12. POINT REYES OYSTER CO. LEASE RENEWAL (CONSENT)

Today's Item **Information** ☐ **Action** ☒

Receive Point Reyes Oyster Company request to renew two state water bottom leases (#M-430-13 and #M-430-17) for purposes of aquaculture, revised to add the harvest of algae growing on and around gear in each lease area.

Summary of Previous/Future Actions

- **Today receive lease renewal requests** **Aug 4-5, 2015; Fortuna**
- Approve lease renewals Dec 9-10, 2015; San Diego

Background

FGC has the authority to lease state water bottoms to any person for aquaculture for an initial lease term not to exceed 25 years (Sections 15400 and 15405, Fish and Game Code). A lessee shall have a prior right to renew the lease on terms agreed upon between FGC and the lessee (Section 15406, Fish and Game Code).

Point Reyes Oyster Company, Inc. currently holds three FGC-issued state water bottom leases in Tomales Bay for purposes of culturing shellfish. Two of these leases, numbers M-430-13 and M-430-17, are set to expire on February 29, 2016 (Exhibits 1 and 2); the lessee, Mr. Martin Strain, has submitted a request to renew them (Exhibit 3). In addition, Mr. Strain has previously requested to amend his existing three leases to authorize harvest of various species of locally-occurring algae growing on and amongst its cultured shellfish and associated culture equipment within the lease areas (Exhibit 4). This request will be included as part of renewal consideration for M-430-13 and M-430-17.

Upon receipt by FGC, DFW will review the request for possible management or biological considerations, identify any recommended changes to the terms of the leases, and provide its evaluation for FGC consideration later this year. These leases will be updated with the new lease terms and fee structure adopted by FGC in 2011 for shellfish aquaculture.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. State Water Bottom Lease #M-430-13 and amendments
2. State Water Bottom Lease #M-430-17 and amendments
3. Point Reyes Oyster Co. request for lease renewal, received Feb 5, 2015
4. Point Reyes Oyster Co. request to add algal species, received Nov 24, 2014

Motion/Direction

Moved by _____ and seconded by _____that the Commission adopts the Consent Calendar, items 11-13.

LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE, LEASE NO. M-430-13

This aquaculture lease made and entered into as of this 1st day of March, 1991, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Shellfish Unlimited, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, Lessee is presently the holder of a valid license to cultivate marine life for profit in the waters of the State of California as provided in Fish and Game Code Section 15101, and

WHEREAS, Lessee has heretofore filed with Lessor a bid application for the exclusive privilege of cultivating oysters, mussels and clams in the hereinafter described waters of the State of California, and has accompanied said application with the required filing fee of one hundred dollars ($100.00), and

WHEREAS, Lessor has heretofore published notice of the hearing of said application, has been advised by the State Lands Commission of the State of California that the area applied for is available for leasing, and it has been determined by the Fish and Game Commission that it is in the best interest of the State of California that such lease be made, and

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of the payment of the monies hereinafter stated in accordance with the bid made by Lessee and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to law and in consideration of the covenants contained herein on the part of the Lessee, the Lessor does hereby lease the California state water bottom hereinafter described and does hereby grant to Lessee the exclusive privilege to cultivate oysters, mussels and clams thereon, and in those certain waters of the State of California described as follows, to wit:

> All that certain real property situated in the County of Marin, State of California as described as follows:
>
> In Tomales Bay, Marin County, State of California, starting from Bench Mark 42, located at approximately 38°7'47" North latitude, 122°51'45" West longitude, on the Point Reyes Northeast quadrangle, Marin County, California, U.S. Dept. of the Interior Geological Survey 7.4 minute series topographic map; thence South 36° East 1000 feet to the true point of beginning; thence South 74°40' West 1141 feet; thence North 9°30' West 1452 feet; thence North 75° East 470 feet; thence South 35°45' East 350 feet; thence South 53°45' East 1150 feet; thence South 28° East 750 feet to the true point of beginning.
>
> This area of water bottom, containing an area of 50.0± acres more or less, comprises Aquaculture Lease No. M-430-13 (Appendix 1).

This lease, in accordance with provisions of Fish and Game Code Section 15400, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating Pacific oyster (Crassostrea gigas), Sumino oyster (C. rivularis), Eastern oyster (C. virginica), flat oyster (Ostrea edulis), Native oyster (O. lurida), Manila clam (Tapes japonica), California sea mussel (Mytilus californianus), and bay mussel (M. edulis) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stocks must be certified before planting in compliance with Fish and Game Code Section 15201, and must be planted by Lessee in a manner and at a size approved by Lessor to assure that harvested animals are a product of the lease. A request for certification of planting stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

All shellfish cultivation methods on the lease shall be confined to long lines, rafts, stakes, racks and bags, rack and tray, floats, and on the bottom within the area approved by the Commission. No other mode of operation or culture method is authorized, unless Lessee shall first obtain approval from the Fish and Game Commission.

Notice of intent to plant shellfish on the lease shall be given to the Department of Fish and Game, Marine Resources Division, 411 Burgess Drive, Menlo Park, CA 94025. In addition to the required ten (10) day notice, at least a 24-hour notice shall be given to the Marine Unit Manager, Mr. Paul Reilly, telephone (415) 688-6362, giving details on where the shellfish seed can be inspected.

This lease is for a term of twenty-five (25) years commencing on the 1st day of March, 1991, and ending on February 29, 2016, for a total rental of two thousand two hundred and fifty dollars ($2,250.00) per year, and a privilege tax on all products harvested as provided by Fish and Game Code Section 8051 and 15406.7. Said annual rental will be payable to Lessor on a fiscal year basis, July 1 - June 30, and within thirty (30) days of the commencement of the lease, or after receipt of the consummated lease agreement. If said annual rental is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of his obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said rent to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein, are subject to the provisions of Fish and Game Code Section 15410, which provides that all leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

This lease is made upon the following terms, conditions and covenants, to wit:

A. This lease may, at the option of the Lessee, be renewed for additional periods not to exceed 25 years each. If Lessee desires to enter into a new lease for a period commencing after expiration of the initial 25-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section 15414, on forms to be supplied by Lessor, and shall maintain adequate accounting records sufficient to determine monies due to Lessor by the 10th day of each month, for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment, and all books at any time and records of Lessee pertaining to Lessee's cultivation on the leased premises.

C. In order to provide assurance to lessor that this aquaculture lease is utilized for the purpose stated in the lease application, the lease shall be improved at no less than the minimum rate established by Commission regulations (Appendix 2). This annual rate of planting for shellfish shall be:

Off-bottom culture: 250,000 single seed less than 1 year old (@ 5,000/acre) or 50 cases (@ 80 lbs shellstock/case) of seed-bearing shell.

The term of improvement for this lease shall be three years, with the minimum rate of planting for the entire acreage being reached by July 1, 1994. The minimum annual rate of planting for the entire acreage will be maintained thereafter until the end of the lease.

The minimum annual harvest requirement for the lease will be an average of 2,000 oysters, clams or other shellfish per acre, effective July 1, 1994.

A minimum rate of planting shall be negotiated for option periods. Lessor may declare this lease terminated if Lessee fails to meet these cultivation and harvesting requirements and if Lessee, at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. If, at any time subsequent to the beginning date of this lease, the use of cultural devices authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event a lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California", a sum in a proportion that the Lessee's individual acreage bears to the total acreage of specified leased parcels of State water bottoms in Tomales Bay, Marin County, California, until the sum of five thousand dollars ($5,000.00) is reached. This escrow deposit is established in compliance with Section 7 of the Fish and Game Commission Policy, Awarding of Tomales Bay Aquaculture Leases, adopted January 7, 1989 (Appendix 3). Such money shall be deposited over a two-year period payable one-half upon entering upon the lease and one-half upon the first anniversary of such inception date. The escrow deposit shall be increased if the Fish and Game Commission determines that, if abandoned, any particular culture operation is likely to be more expensive to remove. The escrow deposit may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual proof of use report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal of each lease operation. The escrow agreement, escrow holder, and escrow depository shall be agreed upon by the Executive Secretary of the Fish and Game Commission, the Lessor and Tomales Bay Shellfish Growers Association.

It shall be the responsibility of the Lessee to maintain the specified security balance at the level established by the Commission, regardless of the number of lessees who continue in aquaculture operations within the bay.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures, or otherwise clean up the lease, or in the alternative, the remaining lessees in Tomales Bay and the Tomales Bay Shellfish Growers Association may undertake the clean-up leaving the secured amount whole.

In order to assure compliance with the escrow provisions of this lease, Lessee shall place in the agreed upon escrow account specified in the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California (Addendum 1)", hereby attached to and made part of this agreement, a total of three hundred sixty-three dollars ($363.00), a sum (rounded to the nearest dollar amount) proportional to Lessee's total lease acreage of fifty (50.0) acres, which bears to the total acreage of 688.9 acres of State water bottoms leased in Tomales Bay for aquaculture purposes. As certification that the first half of the specified deposit has been made, a total of one hundred eighty-one dollars and fifty cents ($181.50), must be

received by Lessor prior to final approval of this lease agreement. Proof that the second half of the required security deposit ($181.50) has been made must be furnished to Lessor on or before February 29, 1992, or this lease shall be subject to termination.

E. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to, State Water Resources Control Board, State Coastal Commission, State Lands Commission, U.S. Coast Guard, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

F. Lessee recognizes and understands in accepting this lease, that his interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due to the Lessor hereunder, and any such tax shall be the liability of, and be paid by, Lessee.

G. Any modification of natural or existing features of the real property described in this lease, which is not consistent with the authorized uses under this lease, is expressly prohibited without prior written consent of the Lessor.

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, 411 Burgess Drive, Menlo Park, CA 94025, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram showing area, amounts, and dates planted. Such declaration shall be submitted on or before July 15, of each year for the previous year, July 1 - June 30, inclusive.

I. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Fish and Game Code Section 15101. Lessee agrees not to commit, suffer or permit any waste on said premises, or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term thereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

J. This lease of state water bottom only grants Lessee the exclusive right to cultivate and harvest the specified species of oysters, mussels and clams as described in Lessee's lease bid.

K. The lease shall be clearly marked with buoys or stakes to prevent interference with boating or fishing activities that may take place in the area. Minimum marking of the lease shall include: One (1) buoy or stake on each of the four corners of the lease. All buoys or stakes used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System regulations (33 CFR Section 62.33 and 66.01-10). Lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys

and stakes to be established on this lease. Each buoy or stake shall be set and maintained to extend at least three (3) feet above the surface of the water at mean higher high water. All buoys or stakes shall bear the Aquaculture Lease No. M-430-13.

If buoys or stakes used to mark this lease are lost, displaced or otherwise removed from the lease area, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to abandonment proceedings.

