

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF MARINE FISHERIES

SUFFOLK, SS.

ADJUDICATORY PROCEEDING
DOCKET CSSP-146372-12-RT

IN THE MATTER OF:

CHAD WHITTEMORE and COMMERCIAL)
SHELLFISH and SEAWORM PERMIT ID)
No. 146372)
_____)

TENTATIVE DECISION

This **Tentative Decision** is issued pursuant to 801 CMR §1.01(11)(c)(1). The parties have 30 days from the date of this decision to provide any written objections, comments and/or supporting legal memoranda either electronically, by facsimile, by separate document or on the **Tentative Decision** itself and sent to the attention of: Mr. Jared Silva, Administrative Law Clerk, Division of Marine Fisheries, 251 Causeway Street, Suite 400, Boston, MA 02114, jared.silva@state.ma.us, 617-626-1534 (T), 617-626-1509 (F).

I. BACKGROUND

This adjudicatory proceeding is conducted by the Division of Marine Fisheries ("*Marine Fisheries*") under the relevant authority of G.L. c.30A, G.L. c.130, §80, 322 CMR §7.01(9) and in accordance with the Standard Rules of Adjudicatory Practice and Procedure, 801 CMR §1.01, et seq. A hearing which was initially scheduled for September 21, 2012 was continued on motion of the respondent Chad Whittemore. On April 12, 2013 a hearing was held to adjudicate charges and allegations filed by the Massachusetts Environmental Police and the Gloucester Shellfish Constable alleging violations of the shellfish laws of the Commonwealth by the respondent. Present at the hearing were the respondent - Chad Whittemore; the petitioners - Massachusetts Environmental Police (OLE) Officers Mark Griffin, Cynthia Kalkwarf, Sgt. Michael

extension; and (10) *Marine Fisheries* commercial fishing permit inventory of the respondent.¹

II. FINDINGS OF FACT

Based upon my review of the evidence, hearing the oral testimony of the witnesses and observing their demeanor, I hereby make the following findings of fact:

1. Chad Whittemore is a shellfisherman who has held a *Marine Fisheries* commercial shellfish and seaworm permit ID #146372 and transaction card since approximately 2004.
2. He is employed at the Pond Ice and Intershell Fish Company in Gloucester.
3. Mr. Whittemore did not apply for a renewal of *Marine Fisheries* commercial shellfish and seaworm permit ID #146372 for the 2013 fishing year because of his employment; but he would like to get back into shellfishing in the future.
4. On June 9, 2000 *Marine Fisheries* re-issued notification that classified contaminated shellfish areas #N9.13 and #N9.14 in Gloucester, classified on April 6, 1989 as prohibited and closed to shellfishing, continue their classification as prohibited and closed to shellfishing.
5. At all times relevant to this matter the *Marine Fisheries* contaminated shellfish areas #N9.13 and #N9.14 in Gloucester have never been reclassified or opened and have, since 1989, been classified by *Marine Fisheries* as prohibited and closed to the taking of any shellfish.²

¹ Administrative Notice, 801 CMR §1.01(10)(h). The permit inventory is a public record maintained by *Marine Fisheries* in the usual course of business. The inventory contains the yearly permits which have been issued to an individual, when they were issued and for what fishing activities they were issued for.

² Administrative Notice, 801 CMR §1.01(10)(h). The *Marine Fisheries* classification document is a public record maintained by the agency in the usual course of business. It identifies and establishes which shellfish areas in the Commonwealth are open to shellfishing; which areas are open to shellfishing only by licensed Master Diggers who are required to have the shellfish purified before it's sold to a dealer; and areas which are prohibited and closed to shellfishing of any kind. On June 9, 2000, to keep the closure record current, *Marine Fisheries* issued a classification document stating that the initial April 6, 1989 classification of these two contaminated shellfish areas in Gloucester remained classified as prohibited and closed to shellfishing. Thus, the areas in which the respondent was digging for shellfish have been classified as prohibited and

12. Sgt. Grady watched as the respondent wearing a dark hooded sweatshirt similar to the one he had observed in the creek exit the black skiff with six bags of shellfish, remove his rubber digging boots and put on a pair of work boots.

13. On or about 8:30 a.m. on January 31, 2012 Officer Griffin arrived at Gloucester Harbor to join Sgt. Grady.

14. Sgt. Grady stopped the respondent as he was walking up an aluminum dock ramp towards the Pond Ice and Intershell Fish Company and identified himself as an Environmental Police Officer.

15. The respondent identified himself as Chad Whittemore.

16. In response to questions from Sgt. Grady the respondent stated that “he didn’t know the area where he was digging was contaminated”; that “only two of the bags had come from the creek” (Powder House Creek); that the “other four bags of shellfish had come from a different area and were stored overnight in his boat.”

17. The respondent failed to produce a MA motorboat certificate of number; nor was there any MA motorboat identification number permanently displayed on the motorboat’s bow.³

18. The six bags of shellfish were confiscated by OLE and disposed of in a manner that would prevent sale or public consumption.

19. The black motorboat, an outboard engine, two clam rakes, onion bags, a gas container and the digging boots were seized by OLE.

