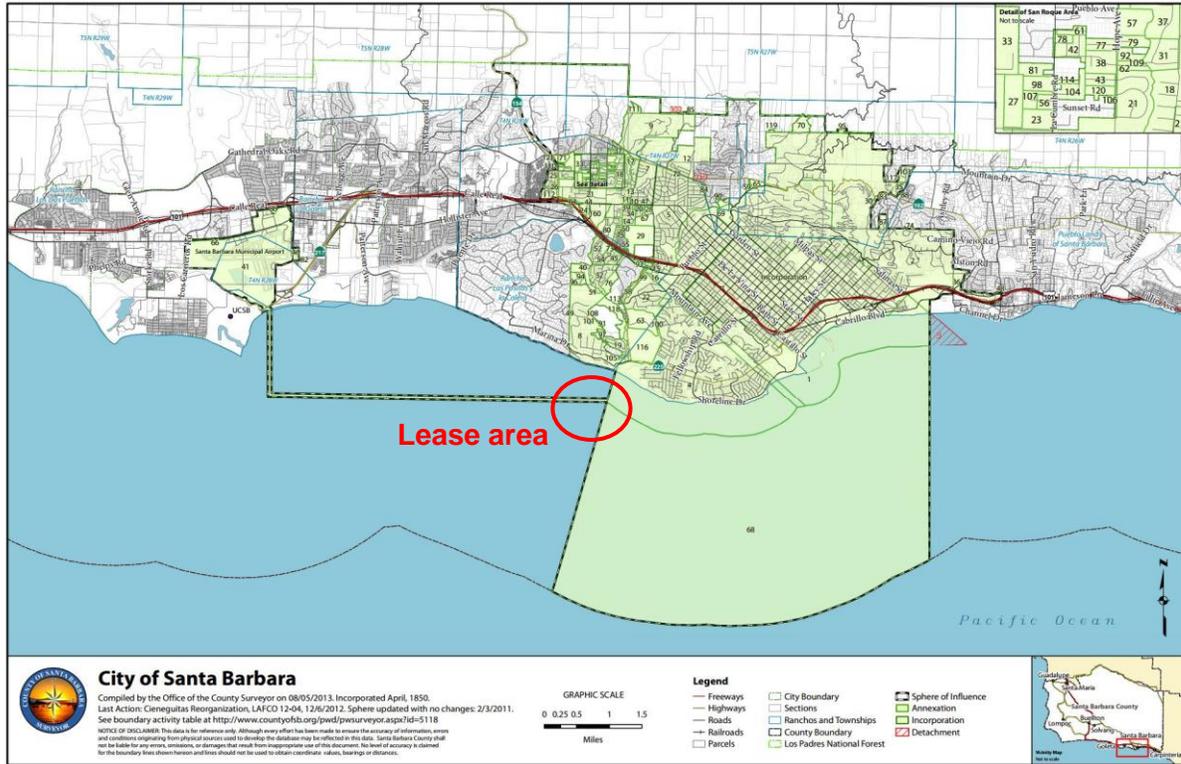


Fig 1. City of Santa Barbara annexations

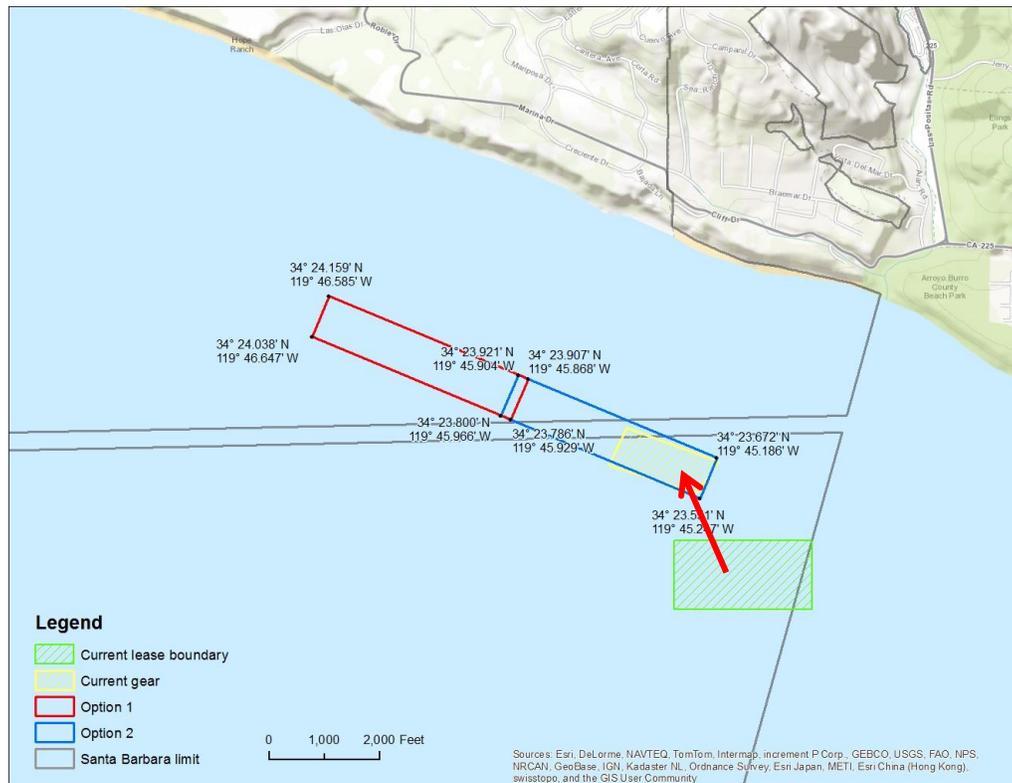


Fig. 2 Lease location options (M-653-02)

Lease Timeline

Lease No: M-653-02
Company: Santa Barbara Mariculture
Owner: Bernard Friedman
721 1/2 W Valerio,
Address: Santa Barbara, CA 93101
Lease Location: Open Ocean off Santa Barbara

Action	Action Start	Action Expiration	Notes
Original Lease granted to Jeff Young (under Pacific Seafood Industries)	2/15/1984	2/14/1989	
Lease transferred to SB Mariculture	11/3/2005	11/2/2010	Fish and Game Commission at its meeting on 11/3/2005 authorized the transfer of the title of Lease from Pacific Seafood Industries to Santa Barbara Mariculture Company
Commission approved 90-day extension at its 10/21/10 meeting	11/2/2010	2/1/2011	
Commission approved 180-day extension at its 12/16/10 meeting	2/1/2011	7/31/2011	
Commission approved 180-day extension at its 6/30/11 meeting	7/31/2011	1/27/2012	
Commission approved one year extension at its 8/03/11 meeting	1/27/2012	1/27/2013	
Commission approved one year extension at its 8/08/12 meeting	1/27/2013	1/27/2014	
Applicant requested re-shaping of lease, maintaining equivalent acreage. Commission approved one year extension at its 6/27/13 meeting.	1/27/2014	1/27/2015	