L. In compliance with Sections 1, 2, and 3 of the Policy, Awarding of Tomales Bay Aquaculture Leases, adopted by the Fish and Game Commission at its meeting on January 12, 1989 (Appendix 3), Lessee agrees to cooperate with the Lessor in the monitoring of the health of eel grass beds located on the lease and in conducting a study to gather baseline sedimentation data on eel grass beds lying within the lease boundary. Lessee further agrees to participate with the Lessor in the design, implementation, and operation of a study to collect baseline information on sedimentation occurring within the leasehold during the period July 1, 1990 and June 30, 1994, and the monitoring of wintering shorebirds during the period November 1 to February 28 each year, adequate to measure any population or use changes due to lease operations.

If any of the environmental monitoring programs discussed above indicate, or any other reliable information leads the Lessor to conclude that Lessee's aquaculture operation is directly associated with a significant adverse change in the Tomales Bay ecosystem, Lessor shall notify the Executive Secretary of the Fish and Game Commission and the Lessee of such findings. Upon receipt of notice, Lessee shall take all necessary steps to modify, relocate or discontinue the operation in accordance with the Lessor's advice, unless Lessee demonstrates that its aquaculture operations are not a substantial factor, directly or cumulatively, causing the adverse environmental change. Failure to promptly respond shall be grounds for termination of the lease.

M. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulations of the Fish and Game Commission, in particular Fish and Game Code Sections 15400-15415, inclusive, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation enacted in the future, the latter will control.

N. This lease is personal to the Lessee and shall not be transferred, assigned, hypothecated, or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

O. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within 60 days after notice in writing, shall cause this lease to thereupon cease and terminate.

P. The attached Nondiscrimination Clause (OCP-1) is hereby made a part of this agreement.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United State Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Lessee	Lisa Jang Shellfish Unlimited 966 Borden Villa Dr., #103 Santa Rosa, CA 95401

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

R. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents, and employees against any and all claims and demands of every kind and nature whatsoever, arising out of, or in anyway connected with the use by Lessee of said lease, or the exercise of the privilege herein granted.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: Robert R Treanor

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: Karyn A. Meyreles
Lessor

SHELLFISH UNLIMITED

By: Lisa Jang
Lessee

By Martin Strain

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND

SHELLFISH UNLIMITED

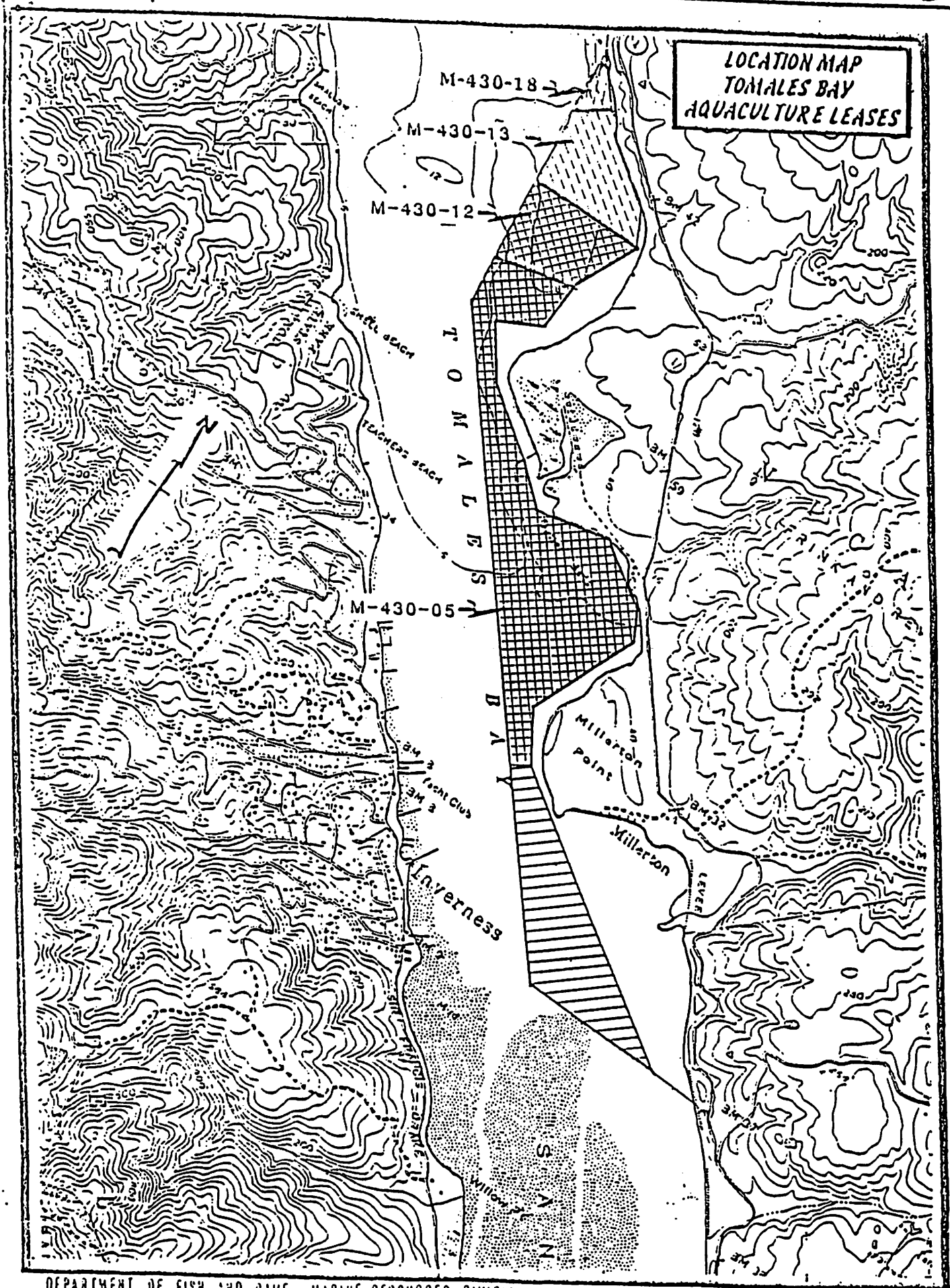
NONDISCRIMINATION CLAUSE

* (OCP - 1)

1. During the performance of this contract, contractor* and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

* All references to "contractor" shall be deemed to be Lessee.



DEPARTMENT OF FISH AND GAME - MARINE RESOURCES DIVISION

Appendix 1

AMENDMENT NO. 1
TO LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE LEASE NO. M-430-13

This amendment of aquaculture lease made and entered into as of the 1st day of March, 1991, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Shellfish Unlimited, hereinafter referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, the parties hereto did on March 1, 1991, enter into Lease Agreement No. M-430-13, for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, Lessor has determined after a boundary survey that the location of the lease as shown on the lease description is in error, and

WHEREAS, Lessor has requested at a duly called and noticed hearing of the Fish and Game Commission of the State of California, that a redescription of said lease would be in the best interests of the State of California.

NOW, THEREFORE, THIS AMENDMENT WITNESSETH:

That, in accordance with a request for a redescription of said lease made by Lessor and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby grant to Lessee the exclusive privilege to cultivate shellfish thereon, and in those certain lands of the State of California, described as follows:

All that certain real property situated in the County of Marin, State of California, described as follows:

In Tomales Bay, Marin County, State of California, starting from "Bench Mark 42" located at 38°7'44.5" North latitude, 122°51'46.2" West longitude on the Point Reyes Northeast Quadrangle, California, Marin County, 7.5 minute series (topographic), United States Dept. of the Interior, Geological Survey, then, S16°46'43"W, 929.49 feet to the beginning point. Then, S70°18'02"W, 1,645.02 feet; then N9°W, 1,801.99 feet; then, N40°50'34"E, 530.03 feet; then, S35°45'E, 350 feet; then, S53°45'E, 1,150 feet; then S28°E, 750 feet to the point of beginning.

This parcel of water bottoms, containing an area of 50± acres more or less, comprises Aquaculture Lease No. M-430-13.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By Robert R Treanor

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

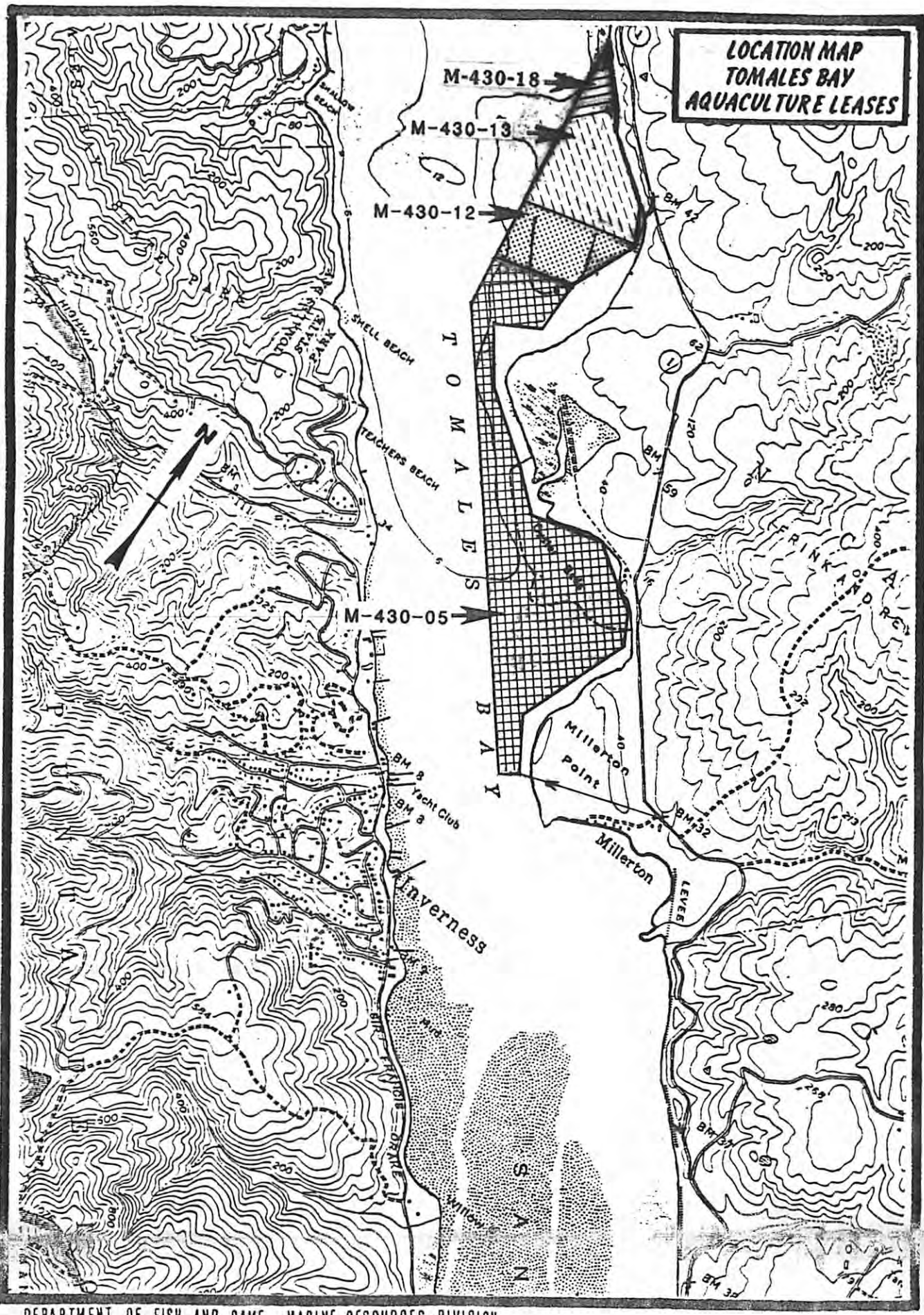
By Karyn A. Meyrales
Lessor

SHELLFISH UNLIMITED

By Lisa Jang
Lessee

By Marlon Swain

AQDSK#9,.8



DEPARTMENT OF FISH AND GAME • MARINE RESOURCES DIVISION

AMENDMENT NO. 2
TO LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE
LEASE NO. M-430-13