20. The respondent was placed under arrest and taken to the Gloucester Police station for booking.

21. On February 15, 2012 the respondent sold 133 lbs. of raw shellfish to Monty

³ G.L. c.90B, §3. The Massachusetts Bureau of Boat, Recreation Vehicle, and Snowmobile Registration is an agency of OLE and administers c.90B by issuing entitled applicants certificates of ownership and identification numbers for all motorboats operated in Massachusetts waters. The terms skiff and motorboat are used interchangeably.

both Constable Sargent and Assistant Constable Cominelli changed their location of surveillance from the heights to the easterly shore of the Annisquam River where the Gloucester Transit Mix Company is located at 45 Emerson Avenue.

28. From this location and with the use of binoculars Constable Sargent identified the man digging shellfish as the respondent, Chad Whittemore.

29. At approximately 4:10 p.m. the respondent, whose dark orange plastic bucket was nearly full of razor clams, reversed course and began digging his way back along the railroad tracks towards the heights.

30. Constable Sargent and Assistant Constable Cominelli returned to their first location of surveillance at the heights.

31. At approximately 4:20 p.m. the respondent took off his digging boots, rinsed them in the salt water, made a cell phone call and started walking up the path towards Constable Sargent and Assistant Constable Cominelli's surveillance location at which point they identified themselves.

32. Shortly after the cell phone call was made Erica Tavares, identified as the respondent's girlfriend arrived at the location.

33. At about the same time the Gloucester Police, who had been called by Constable Sargent, also arrived at the location.

34. Constable Sargent confiscated the respondent's clam fork, dark orange plastic bucket containing approximately 35 lbs. of freshly dug razor clams, and an onion bag containing approximately 5 lbs of freshly dug softshell clams.

35. Neither the dark orange plastic bucket nor the onion bag was marked with any type of a shellfish identification tag on them.

36. The forty pounds of shellfish was confiscated by Constable Sargent and disposed of in a manner that would prevent its sale or public consumption.

enforcing officer and disposed of in such manner as will prevent the use thereof as food.

IV. DISCUSSION

Of the many duties and responsibilities of *Marine Fisheries* perhaps one of the most important is protecting the public health, welfare and safety from consuming tainted fish or contaminated shellfish. In this regard the Director must exercise great caution when contaminated shellfish and shellfishing activities are at issue or, as in this case, are the subject of multiple charges that filed by OLE and the Gloucester Shellfish Department and are the subject of this hearing.⁵

Mr. Whittemore's testimony did not contradict that of the environmental police officers or the Gloucester shellfish constable. Mr. Whittemore acknowledged having paid fines of at least \$1,000 for past shellfish violations and was at the time still on probation for a past shellfish violation. He testified that he understood the seriousness of taking shellfish from contaminated areas, but was unaware that areas N9.13 and N9.14 in Gloucester were contaminated and closed to shellfishing because he was new to the area, having recently moved to Gloucester from Essex. It is enough to say that Mr. Whittemore was thoroughly familiar with both Essex and Gloucester when it came to shellfishing and the classification of shellfish areas in both Towns. He has been a shellfishermen permitted by *Marine Fisheries* for at least ten years working in the same Essex/Gloucester area. That is more than enough time to thoroughly familiarize oneself with the

⁵ 322 CMR §10.00 contains a pervasive suite of regulations managing the harvest, purification and sale of moderately contaminated shellfish; 322 CMR §7.01(3)(e) requires retail truck dealers to have their vehicle inspected by the local board of health; 322 CMR §7.01(5)(c)(2) requires wholesale and retail fish dealers to submit a certified sanitary health inspection from the Massachusetts Department of Public Health (DPH); 322 CMR §7.01(5)(c)(4) requires holders of a shellfish and seaworm permit to submit a certified sanitary health inspection from DPH if they intend to sell bay scallops; and 322 CMR §7.01(7) authorizes the Director to attach written conditions or restrictions to a commercial permit to protect the public health, welfare and safety. The Legislature found the problem of public consumption of contaminated shellfish serious enough to make it a felony punishable by imprisonment for up to three years in the state penitentiary to dig shellfish from a closed contaminated area. G.L. c.130, §75. *Marine Fisheries* and the Department of Public Health work with the U.S. Food and Drug Administration in accordance with the National Shellfish Sanitation Program, a state/federal cooperative program.

Nonetheless, the respondent was emboldened enough to dig and take shellfish on multiple occasions in the light of day or in the dark of night from these same contaminated areas #N9.13 and #N9.14 in Gloucester. Notwithstanding his testimony to the contrary, the respondent knew quite well that shellfishing in these areas was unlawful based on his behavior of hiding from sight whenever a commuter train passed by or a motor vehicle drove past. The respondent concealed the days harvest by hiding the onion bags containing the shellfish against or behind an embankment and away from public view. He returned the following day to finish digging. The respondent used a black aluminum motorboat which is more difficult for law enforcement to identify at night. Additionally, the black motorboat had no hull number, no MA identification number permanently mounted on the bow and no motorboat registration sticker all of which would further interfere with law enforcement's ability to identify the owner/operator which constitutes evidence indicative of Mr. Whittemore's knowledge and intent.⁷ The respondent's refusal to carry his *Marine Fisheries* commercial shellfish permit with him when conducting shellfishing activities and his consistent failure to produce it upon the request of law enforcement officials further frustrates enforcement efforts.