This amendment of aquaculture lease made and entered into as of the 1st day of January 1993 by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, hereinafter referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, on March 1, 1991, Lessor did enter into Lease Agreement No. M-430-13 with Shellfish Unlimited (a partnership comprised of Point Reyes Oyster Company and Bay Bottom Beds Company) for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, Lessee has heretofor informed Lessor that the partnership has been dissolved and the partners have requested that the water bottom acreage contained in said leasehold (50 acres) be divided equally between the two partners in two 25-acre parcels, and

WHEREAS, Lessor has requested at a duly called and noticed hearing of the Fish and Game Commission of the State of California, that the partition and redescription of said lease would be in the best interest of the State of California.

NOW, THEREFORE, THIS AMENDMENT WITNESSETH:

That, in accordance with a request for partition of said lease made by Lessor and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby grant to Lessee the exclusive privilege to cultivate shellfish thereon, and in those certain tidelands of the State of California, described as follows:

All that certain real property situated in the County of Marin, State of California, described as follows:

In Tomales Bay, Marin County, State of California, starting from "Bench Mark 42" located at 38°7′44.5 North Latitude, 122°51′46.2" West Longitude on the Point Reyes Northeast Quadrangle, California, Marin County, 7.5 minute series (topographic), United States Dept. of the Interior, Geological Survey; thence S 16°46′43" W 929.49 feet to the true point of beginning; thence S 70°18′02" W 1,645.02 feet; thence N 9°00′00" W 901.00 feet; thence N 84°19′55" E 1,442.65 feet; thence S 28°00′00"" E 541.23 feet to the true point of beginning.

This parcel of water bottoms, containing an area of 25± acres, more or less, comprises Aquaculture Lease No. M-430-13. (Appendices 1 & 2).

This lease, in accordance with provisions of Fish and Game Code Section 15400, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating Pacific oyster (Crassostrea gigas), Sumino oyster (C. rivularis), Eastern oyster (C. virginica), flat oyster (Ostrea edulis), Native oyster (O. lurida), Manila clam (Tapes japonica), California sea mussel (Mytilus californianus), and bay mussel (M. edulis) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stocks must be certified before planting in compliance with Fish and Game Code Section 15201, and must be planted by Lessee in a manner and at a size approved by Lessor to assure that harvested animals are a product of the lease. A request for certification of planting stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

Shellfish cultivation methods approved for the lease shall be long lines, rafts, stakes, racks and bags, rack and tray, floats, and bottom culture within the area approved by the Commission. No other mode of operation or culture method is authorized, unless Lessee shall first obtain approval from the Fish and Game Commission.

The required ten (10) day notice of intent to plant shellfish on the lease shall be given to the Department of Fish and Game, Marine Resources Division, 1136 Duer Road, Sebastopol, CA 95473. In addition to the ten (10) day notice, the Marine Unit Manager, Mr. Thomas Moore, telephone (707) 823-9236, shall be given notice at least 24 hours prior to the date of planting, giving details on where the shellfish seed can be inspected.

This amended lease falls within the authorized term of the initial lease of twenty-five (25) years which commenced on the 1st day of March, 1991, and ends on February 29, 2016, for a total rental of one thousand one hundred and twenty-five dollars ($1,125.00) per year, and a privilege tax on all products harvested as provided by Fish and Game Code sections 8051 and 15406.7. Said annual rental will be payable to Lessor on a fiscal year basis, July 1 - June 30, and within thirty (30) days of the commencement of the lease, or after receipt of the consummated lease agreement. If said annual rental is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment

shall not relieve Lessee of his obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said rent to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein, are subject to the provisions of Fish and Game Code Section 15410, which provides that all leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

This lease is made upon the following terms, conditions and covenants, to wit:

A. This lease may, at the option of the Lessee, be renewed for additional periods not exceed 25 years each. If Lessee desires to enter into a new lease for a period commencing after expiration of the initial 25-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section 15414, on forms to be supplied by Lessor, and shall maintain adequate accounting records sufficient to determine monies due to Lessor by the 10th day of each month, for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment, and all books at any time and records of Lessee pertaining to Lessee's cultivation on the leased premises.

C. In order to provide assurance to Lessor that this aquaculture lease is utilized for the purpose stated in the lease application, the lease shall be improved at no less than the minimum rate established by Commission regulations (Appendix 3). This annual rate of planting for shellfish shall be:

Off-bottom culture: 125,000 single seed less than 1 year old (@ 5,000/acre) or 25 cases (@ 80 lbs. shellstock/case) of seed-bearing shell.

The term of improvement for this lease shall be two years, with the minimum rate of planting for the entire acreage being reached by July 1, 1994. The minimum annual rate of planting for the entire acreage will be maintained thereafter until the end of the lease.

The minimum annual harvest requirement for the lease will be an average of 50,000 (@ 2,000/acre) oysters, clams or other shellfish, effective July 1, 1994.

A minimum rate of planting shall be negotiated for option periods. Lessor may declare this lease terminated if Lessee fails to meet these cultivation and harvesting requirements and if Lessee, at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. If, at any time subsequent to the beginning date of this lease, the use of cultural devices authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event a lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement For Clean-up of Aquaculture Leases, Tomales Bay, California", a sum in a proportion that the Lessee's individual acreage bears to the total acreage of specified leased parcels of State water bottoms in Tomales Bay, Marin County, California, until the sum of five thousand dollars ($5,000.00) is reached. This escrow deposit is established in compliance with Section 7 of the Fish and Game Commission Policy, Awarding of Tomales Bay Aquaculture Leases, adopted January 7, 1989 (Appendix 3). Such money shall be deposited over a two-year period payable one-half upon entering upon the lease and one-half upon the first anniversary of such inception date. The escrow deposit shall be increased if the Fish and Game Commission determines that, if abandoned, any particular culture operation is likely to be more expensive to remove. Ths escrow deposit may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual proof of use report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal each lease operation. The escrow agreement, esclow holder, and escrow depository shall be agreed upon by the Executive Director of the Fish and Game Commission, the Lessor and Tomales Bay Shellfish Growers Association.

It shall be the responsibility of the Lessee to maintain the specikfied security balance at the level established by the Commission, regardless of the number of lessees who continue in aquaculture operations within the bay.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures, or otherwise clean, or in the alternative, the remaining lessees in Tomales Bay and the Tomales Bay Shellfish Growers Association may undertake the clean-up leaving the secured amount whole.

In order to assure compliance with the escrow provisions of this lease, Lessee shall dedicate to the agreed upon escrow account specified in the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California (Addendum 1)", hereby attached to and made part of this agreement, a total of one hundred eighty-one dollars ($181.50), a sum proportional to Lessee's total lease area of twenty-five (25) acres. This amount equals one-half of the amount, three hundred sixty-three dollars ($363.00), deposited in the "Tomales Bay Escrow Account" by the former partnership (Shellfish Unlimited).

E. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to, State Water Resources Control Board, State Coastal Commission, State Lands Commission, U.S. Coast Guard, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

F. Lessee recognizes and understands in accepting this lease, tht its interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due to the Lessor hereunder, and any such tax shall be the liability of, and be paid by, Lessee.

G. Any modification of natural or existing features of the real property described in this lease, which is not consistent with the authorized uses under this lease, is expressly prohibited without prior written consent of the Lessor.

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, 1136 Duer Road, Sebastopol, CA 95473, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram showing area, amounts, and dates planted. Such declaration shall be submitted on or before July 15, of each year for the previous year, July 1 - June 30, inclusive.

I. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Fish and Game Code Section 15101. Lessee agrees not to commit, suffer

or permit any waste on said premises, or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term thereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

J. This lease of State water bottom only grants Lessee the exclusive right to cultivate and harvest the specified species of oysters, mussels, and clams authorized in the original lease agreement.

K. The lease shall be clearly marked with buoys or stakes to prevent interference with boating or fishing activities that may take place in the area. Minimum marking of the lease shall include: One (1) buoy or stake on each of the four corners of the lease. All buoys or stakes used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System regulations (33 CFR Section 62.33 and 66.01-10). Lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and stakes to be established on this lease. Each buoy or stake shall be set and maintained to extend at least three (3) feet above the surface of the water at mean-higher high water. All buoys or stakes shall bear the Aquaculture Lease No. M-430-13.

If buoys or stakes used to mark this lease are lost, displaced or otherwise removed from the lease area, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to abandonment proceedings.

L. In compliance with sections 1, 2, and 3 of the Policy, Awarding of Tomales Bay Aquaculture Leases, adopted by the Fish and Game Commission at its meeting on January 12, 1989 (Appendix 3), Lessee agrees to cooperate with the Lessor in the monitoring of the health of eel grass beds located on the lease and in conducting a study to gather baseline sedimentation data on eel grass beds lying within the lease boundary. Lessee further agrees to participate with the Lessor in the design, implementation, and operation of a study to collect baseline information on sedimentation occurring within the leasehold during the period July 1, 1990 and June 30, 1994, and the monitoring of wintering shorebirds during the period November 1 to February 28 each year, adequate to measure any population or use changes due to lease operations.

If any of the environmental monitoring programs discussed above indicate, or any other reliable information leads the Lessor to conclude that Lessee's aquaculture operation is directly associated with a significant adverse change in the Tomales Bay ecosystem, Lessor shall notify the Executive Director of the Fish

and Game Commission and the Lessee of such findings. Upon receipt of notice, Lessee shall take all necessary steps to modify, relocate or discontinue the operation in accordance with the Lessor's advice, unless Lessee demonstrates that its aquaculture operations are not a substantial factor, directly or cumulatively, causing the adverse environmental change. Failure to promptly respond shall be grounds for termination of the lease.

M. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulations of the Fish and Game Commission, in particular Fish and Game Code sections 15400-15415, inclusive, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation enacted in the future, the latter will control.