It is common knowledge, and I take administrative notice of the simple fact that large areas of tidal flats that have been closed to shellfishing for long periods of time, in this case approximately 24 years, will tend to accumulate increased quantities of shellfish because diggers have been prohibited from digging in those areas. For some opportunistic fishermen the motivation or need to make quick money in a relatively short period of time outweighs the risk of getting caught. Moreover, when the respondent takes the precautions he did in this case, limiting his digging to short periods of time, waiting to transport his two-day harvest in a single day, using a dark colored skiff for night time

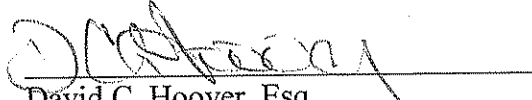
⁷ Among other provisions, G.L. c.90B, §3 require that motorboats be registered and the owner be issued a certificate of number and an identification number affixed to the bow.

a decision to revoke, suspend or not renew that permit.⁸ The prima facie testimony of law enforcement officials and the failure of the respondent to dispute that testimony establishes that the shellfish respondent took on January 30-31, 2012 and May 6, 2012 was from *Marine Fisheries* contaminated shellfish areas #N9.13 and #N9.14 in Gloucester classified as prohibited and closed to shellfishing in violation of G.L. c.130, §75.

V. CONCLUSION AND RECOMMENDATION

For all the reasons set forth above, I recommend that the Director deny any application by Mr. Whittemore for any shellfish permit, commercial, recreational, wholesale or retail dealer, and not issue such a permit to him if or when he should apply. See *Matter of Reed*, SP-2045-06-R, October 15, 2010.

Dated: September 10, 2013


David C. Hoover, Esq.
Administrative Law Magistrate
Department of Fish and Game

⁸ G.L. c.30A, §13 provides that before an agency revokes, suspends or fails to renew a permit the permit holder must have an opportunity for a hearing in conformity with §§10, 11 and 12.



Commonwealth of Massachusetts
Division of Marine Fisheries
251 Causeway Street
Suite 400
Boston, MA 02114

146372

CHAD W. WHITEMORE
15 PATRIOT CIRCLE
GLOUCESTER, MA 01930

Please make change(s) to mailing address email and/or phone here if necessary.

Mailing Address

City/Town State Zip

Email

Phone: (978) 768-6504 Cell/Mobile: () -

Massachusetts Resident = Y

U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your **2012 Shellfish & Seaworms Permit** expires on **December 31, 2012**. If you would like to renew this **Shellfish & Seaworms Permit**, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITEMORE

DOB: 02-23-1979

DMF PERMIT ID: 146372

Boat Name:

Length:

MS/Doc #:

Homeport:

Fed Permit ID # :

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

Your current Trip-Level Reporting method is: **REPORTING PAPER (PTL)**

If you would like to change the way you currently report, please do so on the reverse side of the application.

Reporting Compliance as of 11/26/2012

Missing Months: JAN, FEB, MAR, APR, MAY, JUN, JUL, AUG, SEP, OCT, NOV, DEC

Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the **Commonwealth of Massachusetts** in the enclosed return envelope.
3. Please sign your check and write your DMF PERMIT ID, which is **146372**, on the MEMO line of your check (Do Not Staple).
4. Please be sure to sign and date your application below. *Thank you!*
5. You must renew your permit prior to fishing.

SIGNATURE: _____

Date: _____

I hereby certify under the pains and penalties of perjury that all information contained in this application is true and accurate, and that I have read and agree to comply with all applicable statutes contained in MGL c. 130, and the regulations contained in 322 CMR.



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251 Causeway Street
Suite 400
Boston, MA 02114

146372

CHAD W. WHITTEMORE
15 PATRIOT CIRCLE
GLOUCESTER, MA 01930

Please make change(s) to mailing address email and/or phone here if necessary.

Mailing Address

City/Town State Zip

Email:

Phone: (978) 768-6504 Cell/Mobile: () -

Massachusetts Resident = Y

U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your **2011 Shellfish & Seaworms** Permit expires on **December 31, 2011**. If you would like to renew this **Shellfish & Seaworms** Permit, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITTEMORE

DOB: 02-23-1979

DMF ID: 146372

Boat Name:

Length:

MS/Doc #:

Homeport:

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

Your current Trip-Level Reporting method is: **REPORTING PAPER (PTL)**

If you would like to change the way you currently report, please do so on the reverse side of the application.

Reporting Compliance as of 12/05/2011

Missing Months: JAN, FEB, MAR, APR, MAY, JUN, JUL, AUG, SEP, OCT, NOV, DEC

Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the **Commonwealth of Massachusetts** in the enclosed return envelope.
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4. Please be sure to sign and date your application below. *Thank you!*
5. You must renew your permit prior to fishing.

SIGNATURE: _____

Date: _____

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251 Causeway Street
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Boston, MA 02114

146372

CHAD W. WHITEMORE
PO BOX 623
ESSEX, MA 01929

Please make change(s) to mailing address email and/or phone here if necessary.

Mailing Address

City/Town State Zip

Email:

Phone: (978) 768-6504 Cell/Mobile: () -

Massachusetts Resident = Y

U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your **2010 Shellfish & Seaworms Permit** expires on **December 31, 2010**. If you would like to renew this **Shellfish & Seaworms Permit**, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITEMORE

DOB: 02-23-1979

DMF ID: 146372

Boat Name:

Length:

MS/Doc #:

Homeport:

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

Your current Trip-Level Reporting method is: **REPORTING - PAPER (PTL)**

If you would like to change the way you currently report, please do so on the reverse side of the application.