N. This lease is personal to the Lessee and shall not be transferred, assigned, hypothecated, or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

O. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within 60 days after notice in writing, shall cause this lease to thereupon cease and terminate.

P. The attached Nondiscrimination Clause (OCP-1) is hereby made a part of this agreement.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Lessee	MARTIN STRAIN Point Reyes Oyster Co. P. O. Box 16 Tomales, CA 94971

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

R. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents, and employees against any and all claims and demands of every kind and nature whatsoever, arising out of, or in any way connected with the use by Lessee of said lease, or the exercise of the privilege herein granted.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: Robert R Treanor

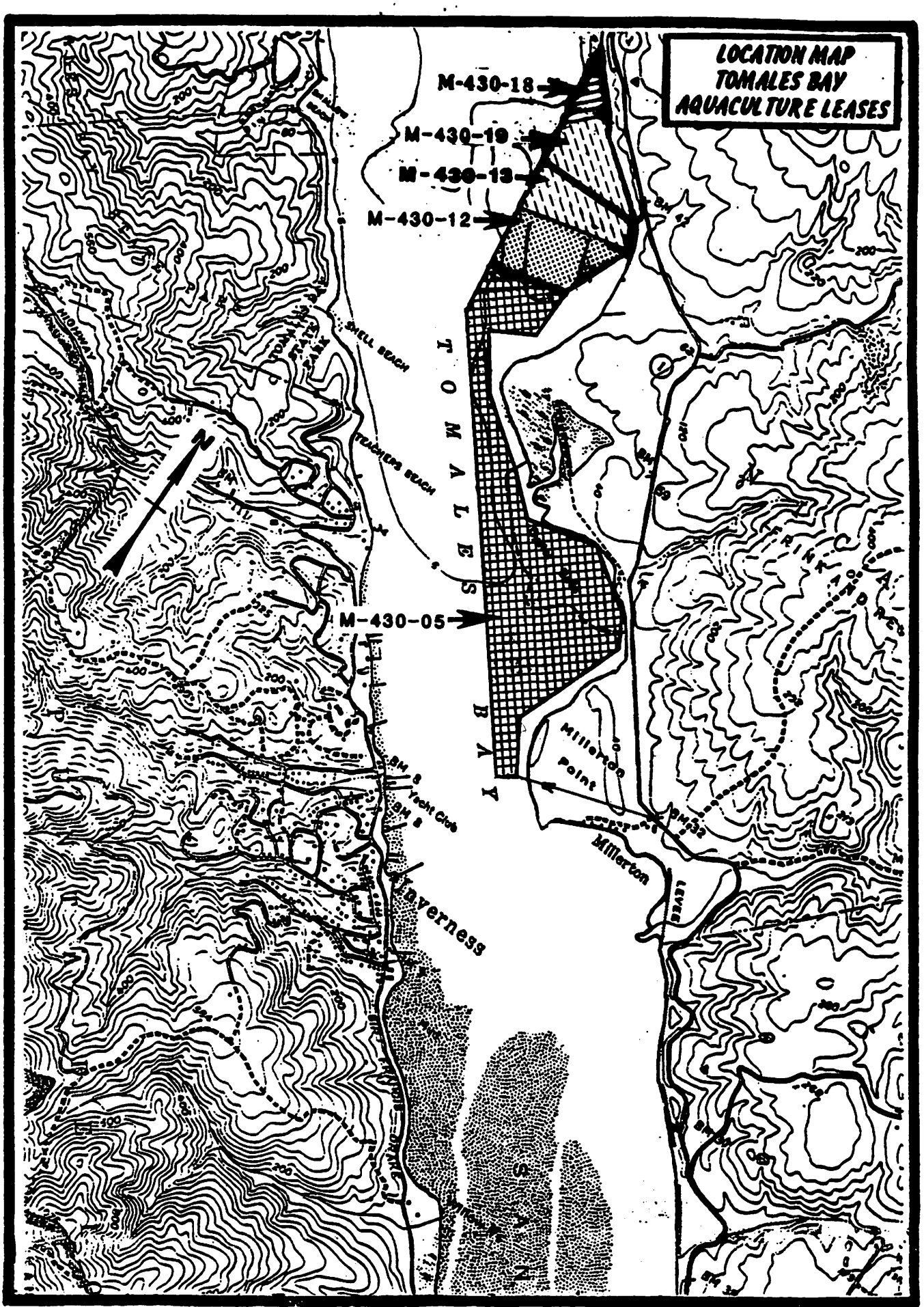
STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: _____
Lessor

PT. REYES OYSTER CO.

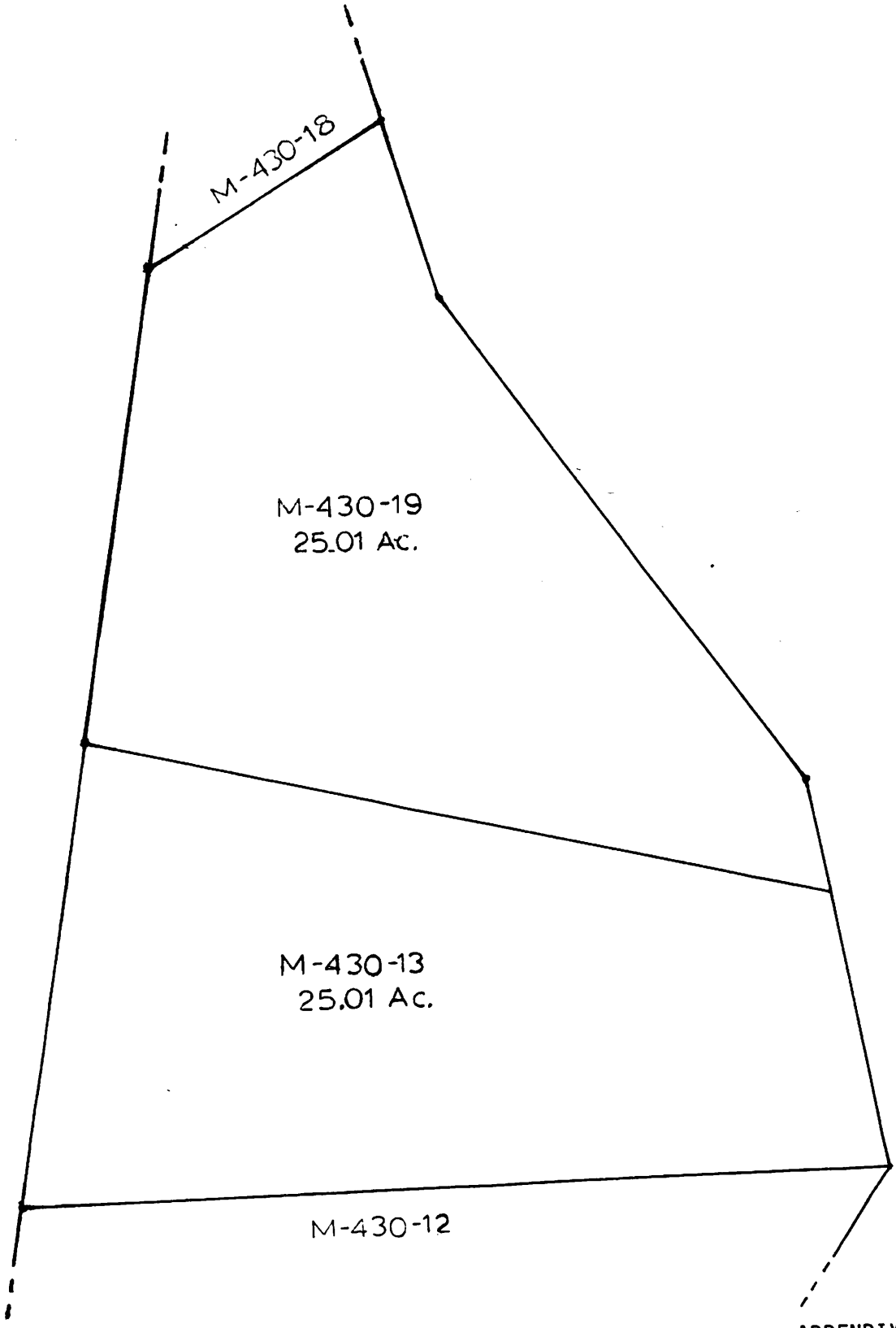
By: Martin Strain
Lessee

By: _____



DEPARTMENT OF FISH AND GAME • MARINE RESOURCES DIVISION

PARTITION OF AQUACULTURE LEASE M-430-13



APPENDIX 2

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND

POINT REYES OYSTER CO.

NONDISCRIMINATION CLAUSE

(OCP - 1)

1. During the performance of this contract, contractor* and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.

* All references to "contractor" shall be deemed to be Lessee.

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
~~SHELLFISH UNLIMITED~~ Point Reyes Oyster Company
ESCROW AGREEMENT FOR
CLEANUP OF AQUACULTURE LEASES
TOMALES BAY, CALIFORNIA

(Addendum 1)

This Escrow Agreement is being entered into as of the 1st day of March, 1991, between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and ~~Shellish Unlimited~~, Point Reyes hereinafter referred to as "Lessee", and Tomales Bay Shellfish Growers Association, a California Nonprofit Corporation now forming, hereinafter referred to as the "Association." Oyster Co.

Lessee has entered into an aquaculture lease this 1st day of March, 1991, for the lease of State water bottoms situated in Tomales Bay, Marin County, State of California, more particularly described as Lease No. M-430-13.

This Escrow Agreement is subject to Lease No. M-430-13 and in accordance with Paragraph D thereof.

As a financial guarantee of growing structure or other lease improvement removal and/or cleanup expense in the event that the aforementioned aquaculture lease is abandoned or otherwise terminated, the parties agree as follows:

1. Lessee will deposit or cause to be deposited in escrow in cash or by certified check, funds totaling ~~$363.00~~ $181.50, which funds will consist of the following:

(a) ~~$181.50~~ $90.75 deposited upon entering upon the lease;
(b) ~~$181.50~~ $90.75 deposited upon the first anniversary of such inception date.

In the event that Lessor fails to deposit funds as required by Subparagraphs (a) or (b) herein, Lessor may terminate Lessee's aquaculture lease by giving sixty days notice to Lessee by registered or certified mail.

2. Mr. F. Robert Studdert shall act as Escrow Agent and shall place the escrow deposits in an interest-bearing account in the West America Bank, North Gate Branch, at San Rafael, California, subject to disposition as hereinafter provided. Such deposits shall be retained in a separate account designated "Tomales Bay Cleanup Fund" by Escrow Agent as trustee for Lessor, and shall designate the Association as the beneficial owners.

3. The Association shall be responsible for paying all fees and expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Association and Escrow Agent.

4. The interest earned on the trust account held in escrow and all interest earned on that interest shall be for the sole account of the Association and may be withdrawn by the Association at any time for distribution to its members without notice to Lessor.