Reporting Compliance as of 12/10/2010

Missing Months: JAN, FEB, MAR, APR, MAY, JUN, JUL, AUG, SEP, OCT

Section 3: Payment Information

1. The fee for this permit is \$40.00
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4. Please be sure to sign and date your application below. *Thank you!*
5. You must renew your permit prior to fishing.

SIGNATURE: _____

Date: _____

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146372

CHAD W. WHITEMORE
PO BOX 623
ESSEX, MA 01929

Change of Mailing Address? If the address to the left is incorrect, make corrections here.

Mailing Address

Mailing Address Line 2

City/Town

State

Zip

Phone: (978) 768-6504 Cell/Mobile: () -

Email:

Massachusetts Resident = Y

U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your 2009 Shellfish & Seaworms Permit expires on **December 31, 2009**. If you would like to renew this Shellfish & Seaworms Permit, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITEMORE

DOB: 02-23-1979

DMF ID: 146372

Boat Name:

Length:

MS/Doc #:

Homeport:

Permit Gear: HAND RAKES

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

Trip Level Reporting is required for all commercial permit holders. Read the enclosed material and select one of the reporting options below:

☐ PTL, Paper Trip Level

☐ ETL, Electronic Trip Level

☐ FRV, Federal Permit Number: _____

For a complete listing of commercial permit types, endorsements, and fees ... see side 2 of this application.

Catch Report(s): YOU MUST SUBMIT A CATCH REPORT EVEN IF YOU DO NOT RENEW THIS PERMIT

* Catch Report required for the following Endorsement(s):
SHELLFISH

Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the **Commonwealth of Massachusetts** in the enclosed return envelope.
3. Please sign your check and write your DMF ID, which is 146372, on the MEMO line of your check (Do Not Staple).
4. Please be sure to sign and date your application below. *Thank you!*

SIGNATURE: _____

Date: _____

I hereby certify under the pains and penalties of perjury that all information contained in this application is true and accurate, and that I have read and agree to comply with all applicable statutes contained in MGL c. 130, and the regulations contained in 322 CMR.



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CHAD W. WHITEMORE
P.O. BOX 623
ESSEX, MA 01929

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Mailing Address

Mailing Address Line 2

City/Town

State Zip

Phone: (978) 768-6504 Cell/Mobile: () -

Email:

Massachusetts Resident = Y U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your 2007 Shellfish & Seaworms Permit expires on **December 31, 2007**. If you would like to renew this Shellfish & Seaworms Permit, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITEMORE

DOB: 02-23-1979

PERMIT ID: 146372

OLD PERMIT NO: 6745

Permit Gear: HAND RAKES

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

For a complete listing of commercial permit types, endorsements, and fees ... see side 2 of this application.

Catch Report(s): YOU MUST SUBMIT A CATCH REPORT EVEN IF YOU DO NOT RENEW THIS PERMIT

* Catch Report required for the following Endorsement(s):
SHELLFISH

Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the **Commonwealth of Massachusetts**, in the enclosed return envelope.
3. Please sign your check and write your Permit ID, which is 146372, on the MEMO line of your check (Do Not Staple).
4. Please be sure to sign and date your application below. *Thank you!*

SIGNATURE: _____

Date: _____

I hereby certify under the pains and penalties of perjury that all information contained in this application is true and accurate, and that I have read and agree to comply with all applicable statutes contained in MGL c. 130, and the regulations contained in 322 CMR.



Commonwealth of Massachusetts
Division of Marine Fisheries
251 Causeway Street
Suite 400
Boston, MA 02114

146372

CHAD W. WHITEMORE
P.O. BOX 623
ESSEX, MA 01929

Change of Mailing Address? If the address to the left is incorrect, make corrections here.

Mailing Address

Mailing Address Line 2

City/Town

State

Zip

Phone: (978) 768-6504

Massachusetts Resident = Y

U.S. Citizen = Y

RENEWAL NOTIFICATION FORM FOR SHELLFISH & SEAWORMS PERMIT

Your 2006 Shellfish & Seaworms Permit expires on **December 31, 2006**. If you would like to renew this Shellfish & Seaworms Permit, please review the information in section 1 and make corrections as needed. Return with the appropriate fee in the enclosed envelope.

Section 1: Shellfish & Seaworms - Permit Information

CHAD W. WHITEMORE

DOB: 02-23-1979

DMF ID: 146372

PERMIT NO: 6745

Boat Name:

Length:

MS/Doc #:

Homeport:

NMFS North East Federal Permit Number for this vessel: _____ (Note: not the Hull Number).

Permit Gear: HAND RAKES

Buoy Color(s):

Endorsement(s): SHELLFISH

Section 2: Please read the following permit information, and provide information as required.

For a complete listing of commercial permit types, endorsements, and fees ... see side 2 of this application.

Catch Report(s): YOU MUST SUBMIT A CATCH REPORT EVEN IF YOU DO NOT RENEW THIS PERMIT

* Catch Report required for the following Endorsement(s):
SHELLFISH

Please write your DMF Id, which is 146372, on your Catch Report.