5. Lessees shall make payments to the Escrow Agent on account of the Tomales Bay Cleanup Fund in the manner prescribed in paragraph 1(a) and (b) until the sum of five thousand dollars ($5,000.00) is reached. Thereafter, the Tomales Bay Cleanup Fund shall be maintained by the Lessees at Five Thousand Dollars ($5,000.00) as hereinafter provided, regardless of the number of lessees who continue in aquaculture operations in Tomales Bay.

6. When Lessees deposit funds into escrow, Escrow Agent shall notify Lessor in writing within ten days of receipt thereof.

7. Escrow Agent shall notify Lessor and Association in writing when two thousand five hundred dollars ($2,500.00) has been deposited to the escrow account and provide written verification from the bank of such deposit. Thereafter, on the anniversary date of such initial notification, Escrow Agent shall report and certify the balance of funds on deposit accompanied by the accounting records provided by the banking institution of deposit.

8. The Lessor may increase or decrease the security amount held in escrow upon cause shown therefor and sixty days notice to the Association. Lessee's annual Proof of Use Report shall contain a reasonable estimate of the cost of removal of growing structures from each operation. Any increase required by the Lessor shall be deposited by the Lessees in the same proportion as provided in Paragraph 1; and any decrease shall be returned to the Lessees by the Escrow Agent in the same proportion provided in Paragraph 1.

9. Should Lessee transfer his interest under the lease with the approval of the California Fish and Game Commission, Escrow Agent shall transfer such escrow deposit to the successor in interest, and thereafter notify all parties hereto of such transfer. The successor in interest shall have all of the rights and obligations of Lessee with respect to such escrow deposit.

10. If, on termination of an aquaculture lease, Lessee removes all growing structures and improvements within sixty days, Lessee's escrow deposit shall be returned to Lessee by Escrow Agent no later than two weeks after receipt of written notice by Escrow Agent from Lessor authorizing such return.

11. If at any time during the lease term, any Lessee abandons a lease without removing growing structures and improvements, Lessor and/or Association shall do one of the following acts:

(a) The Association may undertake the cleanup, within sixty days, of the abandoned lease and Lessor shall not resort to the escrow security;

(b) Lessor shall appropriate and apply any portion of the escrow security as may be reasonably necessary to fund the cleanup;

(c) Lessor may elect to have growing structures and improvements remain in place and return Lessee's escrow deposit as provided in Paragraph 10.

12. Lessor shall have a right to draw upon the escrow account in the event of default by the Lessees. Upon seven days written notice to the Escrow Agent from the Lessor of the default, Escrow Agent must immediately distribute funds as instructed by Lessor.

13. Should Lessor actually resort to any monies contained within the escrow account under any of the above applicable provisions, Lessees agree to deposit to the escrow account, in the same proportion as provided in Paragraph 1, the amount for which resort to the escrow security was had and necessary to restore the escrow security to the original sum required hereunder in thirty days after written demand by Lessor, except upon disbursement on account of return of escrow security to any Lessee as provided in Paragraph 10.

Restoration of escrow security shall be postponed during any period that Lessor re-advertises for bid and subsequently re-awards any Tomales Bay aquaculture lease. Upon Lessor granting a lease to a successful bidder, the Lessee thereunder shall assume the obligations and rights of his predecessor Lessee, including, but not limited to, the deposit of funds as prescribed in Paragraph 1(a) and (b).

Lessor shall not award or re-award a lease until the notice of deposit required by Paragraph 6 is received.

14. Escrow Agent shall rely on the written notifications from the Lessor and the Association, and the Lessor and the Association shall hold Escrow Agent harmless when Escrow Agent releases and disburses funds and interest pursuant to such a written notification.

15. Any notice required to be given under this Escrow Agreement may be given by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed communicated as of mailing. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To the Lessor:	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Association:	TOMALES BAY SHELLFISH GROWERS ASSOCIATION P. O. Box 829 Marshall, CA 94940
To the Escrow Agent:	F. ROBERT STUDDERT 36 Professional Center Parkway San Rafael, CA 94903

INDIVIDUAL ACKNOWLEDGMENT

State of Calif.
County of Sonoma } SS.

On this the 4 day of February 1991, before me,

Ronald A. Moody

the undersigned Notary Public, personally appeared

Martin Strain

☐ personally known to me
☑ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that he executed it.
WITNESS my hand and official seal.

Ronald A. Moody
Notary's Signature

OFFICIAL SEAL
RONALD A. MOODY
Notary Public-California
MARIN COUNTY
My Comm. Exp. Nov. 6, 1992

ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document Add. to state water lease
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____

© NATIONAL NOTARY ASSOCIATION • 8236 Remmet Ave. • P.O. Box 7184 • Canoga Park, CA 91304-7

7100-010

State of CALIFORNIA
County of SONOMA } SS.

On this the 1st day of February 1991, before me,

BARBARA L. STAGGS

the undersigned Notary Public, personally appeared

Lisa Jang

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that she executed it.
WITNESS my hand and official seal.

Barbara L Staggs
Notary's Signature

OFFICIAL SEAL
BARBARA L STAGGS
NOTARY PUBLIC - CALIFORNIA
SONOMA COUNTY
My comm. expires MAY 25, 1993

ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document Lease of State Water Bottoms
Number of Pages 13 Date of Document signed 2/1/91
Signer(s) Other Than Named Above none at this time

To the Lessee: PT. REYES OYSTER COMPANY
P. O. Box 16
Tomales, CA 94971

Lisa Jang
SHELLFISH UNLIMITED
966 Borden Villa Drive, #103
Santa Rosa, CA 95401

16. At the time this Escrow Agreement is executed by all parties, the Lessor shall deliver to the Escrow Agent a fully executed counterpart of this agreement.

In witness whereof, the parties have executed this Agreement by their proper officers on the date first set forth above.

LESSOR: Karen A. Mezquela
Acting Asst. Director, Admin.

ASSOCIATION: Lisa Jang
President July 3, 1991

LESSEE: Lisa Jang

AMENDMENT NO. 3
TO
INDENTURE OF LEASE

This amendment of Aquaculture Lease made and entered into as of the 1st day of April 1996, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, Inc., hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, on March 1, 1991, Lessor did enter into Lease Agreement No. M-430-13 with Shellfish Unlimited (a partnership comprised of Point Reyes Oyster Company and Bay Bottom Beds Incorporated) for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, on December 4, 1992 The Fish and Game Commission approved dissolution of the partnership and decreed that said leasehold (50± acres) be divided equally between the two partners in two, (2) 25-acre parcels and

WHEREAS, on February 5, 1993 the Fish and Game Commission of the State of California approved the reconfiguration and redescription of said 50-acre lease into two parcels of reduced size (said lease M-430-13, 25 acres and lease M-430-19, 25 acres), and

WHEREAS, The Fish and Game Commission at its meeting on October 7, 1994 adopted new administrative procedures to standardize annual proof-of-use reporting and the rental period for aquaculture leaseholds, and approved revision of the Escrow Agreement for Cleanup of Aquaculture Leases in Tomales Bay (Addendum 1), and determined that the amendment of this aquaculture agreement would be in the best interest of the State.

NOW THEREFORE, THIS AMENDMENT WITNESSETH:

That, in accordance with actions taken by the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby amend said lease for such consideration, specific purposes and subject to covenants, terms, conditions, reservations, restrictions and limitations as are set forth herein.

This amended lease falls within the authorized term of the initial lease, twenty-five (25) years, which commenced on the 1st day of March 1991, and ends on February 29, 2016, for a total rental of one thousand one hundred and twenty-five dollars ($1,125.00) per year, and a privilege tax on all products harvested as provided by Fish and Game Code sections 8051, 18406.5, and 15406.7. Beginning January 1, 1997, said annual rental fee will be payable to Lessor on a calendar year basis, January 1 -- December 31. The next annual rental fee will be

due July 1, 1996, and will cover the period July 1, 1996 to December 31, 1996 in the amount of five hundred sixty-two dollars and fifty cents ($562.50). If said annual rental fee is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of its obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said fee(s) to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

This lease is made upon the following additional terms, conditions, and covenants, to wit:

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, P. O. Box 1560, Bodega Bay, California 94923, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram (map) showing area, amounts, and dates planted. Such annual proof-of-use shall be submitted on or before February 1 of each year for the previous year, January 1 -- December 31, inclusive. The annual proof-of-use statement, covering the period July 1, 1994 -- December 31, 1995, will be due on or before February 1, 1996.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, California 95814
To the Lessee	MARTIN STRAIN POINT REYES OYSTER COMPANY P. O. Box 16 Tomales, California 94971

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By:_____

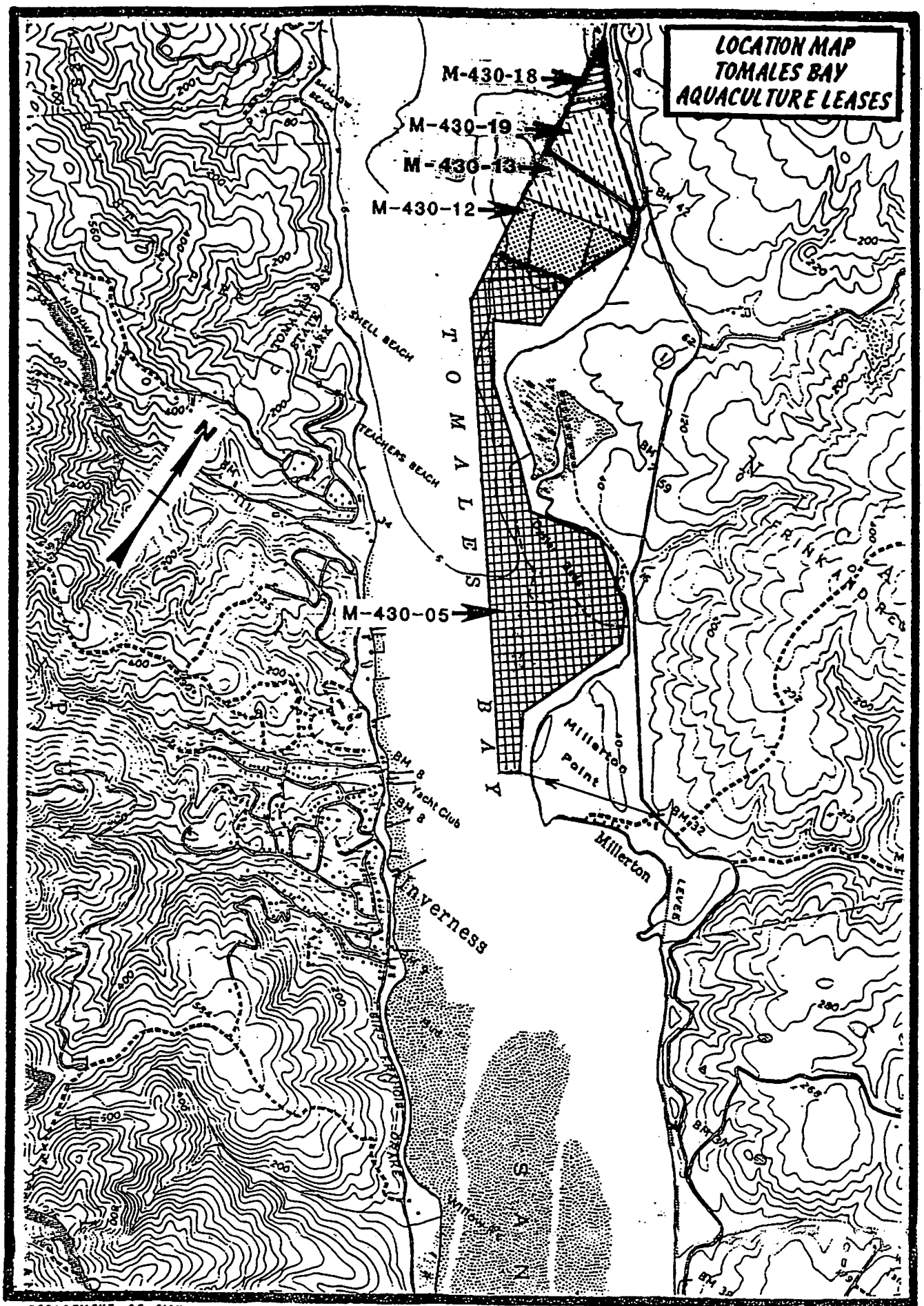
STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By:_____

POINT REYES OYSTER COMPANY, INC.