Section 3: Payment Information

1. The fee for this permit is \$40.00
2. Send the entire form with a check or money order made payable to the **Commonwealth of Massachusetts**, in the enclosed return envelope.
3. Please write your Permit Number, which is 6745, on the MEMO line of your check.
4. Don't forget to sign your check. *Thank you*

Applicant Inventory

04-SEP-13 01:31 PM

Name: CHAD W WHITEMORE
 Address: 236 WESTERN AVE, ESSEX MA 01929

Email:

Phone: (978) 768-6504

Comments: CONTACT EPO MIKE GRADY OR ROGER THUNLOW AT 617 626-1665 BEFORE RENEWING 2012

Year: 2012 Permit Number: 6745 Boat: - ' "

Status: ACTIVE DMF ID: 146372 Port: Doc:

License Type: SHELLFISH & SEAWORMS Issue Date: 21-FEB-12 Exp Date: 31-DEC-12 NMFS ID:

FTNs: 1) 166572 Duplicates: 0 LMAs: Fished: Date Recd:

Endorsement	Status	Received Fish	Endorsement	Status	Received Fish
1) REPORTING PAPER (PTL) *	ACTIVE		2) SHELLFISH ENDORSEMENT *	ACTIVE	

Months Reported: (0)

License Comments:

Activities: Products:

Year: 2011 Permit Number: 6745 Boat: - ' "

Status: EXPIRED DMF ID: 146372 Port: Doc:

License Type: SHELLFISH & SEAWORMS Issue Date: 07-MAR-11 Exp Date: 31-DEC-11 NMFS ID:

FTNs: 1) 156570 Duplicates: 0 LMAs: Fished: Date Recd:

Endorsement	Status	Received Fish	Endorsement	Status	Received Fish
1) REPORTING PAPER (PTL) *	EXPIRED		2) SHELLFISH ENDORSEMENT *	EXPIRED	

Months Reported: JAN, FEB, MAR, APR, MAY, JUN, JUL, AUG, SEP, OCT, NOV, DEC (12)

License Comments:

Activities: Products:

Year: 2010 Permit Number: 6745 Boat: - ' "

Status: EXPIRED DMF ID: 146372 Port: Doc:

License Type: SHELLFISH & SEAWORMS Issue Date: 02-FEB-10 Exp Date: 31-DEC-10 NMFS ID:

FTNs: 1) 143929 Duplicates: 0 LMAs: Fished: Date Recd:

Endorsement	Status	Received Fish	Endorsement	Status	Received Fish
1) REPORTING PAPER (PTL) *	EXPIRED		2) SHELLFISH ENDORSEMENT *	EXPIRED	

Months Reported: JAN, FEB, MAR, APR, MAY, JUN, JUL, AUG, SEP, OCT, NOV, DEC (12)

License Comments:

Activities: Products:

Year: 2009 Permit Number: 6745 Boat: - ' "

Status: EXPIRED DMF ID: 146372 Port: Doc:

License Type: SHELLFISH & SEAWORMS Issue Date: 12-JAN-09 Exp Date: 31-DEC-09 NMFS ID:

FTNs: 1) 131864 Duplicates: 0 LMAs: Fished: Date Recd:

Endorsement	Status	Received Fish	Endorsement	Status	Received Fish
1) SHELLFISH ENDORSEMENT *	EXPIRED	29-JAN-10 Y			

Months Reported: (0)

License Comments:

Activities: Products:

Applicant Inventory

06-JUN-12 02:22 PM

Name: CHAD W WHITEMORE

Email:

Phone: (978)768-6504

Address: 236 WESTERN AVE, ESSEX MA 01929

Comments: CONTACT EPO MIKE GRADY OR ROGER THURLOW AT 617 626
1665 BEFORE RENEWING 2012

Year: 2008 Permit Number: 6745 Boat: - ' "
Status: EXPIRED DMF ID: 146372 Port: Doc:
License Type: SHELLFISH & SEAWORMS Issue Date: 03-JAN-08 Exp Date: 31-DEC-08 NMFS ID:
FTNs: 1)119034 Duplicates: 0 LMAs: Fished: Date Recd:
Endorsement Status Received Fish Endorsement Status Received Fish
1)SHELLFISH ENDORSEMENT * EXPIRED 12-JAN-09 Y
Months Reported: (0)
License Comments:

Activities: Products:

Year: 2007 Permit Number: 6745 Boat: - ' "
Status: EXPIRED DMF ID: 146372 Port: Doc:
License Type: SHELLFISH & SEAWORMS Issue Date: 19-JAN-07 Exp Date: 31-DEC-07 NMFS ID:
FTNs: 1)109281 Duplicates: 0 LMAs: Fished: Date Recd:
Endorsement Status Received Fish Endorsement Status Received Fish
1)SHELLFISH ENDORSEMENT * EXPIRED 02-JAN-08 Y
Months Reported: (0)
License Comments:

Activities: Products:

Year: 2006 Permit Number: 6745 Boat: - ' "
Status: EXPIRED DMF ID: 146372 Port: Doc:
License Type: SHELLFISH & SEAWORMS Issue Date: 05-JAN-06 Exp Date: 31-DEC-06 NMFS ID:
FTNs: 1)96641 Duplicates: 0 LMAs: Fished: Date Recd:
Endorsement Status Received Fish Endorsement Status Received Fish
1)SHELLFISH ENDORSEMENT * EXPIRED 04-JAN-07 Y
Months Reported: (0)
License Comments:

Activities: Products:

Year: 2005 Permit Number: 6745 Boat: - ' "
Status: EXPIRED DMF ID: 146372 Port: Doc:
License Type: SHELLFISH & SEAWORMS Issue Date: 29-DEC-04 Exp Date: 31-DEC-05 NMFS ID:
FTNs: 1)86131 Duplicates: 0 LMAs: Fished: Date Recd:
Endorsement Status Received Fish Endorsement Status Received Fish
1)SHELLFISH ENDORSEMENT * EXPIRED 17-JAN-06 Y
Months Reported: (0)
License Comments:

Activities: Products:

Applicant Inventory

06-JUN-12 02:22 PM

Name: CHAD W WHITTEMORE		Email:		Phone: (978)768-6504	
Address: 236 WESTERN AVE, ESSEX MA 01929		Comments: CONTACT EPO MIKE GRADY OR ROGER THURLOW AT 617 626 1665 BEFORE RENEWING 2012			
Year: 2004	Permit Number: 6745	Boat: - ' "		Doc:	
Status: EXPIRED	DMF ID: 146372	Port:		NMFS ID:	
License Type: SHELLFISH & SEAWORMS		Issue Date: 28-JAN-04		Exp Date: 31-DEC-04	
FTNs: 1) 77006		Duplicates: 0		LMAs:	
Fished:		Date Recd:			
Endorsement	Status	Received Fish	Endorsement	Status	Received Fish
1) SHELLFISH ENDORSEMENT *	EXPIRED	29-DEC-04	N		
Months Reported: (0)					
License Comments:					
Activities:		Products:			