By:_____

By:_____



DEPARTMENT OF FISH AND GAME • MARINE RESOURCES DIVISION

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
POINT REYES OYSTER COMPANY
ESCROW AGREEMENT FOR
CLEANUP OF AQUACULTURE LEASES
TOMALES BAY, CALIFORNIA

(Addendum 1)

This Escrow Agreement is being entered into as of the 1st day of April 1996, between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, Inc. hereinafter referred to as "Lessee", and California Aquaculture Association a California Nonprofit Corporation, hereinafter referred to as the "Association."

Lessee has entered into an agreement for the lease of State water bottoms for aquaculture situated in Tomales Bay, Marin County, State of California, more particularly described as Lease No. M-430-13.

This Escrow Agreement is subject to Lease No. M-430-13 and in accordance with Paragraph D thereof.

As a financial guarantee of growing structure or other lease improvement removal and/or cleanup expense in the event that the aforementioned aquaculture lease is abandoned or otherwise terminated, the parties agree as follows:

1. Lessee will deposit or cause to be deposited in escrow in cash or by certified check, funds totaling $181.00, which funds will consist of the following:

(a) $90.50 deposited upon entering upon the lease;
(b) $90.50 deposited upon the first anniversary of such inception date.

In the event that Lessee fails to deposit funds as required by Subparagraphs (a) or (b) herein, Lessor may terminate Lessee's aquaculture lease by giving sixty days notice to Lessee by registered or certified mail.

2. The Treasurer of the California Aquaculture Association shall act as Escrow Agent for Lessees who are association members in good standing and shall place the escrow deposits in an interest-bearing account in the Union Bank Branch, at Brawley, California, subject to disposition as hereinafter provided. Such deposits shall be retained in a separate

account designated "Tomales Bay Cleanup Fund" by Escrow Agent as trustee for Lessor, and shall designate the Association as the beneficial owners.

3. The Tomales Bay Lessees contributing to the "Tomales Bay Cleanup Fund" shall be responsible for paying all fees and expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Tomales Bay Lessees and Escrow Agent.

4. The interest earned on the trust account held in escrow and all interest earned on that interest shall be for the sole account of the Tomales Bay Lessees and may be withdrawn by the Escrow Agent at any time for distribution to Association members, who are Tomales Bay Lessees, without notice to Lessor.

5. Lessees shall make payments to the Escrow Agent on account of the Tomales Bay Cleanup Fund in the manner prescribed in paragraph 1(a) and (b) until the sum of five thousand dollars ($5,000.00) is reached. Thereafter, the Tomales Bay Cleanup Fund shall be maintained by the Lessees at Five Thousand Dollars ($5,000.00) as hereinafter provided, regardless of the number of lessees who continue in aquaculture operations in Tomales Bay.

6. When Lessees deposit funds into escrow, Escrow Agent shall notify Lessor in writing within ten days of receipt thereof.

7. Escrow Agent shall notify Lessor and Association in writing when two thousand five hundred dollars ($2,500.00) has been deposited to the escrow account and provide written verification from the bank of such deposit. Thereafter, on the anniversary date of such initial notification, Escrow Agent shall report and certify the balance of funds on deposit accompanied by the accounting records provided by the banking institution of deposit.

8. The Lessor may increase or decrease the security amount held in escrow upon cause shown therefor and sixty days notice to the Tomales Bay Lessees. Lessee's annual Proof of Use Report shall contain a reasonable estimate of the cost of removal of growing structures from each operation. Any increase required by the Lessor shall be deposited by the Lessees in the same proportion as provided in Paragraph 1; and any decrease shall be returned to the Lessees by the Escrow Agent in the same proportion provided in Paragraph 1.

9. Should Lessee transfer his interest under the lease with the approval of the California Fish and Game Commission, Escrow Agent shall transfer such escrow deposit to the successor in interest, and thereafter notify all parties hereto of such transfer. The successor in interest shall have all of the rights and obligations of Lessee with respect to such escrow deposit.

10. If, on termination of an aquaculture lease, Lessee removes all growing structures and improvements within sixty days, Lessee's escrow deposit shall be returned to Lessee by Escrow Agent no later than two weeks after receipt of written notice by Escrow Agent from Lessor authorizing such return.

11. If at any time during the lease term, any Lessee abandons a lease without removing growing structures and improvements, Lessor and/or Association shall do one of the following acts:

(a) The Association may undertake the cleanup, within sixty days of written notification from Lessor that said lease is abandoned, and Lessor shall not resort to the escrow security account.

(b) Lessor, after sixty days have elapsed, as defined in paragraph 11(a), may appropriate and apply any portion of the escrow security account as may be reasonably necessary to fund the cleanup;

(c) Lessor may elect to have growing structures and improvements remain in place and return Lessee's escrow deposit as provided in Paragraph 10.

12. Lessor shall have a right to draw upon the escrow account in the event of default by the Lessees. Upon seven days written notice to the Escrow Agent from the Lessor of the default, Escrow Agent must immediately distribute funds as instructed by Lessor.

13. Should Lessor actually resort to any monies contained within the escrow account under any of the above applicable provisions, Lessees agree to deposit to the escrow account, in the same proportion as provided in Paragraph 1, the amount for which resort to the escrow security was had and necessary to restore the escrow security to the original sum required hereunder in thirty days after written demand by Lessor, except upon disbursement on account of return of escrow security to any Lessee as provided in Paragraph 10.

Restoration of escrow security shall be postponed during any period that Lessor re-advertises for bid and subsequently re-awards any Tomales Bay aquaculture lease. Upon Lessor granting a lease to a successful bidder, the Lessee thereunder shall assume the obligations and rights of his predecessor Lessee, including, but not limited to, the deposit of funds as prescribed in Paragraph 1(a) and (b).

Lessor shall not award or re-award a lease until the notice of deposit required by Paragraph 6 is received.

14. Escrow Agent shall rely on the written notifications from the Lessor and the Association, and the Lessor and the Tomales Bay Lessees shall hold Escrow Agent and Association harmless when Escrow Agent releases and disburses funds and interest pursuant to such a written notification.

15. In the event that any legal action is pursued in relation to this Escrow Agreement, the parties hereby agree to pay their own attorney's fees and legal costs regardless of who prevails.

16. Any notice required to be given under this Escrow Agreement may be given by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed communicated as of mailing. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To the Lessor:	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, California 95814
To the Association:	CALIFORNIA AQUACULTURE ASSOCIATION P. O. Box 1004 Niland, California 92257
To the Escrow Agent:	THE TREASURER CALIFORNIA AQUACULTURE ASSOCIATION P. O. Box 1004 Niland, California 92257
To the Lessee:	MARTIN STRAIN POINT REYES OYSTER COMPANY, INC. P. O. Box 16 Tomales, California 94971

17. At the time this Escrow Agreement is executed by all parties, the Lessor shall deliver to the Escrow Agent a fully executed counterpart of this agreement.

In witness whereof, the parties have executed this Agreement by their proper officers on the date first set forth above.

LESSOR: _____

_____

ASSOCIATION: _____

_____

LESSEE: _____

_____

LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE, LEASE NO. M-430-17

This aquaculture lease made and entered into as of this 1st day of March, 1991, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Shellfish Unlimited, hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, Lessee is presently the holder of a valid license to cultivate marine life for profit in the waters of the State of California as provided in Fish and Game Code Section 15101, and

WHEREAS, Lessee has heretofore filed with Lessor a bid application for the exclusive privilege of cultivating oysters, mussels and clams in the hereinafter described waters of the State of California, and has accompanied said application with the required filing fee of one hundred dollars ($100.00), and

WHEREAS, Lessor has heretofore published notice of the hearing of said application, has been advised by the State Lands Commission of the State of California that the area applied for is available for leasing, and it has been determined by the Fish and Game Commission that it is in the best interest of the State of California that such lease be made, and

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That, in consideration of the payment of the monies hereinafter stated in accordance with the bid made by Lessee and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to law and in consideration of the covenants contained herein on the part of the Lessee, the Lessor does hereby lease the California state water bottom hereinafter described and does hereby grant to Lessee the exclusive privilege to cultivate oysters, mussels and clams thereon, and in those certain waters of the State of California described as follows, to wit:

> All that certain real property situated in the County of Marin, State of California as described as follows:
>
> In Tomales Bay, Marin County, State of California, starting from Bench Mark 8, located at approximately 38°12'38.7" North latitude, and 122°55'22" West longitude, on the Tomales Bay Quadrangle, Marin County, California, U.S. Dept. of the Interior, Geological Survey 7.5 minute series topographic map; thence North 83°31' West for a distance of 2,749.3 feet to the top of Preston Point Rock lying off the northwest tip of Preston Point, the true point of beginning; thence South 5°35'32" West 2,297.54 feet; thence North 50°27'48" West 2,230.2 feet along the northern boundary of Aquaculture Lease Nos. 430-10, 430-11, and 430-2; thence South 39°32'12" West 163.83 feet; thence South 64°32'36" West, 1190.76 feet; thence North 46°14'11" West, 855.30 feet; thence North

58°38'08" East, 3627.23 feet; thence South 6°56'04" East 648.54 feet; thence South 59°41'20" East 655.05 feet to the true point of beginning.

This area of water bottom, containing an area of 123.8± acres more or less, comprises Aquaculture Lease No. M-430-17 (Appendix 1).

This lease, in accordance with provisions of Fish and Game Code Section 15400, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating Pacific oyster (Crassostrea gigas), Sumino oyster (C. rivularis), Eastern oyster (C. virginica), flat oyster (Ostrea edulis), Native oyster (O. lurida), Manila clam (Tapes japonica), California sea mussel (Mytilus californianus), and bay mussel (M. edulis) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stocks must be certified before planting in compliance with Fish and Game Code Section 15201, and must be planted by Lessee in a manner and at a size approved by Lessor to assure that harvested animals are a product of the lease. A request for certification of planting stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

All shellfish cultivation methods on the lease shall be confined to long lines, rafts, stakes, racks and bags, rack and tray, floats, and on the bottom within the area approved by the Commission. No other mode of operation or culture method is authorized, unless Lessee shall first obtain approval from the Fish and Game Commission.

Notice of intent to plant shellfish on the lease shall be given to the Department of Fish and Game, Marine Resources Division, 411 Burgess Drive, Menlo Park, CA 94025. In addition to the required ten (10) day notice, at least a 24-hour notice shall be given to the Marine Unit Manager, Mr. Paul Reilly, telephone (415) 688-6362, giving details on where the shellfish seed can be inspected.

This lease is for a term of twenty-five (25) years commencing on the 1st day of March, 1991, and ending on February 29, 2016, for a total rental of four thousand three hundred and thirty-three dollars ($4,333.00) per year, and a privilege tax on all products harvested as provided by Fish and Game Code Section 8051 and 15406.7. Said annual rental will be payable to Lessor on a fiscal year basis, July 1 - June 30, and within thirty (30) days of the commencement of the lease, or after receipt of the consummated lease agreement. If said annual rental is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee

of his obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said rent to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein, are subject to the provisions of Fish and Game Code Section 15410, which provides that all leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

This lease is made upon the following terms, conditions and covenants, to wit:

A. This lease may, at the option of the Lessee, be renewed for additional periods not to exceed 25 years each. If Lessee desires to enter into a new lease for a period commencing after expiration of the initial 25-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section 15414, on forms to be supplied by Lessor, and shall maintain adequate accounting records sufficient to determine monies due to Lessor by the 10th day of each month, for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment, and all books at any time and records of Lessee pertaining to Lessee's cultivation on the leased premises.

C. In order to provide assurance to lessor that this aquaculture lease is utilized for the purpose stated in the lease application, the lease shall be improved at no less than the minimum rate established by Commission regulations (Appendix 2). This annual rate of planting for shellfish shall be:

Off-bottom culture: 619,000 single seed less than 1 year old (@ 5,000/acre) or 124 cases (@ 80 lbs shellstock/case) of seed-bearing shell.

The term of improvement for this lease shall be three years, with the minimum rate of planting for the entire acreage being reached by July 1, 1994. The minimum annual rate of planting for the entire acreage will be maintained thereafter until the end of the lease.

The minimum annual harvest requirement for the lease will be an average of 2,000 oysters, clams or other shellfish per acre, effective July 1, 1994.

A minimum rate of planting shall be negotiated for option periods. Lessor may declare this lease terminated if Lessee fails to meet these cultivation and harvesting requirements and if Lessee, at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. If, at any time subsequent to the beginning date of this lease, the use of cultural devices authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event a lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California", a sum in a proportion that the Lessee's individual acreage bears to the total acreage of specified leased parcels of State water bottoms in Tomales Bay, Marin County, California, until the sum of five thousand dollars ($5,000.00) is reached. This escrow deposit is established in compliance with Section 7 of the Fish and Game Commission Policy, Awarding of Tomales Bay Aquaculture Leases, adopted January 7, 1989)Appendix 3). Such money shall be deposited over a two-year period payable one-half upon entering upon the lease and one-half upon the first anniversary of such inception date. The escrow deposit shall be increased if the Fish and Game Commission determines that, if abandoned, any particular culture operation is likely to be more expensive to remove. The escrow deposit may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual proof of use report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal of each lease operation. The escrow agreement, escrow holder, and escrow depository shall be agreed upon by the Executive Secretary of the Fish and Game Commission, the Lessor and Tomales Bay Shellfish Growers Association.

It shall be the responsibility of the Lessee to maintain the specified security balance at the level established by the Commission, regardless of the number of lessees who continue in aquaculture operations within the bay.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures, or otherwise clean up the lease, or in the alternative, the remaining lessees in Tomales Bay and the Tomales Bay Shellfish Growers Association may undertake the clean-up leaving the secured amount whole.

In order to assure compliance with the escrow provisions of this lease, Lessee shall place in the agreed upon escrow account specified in the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California (Addendum 1)", hereby

attached to and made part of this agreement, a total of eight hundred ninety-nine dollars ($899.00), a sum (rounded to the nearest dollar amount) proportional to Lessee's total lease acreage of one hundred twenty-three and eight-tenths (123.8) acres, which bears to the total acreage of 688.9 acres of State water bottoms leased in Tomales Bay for aquaculture purposes. As certification that the first half of the specified deposit has been made, a total of four hundred forty-nine dollars and fifty cents ($449.50), must be received by Lessor prior to final approval of this lease agreement. Proof that the second half of the required security deposit ($449.50) has been made must be furnished to Lessor on or before February 29, 1992, or this lease shall be subject to termination.

E. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to, State Water Resources Control Board, State Coastal Commission, State Lands Commission, U.S. Coast Guard, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

F. Lessee recognizes and understands in accepting this lease, that his interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due to the Lessor hereunder, and any such tax shall be the liability of, and be paid by, Lessee.

G. Any modification of natural or existing features of the real property described in this lease, which is not consistent with the authorized uses under this lease, is expressly prohibited without prior written consent of the Lessor.

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, 411 Burgess Drive, Menlo Park, CA 94025, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram showing area, amounts, and dates planted. Such declaration shall be submitted on or before July 15, of each year for the previous year, July 1 - June 30, inclusive.

I. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Fish and Game Code Section 15101. Lessee agrees not to commit, suffer or permit any waste on said premises, or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term thereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

J. This lease of state water bottom only grants Lessee the exclusive right to cultivate and harvest the specified species of oysters and clams as described in Lessee's lease bid.

K. The lease shall be clearly marked with buoys or stakes to prevent interference with boating or fishing activities that may take place in the area. Minimum marking of the lease shall include: One (1) buoy or stake on each of the four corners of the lease. All buoys or stakes used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System regulations (33 CFR Section 62.33 and 66.01-10). Lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and stakes to be established on this lease. Each buoy or stake shall be set and maintained to extend at least three (3) feet above the surface of the water at mean higher high water. All buoys or stakes shall bear the Aquaculture Lease No. M-430-17.

If buoys or stakes used to mark this lease are lost, displaced or otherwise removed from the lease area, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to abandonment proceedings.

L. In compliance with Sections 1, 2, and 3 of the Policy, Awarding of Tomales Bay Aquaculture Leases, adopted by the Fish and Game Commission at its meeting on January 12, 1989 (Appendix 3), Lessee agrees to cooperate with the Lessor in the monitoring of the health of eel grass beds located on the lease and in conducting a study to gather baseline sedimentation data on eel grass beds lying within the lease boundary. Lessee further agrees to participate with the Lessor in the design, implementation, and operation of a study to collect baseline information on sedimentation occurring within the leasehold during the period July 1, 1990 and June 30, 1994, and the monitoring of wintering shorebirds during the period November 1 to February 28 each year, adequate to measure any population or use changes due to lease operations.

If any of the environmental monitoring programs discussed above indicate, or any other reliable information leads the Lessor to conclude that Lessee's aquaculture operation is directly associated with a significant adverse change in the Tomales Bay ecosystem, Lessor shall notify the Executive Secretary of the Fish and Game Commission and the Lessee of such findings. Upon receipt of notice, Lessee shall take all necessary steps to modify, relocate or discontinue the operation in accordance with the Lessor's advice, unless Lessee demonstrates that its aquaculture operations are not a substantial factor, directly or cumulatively, causing the adverse environmental change. Failure to promptly respond shall be grounds for termination of the lease.

M. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulations of the Fish and Game Commission, in particular Fish and Game Code Sections 15400-15415, inclusive, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation enacted in the future, the latter will control.

N. This lease is personal to the Lessee and shall not be transferred, assigned, hypothecated, or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

O. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within 60 days after notice in writing, shall cause this lease to thereupon cease and terminate.

P. The attached Nondiscrimination Clause (OCP-1) is hereby made a part of this agreement.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United State Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Lessee	Lisa Jang Shellfish Unlimited 966 Borden Villa Dr., #103 Santa Rosa, CA 95401

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

R. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents, and employees against any and all claims and demands of every kind and nature whatsoever, arising out of, or in anyway connected with the use by Lessee of said lease, or the exercise of the privilege herein granted.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: Robert R Treanor

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: Karen A. Meyers
Lessor

SHELLFISH UNLIMITED

By: Lisa Jang
Lessee

By Martin Strain

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND

NONDISCRIMINATION CLAUSE

(OCP - 1)

1. During the performance of this contract, contractor* and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations wit which they have a collective bargaining or other agreement.

2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perfor work under the contract.

* All references to "contractor" shall be deemed to be Lessee.

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
SHELLFISH UNLIMITED
ESCROW AGREEMENT FOR
CLEANUP OF AQUACULTURE LEASES
TOMALES BAY, CALIFORNIA

(Addendum 1)

This Escrow Agreement is being entered into as of the 1st day of March, 1991, between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Shellish Unlimited, hereinafter referred to as "Lessee", and Tomales Bay shellfish Growers Association, a California Nonprofit Corporation now forming, hereinafter referred to as the "Association."

Lessee has entered into an aquaculture lease this 1st day of March, 1991, for the lease of State water bottoms situated in Tomales Bay, Marin County, State of California, more particularly described as Lease No. M-430-17.

This Escrow Agreement is subject to Lease No. M-430-17 and in accordance with Paragraph D thereof.

As a financial guarantee of growing structure or other lease improvement removal and/or cleanup expense in the event that the aforementioned aquaculture lease is abandoned or otherwise terminated, the parties agree as follows:

1. Lessee will deposit or cause to be deposited in escrow in cash or by certified check, funds totaling $899.00, which funds will consist of the following:

(a) $449.50 deposited upon entering upon the lease;
(b) $449.50 deposited upon the first anniversary of such inception date.

In the event that Lessor fails to deposit funds as required by Subparagraphs (a) or (b) herein, Lessor may terminate Lessee's aquaculture lease by giving sixty days notice to Lessee by registered or certified mail.

2. Mr. F. Robert Studdert shall act as Escrow Agent and shall place the escrow deposits in an interest-bearing account in the West America Bank, North Gate Branch, at San Rafael, California, subject to disposition as hereinafter provided. Such deposits shall be retained in a separate account designated "Tomales Bay Cleanup Fund" by Escrow Agent as trustee for Lessor, and shall designate the Association as the beneficial owners.

3. The Association shall be responsible for paying all fees and expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Association and Escrow Agent.