Massachusetts
Division of Marine Fisheries
SHELLFISH SANITATION AND MANAGEMENT

Shellfish Area Classification

Approved

Conditionally Restricted

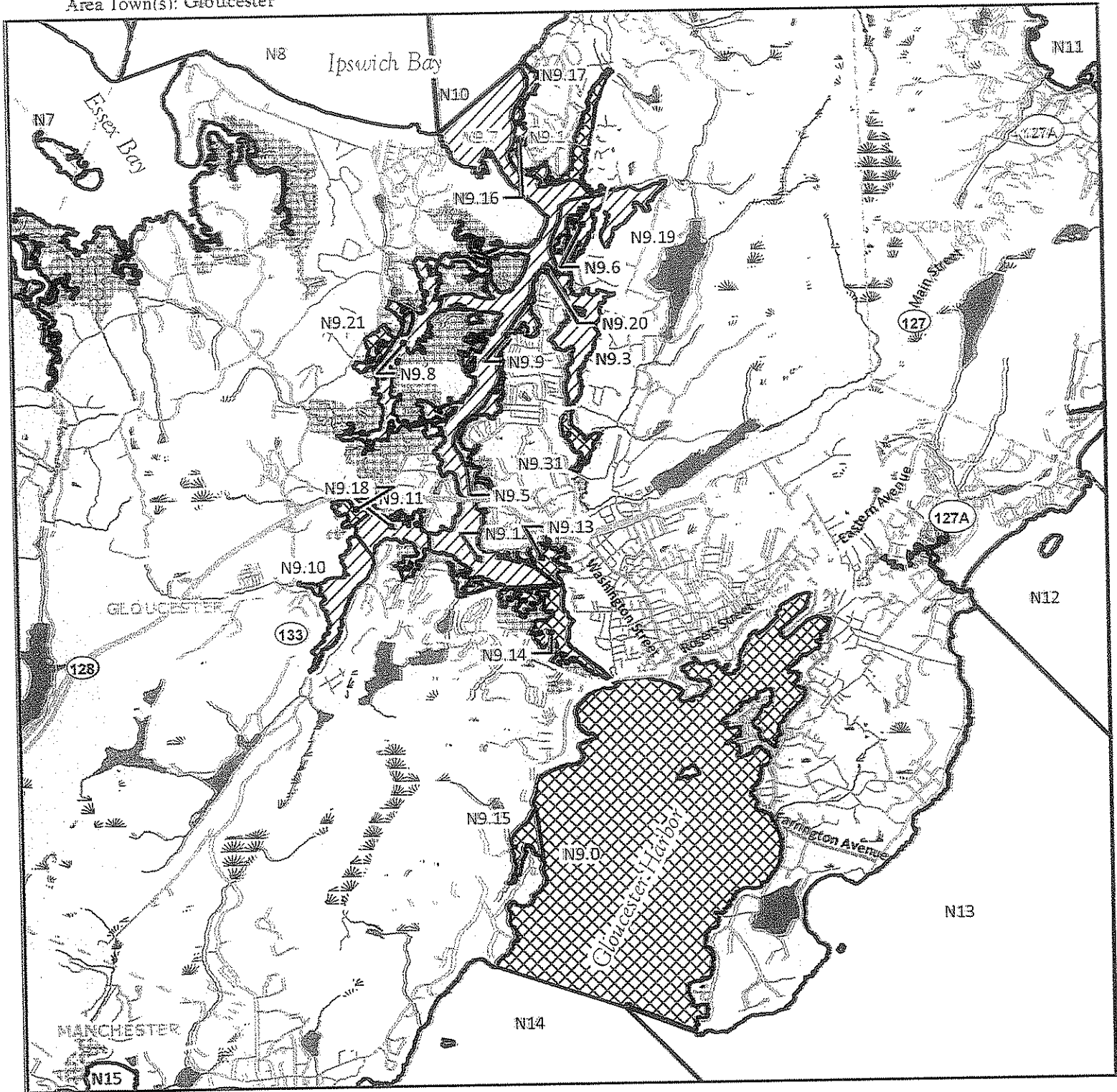
Conditionally Approved

Prohibited

Restricted

Produced: 6/28/2013

Area Name: ANNISQUAM RIV. GLOUCESTER HBR
Area Town(s): Gloucester



Area of detail

This map depicts the Marine Fisheries' sanitary classification of shellfish growing waters in accordance with the National Shellfish Sanitation Program. It does not indicate the current status, either "open" or "closed" to harvesting due to shellfish management or public health reasons. Always confirm the status with local authorities and/or Marine Fisheries. Information on this map may be out-dated or otherwise incorrect, and should not be relied upon for legal purposes.

- Marsh/Wetland
- Saltmarsh
- Pond/Lake/Reservoir
- Town Boundaries
- Stream/Ditch/Canal



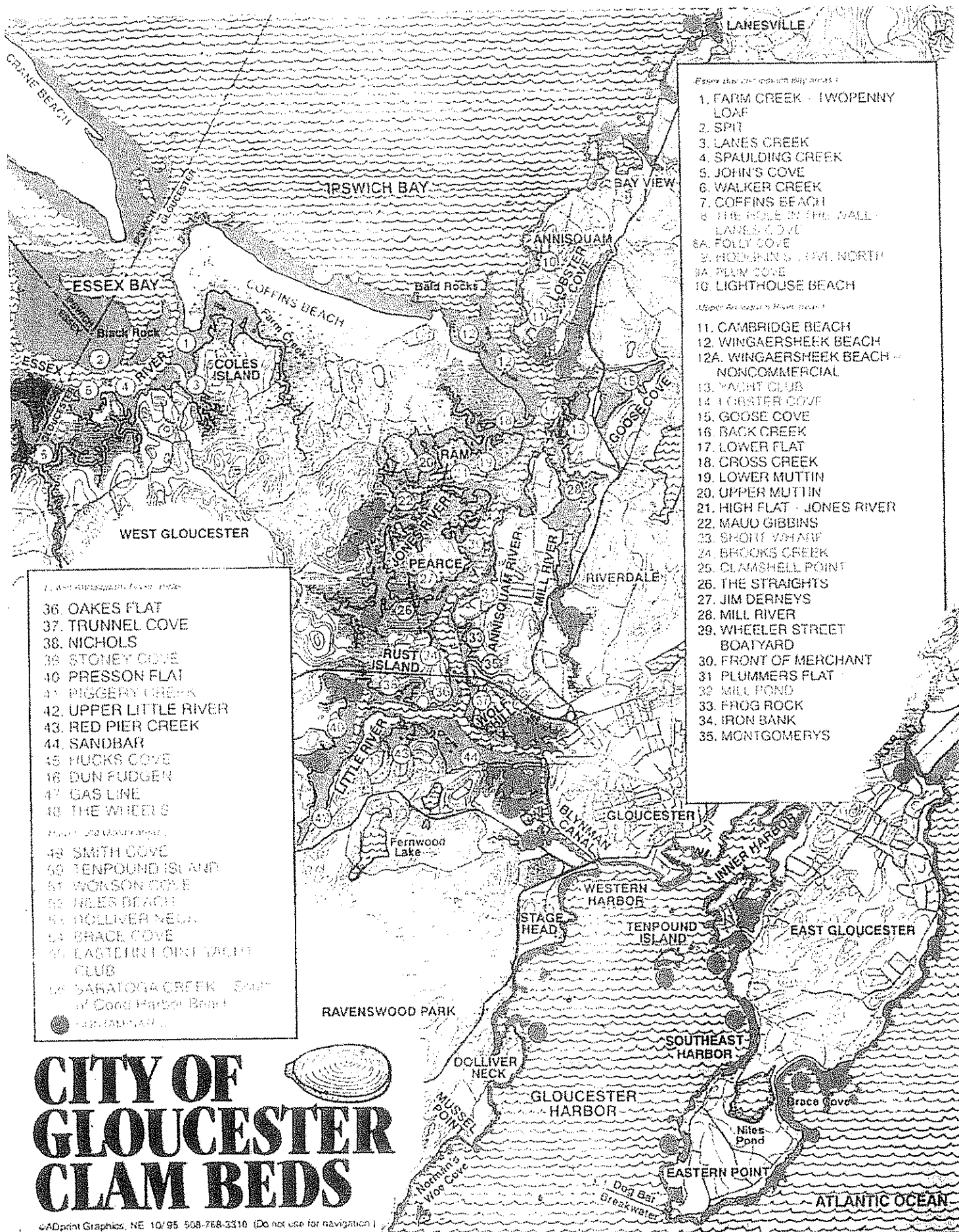


Figure 1: Map of Gloucester Clam Beds

1. FARM CREEK - IWOPENNY LOAF
2. SPIT
3. LANES CREEK
4. SPAULDING CREEK
5. JOHN'S COVE
6. WALKER CREEK
7. COFFINS BEACH
8. THE HOLE IN THE WALL - LANES COVE
- 9A. FOLDY COVE
9. HODDING'S COVE, NORTH
- 9A. PLUM COVE
10. LIGHTHOUSE BEACH

Upper Annisquam River Area

11. CAMBRIDGE BEACH
12. WINGAERSHEEK BEACH
- 12A. WINGAERSHEEK BEACH - NONCOMMERCIAL
13. YACHT CLUB
14. FORSTER COVE
15. GOOSE COVE
16. BACK CREEK
17. LOWER FLAT
18. CROSS CREEK
19. LOWER MUTTIN
20. UPPER MUTTIN
21. HIGH FLAT - JONES RIVER
22. MAUD GIBBINS
23. SHORT WHARF
24. BROOKS CREEK
25. CLAMSHELL POINT
26. THE STRAIGHTS
27. JIM DERNEYS
28. MILL RIVER
29. WHEELER STREET BOATYARD
30. FRONT OF MERCHANT
31. PLUMMERS FLAT
32. MILL POND
33. FROG ROCK
34. IRON BANK
35. MONTGOMERYS

Lower Annisquam River Area

36. OAKES FLAT
37. TRUNNEL COVE
38. NICHOLS
39. STONEY COVE
40. PRESSON FLAT
41. BIGGERY CREEK
42. UPPER LITTLE RIVER
43. RED PIER CREEK
44. SANDBAR
45. HUCKS COVE
46. DUN FUDGEN
47. GAS LINE
48. THE WHEELS

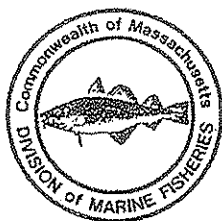
Other Locations

49. SMITH COVE
50. TENPOUND ISLAND
51. WOKSON COVE
52. NILES BEACH
53. DOLLIVER NECK
54. BRACE COVE
55. EASTERN POINT YACHT CLUB
56. SARATOGA CREEK - South of Good Harbor Beach

Legend

● CLAM BED

CITY OF GLOUCESTER CLAM BEDS



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

100 Cambridge Street
Boston, Massachusetts 02202

(617) 626-1520
fax (617) 626-1509



June 9, 2000

The Honorable Bruce Tobey
Mayor of Gloucester
City Hall
Gloucester, MA 01930

Dear Mayor Tobey:

The Division of Marine Fisheries is re-issuing the notice on the below defined areas in order to keep the closure record current. This is not a new closure, but a re-notification of the existing closures of April 6, 1989.

Under authority of Massachusetts General Laws, Chapter 130, Section 74A and 75, the below defined area shall remain classified as "PROHIBITED" and closed to the taking of all shellfish. Digging, harvesting or collecting and/or attempting to dig, harvest or collect shellfish and the possession of shellfish from the below defined areas is prohibited.

Under authority of 322 CMR 7.01(7) all permits issued thereunder are hereby conditioned to prohibit the taking, selling or possession of shellfish from the below defined areas.

CLASSIFICATION: PROHIBITED
STATUS: CLOSED TO SHELLFISHING

N9.13

"The waters, flats and tributaries in the City of Gloucester known as Hucks Cove from the southeasterly tip of the marsh adjacent to Buoy #9, to the easterly end of the Boston and Maine Railroad Bridge".

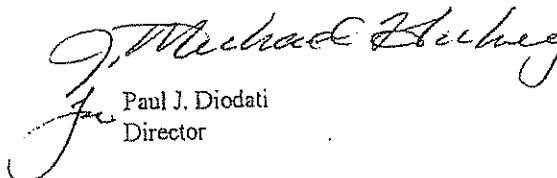
N9.14

"The waters, flats and tributaries of the Annisquam River in the City of Gloucester, from the Blynman Bridge near Gloucester Harbor north to the Boston and Maine Railroad Bridge".

N9.15

"The waters, flats and all tributaries and estuaries of the Gloucester shoreline known as Freshwater Cove".

Sincerely


Paul J. Diodati
Director

cc.: R. Murray, P. McMann, J. Hanlon, J. Tulik, DELE
J. Fair, M. Hickey, J. Kennedy, DMF
WPC, DEP
FDA
DPH
Shellfish Constable of Gloucester

An Agency of the Department of Fisheries, Wildlife & Environmental Law Enforcement
David M. Peters, *Commissioner*

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



SERVICE LIST

In the Matter of Chad Whittemore and Commercial Shellfish and Seaworm
Permit #146372

Docket No. CSSP-146372-12-RT
TENTATIVE DECISION
Service: UPS Second Day Delivery

Agency

Dan McKiernan
Division of Marine Fisheries
251 Causeway Street
Boston, MA 02114

Petitioner

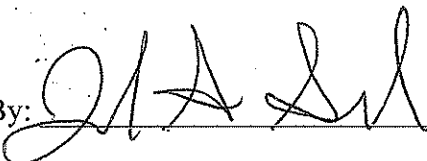
Lieutenant Roger Thurlow
Massachusetts Environmental Police
251 Causeway Street
Boston, MA 02114

David Sargent, Shellfish Constable
Shellfish Department
City of Gloucester
3 Pond Road
Gloucester, MA 01930

Respondent

Chad Whittemore
15 Patriot Circle
Gloucester, MA 01930

Date: September 11, 2013

By: 

Jared Silva, Administrative Law Clerk
Division of Marine Fisheries