4. The interest earned on the trust account held in escrow and all interest earned on that interest shall be for the sole account of the Association and may be withdrawn by the Association at any time for distribution to its members without notice to Lessor.

5. Lessees shall make payments to the Escrow Agent on account of the Tomales Bay Cleanup Fund in the manner prescribed in paragraph 1(a) and (b) until the sum of five thousand dollars ($5,000.00) is reached. Thereafter, the Tomales Bay Cleanup Fund shall be maintained by the Lessees at Five Thousand Dollars ($5,000.00) as hereinafter provided, regardless of the number of lessees who continue in aquaculture operations in Tomales Bay.

6. When Lessees deposit funds into escrow, Escrow Agent shall notify Lessor in writing within ten days of receipt thereof.

7. Escrow Agent shall notify Lessor and Association in writing when two thousand five hundred dollars ($2,500.00) has been deposited to the escrow account and provide written verification from the bank of such deposit. Thereafter, on the anniversary date of such initial notification, Escrow Agent shall report and certify the balance of funds on deposit accompanied by the accounting records provided by the banking institution of deposit.

8. The Lessor may increase or decrease the security amount held in escrow upon cause shown therefor and sixty days notice to the Association. Lessee's annual Proof of Use Report shall contain a reasonable estimate of the cost of removal of growing structures from each operation. Any increase required by the Lessor shall be deposited by the Lessees in the same proportion as provided in Paragraph 1; and any decrease shall be returned to the Lessees by the Escrow Agent in the same proportion provided in Paragraph 1.

9. Should Lessee transfer his interest under the lease with the approval of the California Fish and Game Commission, Escrow Agent shall transfer such escrow deposit to the successor in interest, and thereafter notify all parties hereto of such transfer. The successor in interest shall have all of the rights and obligations of Lessee with respect to such escrow deposit.

10. If, on termination of an aquaculture lease, Lessee removes all growing structures and improvements within sixty days, Lessee's escrow deposit shall be returned to Lessee by Escrow Agent no later than two weeks after receipt of written notice by Escrow Agent from Lessor authorizing such return.

11. If at any time during the lease term, any Lessee abandons a lease without removing growing structures and improvements, Lessor and/or Association shall do one of the following acts:

(a) The Association may undertake the cleanup, within sixty days, of the abandoned lease and Lessor shall not resort to the escrow security;

(b) Lessor shall appropriate and apply any portion of the escrow security as may be reasonably necessary to fund the cleanup;

To the Lessee: Lisa Jang
SHELLFISH UNLIMITED
966 Borden Villa Drive, #103
Santa Rosa, CA 95401

16. At the time this Escrow Agreement is executed by all parties, the Lessor shall deliver to the Escrow Agent a fully executed counterpart of this agreement.

In witness whereof, the parties have executed this Agreement by their proper officers on the date first set forth above.

LESSOR: Karyn A. Meyrele
Acting Asst. Director, Admin.

ASSOCIATION: _____

LESSEE: Lisa Jang
Martin Strain

AMENDMENT NO. 1
TO LEASE OF STATE WATER BOTTOMS
FOR AQUACULTURE LEASE NO. M-430-17

This amendment of aquaculture lease made and entered into as of the 1st day of March, 1991, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Shellfish Unlimited, hereinafter referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, the parties hereto did on March 1, 1991, enter into Lease Agreement No. M-430-17, for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, Lessee has applied to Lessor to amend the beginning date of said lease from March 1, 1990 to March 1, 1991, because the initial lease agreement was not consummated until that latter date.

NOW, THEREFORE, it is mutually agreed by and between the parties hereto that the Twenty-Five (25) year term of this lease is hereby amended to commence on the 1st day of March 1991, and end on February 28, 2016.

Except as herein amended, all other terms of said aquaculture lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to Indenture of Lease to be executed as of the day and year first above written.

APPROVED:
STATE OF CALIFORNIA
FISH AND GAME COMMISSION
By: Robert R Treanor

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
By: Karyn A. Meyerle

SHELLFISH UNLIMITED
By: Lisa Jang
By: Martin Stamp

AMENDMENT NO. 2
TO LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE
LEASE NO. M-430-17

This amendment of aquaculture lease made and entered into as of the 1st day of January 1993 by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, hereinafter referred to as "Lessee".

W I T N E S S E T H:

WHEREAS, on March 1, 1991, Lessor did enter into Lease Agreement No. M-430-17 with Shellfish Unlimited (a partnership comprised of Point Reyes Oyster Company and Bay Bottom Beds Company) for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, Lessee has heretofor informed Lessor that the partnership has been dissolved and the partners have requested that the water bottom acreage contained in said leasehold (123.8 acres) be divided equally between the two partners in two 61.9-acre parcels, and

WHEREAS, Lessor has requested at a duly called and noticed hearing of the Fish and Game Commission of the State of California, that the partition and redescription of said lease would be in the best interest of the State of California.

NOW, THEREFORE, THIS AMENDMENT WITNESSETH:

That, in accordance with a request for partition of said lease made by Lessor and accepted at a duly called and noticed hearing of the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby grant to Lessee the exclusive privilage to cultivate shellfish thereon, and in those certain tidelands of the State of California, described as follows:

All that certain real property situated in the County of Marin, State of California, described as follows:

In Tomales Bay, Marin County, State of California, starting from Bench Mark 8 located at approximately 38°12′38.7" North Latitude, 122°55′22" West Longitude on the Tomales Bay Quadrangle, Marin County, California, U.S. Dept. of the Interior Geological Survey 7.5 minute series topographic map; thence North 83°31′ West for a distance of 2,749.3 feet to the top of Preston Point Rock lying off the northeast end of

Preston Point; thence South 65°57′51" West 2,128.40 feet; thence South 50°27′48" East 807.00 feet to the true point of beginning; thence South 50°27′48" East 1,423.20 feet; thence South 39°32′12" West 351.00 feet; thence S 50°27′48" E 325.00 feet; thence N 82°23′05" E 1830.00 feet; thence N 14°30′07" E 912.32 feet; thence N 84°24′28" W 1,020.54 feet; thence S 14°30′07" W 386.43 feet; thence S 82°23′05" W 941.02 feet; thence N 5°35′32" E 750.00 feet; thence N 35°53′07" W 758.44 feet to a line which bears N 46°50′24" E from the true point of beginning′ thence S 46°50′24" W 1,028.82 feet to the true point of beginning.

This parcel of water bottoms, containing an area of 61.9± acres, more or less, comprises Aquaculture Lease No. M-430-17. (Appendices 1 & 2).

This lease, in accordance with provisions of Fish and Game Code Section 15400, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating Pacific oyster (Crassostrea gigas), Sumino oyster (C. rivularis), Eastern oyster (C. virginica), flat oyster (Ostrea edulis), Native oyster (O. lurida), Manila clam (Tapes japonica), California sea mussel (Mytilus californianus), and bay mussel (M. edulis) in the previously designated area.

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stocks must be certified before planting in compliance with Fish and Game Code Section 15201, and must be planted by Lessee in a manner and at a size approved by Lessor to assure that harvested animals are a product of the lease. A request for certification of planting stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

Shellfish cultivation methods approved for the lease shall be long lines, rafts, stakes, racks and bags, rack and tray, floats, and bottom culture within the area approved by the Commission. No other mode of operation or culture method is authorized, unless Lessee shall first obtain approval from the Fish and Game Commission.

The required ten (10) day notice of intent to plant shellfish on the lease shall be given to the Department of Fish and Game, Marine Resources Division, 1136 Duer Road, Sebastopol, CA 95473. In addition to the ten (10) day notice, the Marine Unit Manager, Mr. Thomas Moore, telephone (707) 823-9236, shall be given notice at least 24 hours prior to the date of planting, giving details on where the shellfish seed can be inspected.

This amended lease falls within the authorized term of the initial lease of twenty-five (25 years which commenced on the 1st day of March, 1991, and ends on February 29, 2016, for a total

rental of two thousand one hundred and sixty-six dollars and fifty cents ($2,166.50) per year, and a privilege tax on all products harvested as provided by Fish and Game Code sections 8051 and 15406.7. Said annual rental will be payable to Lessor on a fiscal year basis, July 1 - June 30, and within thirty (30) days of the commencement of the lease, or after receipt of the consummated lease agreement. If said annual rental is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of his obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said rent to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

Lessee expressly recognizes and acknowledges that any payments by Lessee as provided for herein, are subject to the provisions of Fish and Game Code Section 15410, which provides that all leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

This lease is made upon the following terms, conditions and covenants, to wit:

A. This lease may, at the option of the Lessee, be renewed for additional periods not to exceed 25 years each. If Lessee desires to enter into a new lease for a period commencing after expiration of the initial 25-year term, Lessee shall give notice to Lessor one (1) year prior to termination of the lease. The lease may be renewed if, during the notification period, terms for a new lease are agreed upon by Lessee and the Commission.

B. Lessee shall keep records as required in accordance with Fish and Game Code Section 15414, on forms to be supplied by Lessor, and shall maintain adequate accounting records sufficient to determine monies due to Lessor by the 10th day of each month, for all shellfish harvested during the preceding calendar month. Lessor reserves the right to inspect Lessee's premises, equipment, and all books at any time and records of Lessee pertaining to Lessee's cultivation on the leased premises.

C. In order to provide assurance to Lessor that this aquaculture lease is utilized for the purpose stated in the lease application, the lease shall be improved at no less than the minimum rate established by Commission regulations (Appendix 3). This annual rate of planting for shellfish shall be:

Off-bottom culture: 309,500 single seed less than 1 year old (@ 5,000/acre) or 61.9 cases (@ 80 lbs. shellstock/case) of seed-bearing shell.

The term of improvement for this lease shall be two years, with the minimum rate of planting for the entire acreage being reached by July 1, 1994. The minimum annual rate of planting for the entire acreage will be maintained thereafter until the end of the lease.

The minimum annual harvest requirement for the lease will be an average of 123,800 (@ 2,000/acre) oysters, clams or other shellfish, effective July 1, 1994.

A minimum rate of planting shall be negotiated for option periods. Lessor may declare this lease terminated if Lessee fails to meet these cultivation and harvesting requirements and if Lessee, at any time, is proven to be failing in good faith, to pursue the purpose of this lease.

D. If, at any time subsequent to the beginning date of this lease, the use of cultural devices authorized herein shall fall into a state of disrepair or otherwise become an environmental or aesthetic degradation, as determined by Lessor, then upon written notice by Lessor, Lessee shall have sixty (60) days to repair and correct conditions cited by Lessor. Failure to comply with written notice shall be grounds for termination of this lease and Lessee shall, at the option of Lessor, remove all improvements located on lands covered by this lease.

As a financial guarantee of growing structure removal and/or clean-up expense in the event a lease is abandoned or otherwise terminated, Lessee shall place on deposit, pursuant to the "Escrow Agreement For Clean-up of Aquaculture Leases, Tomales Bay, California", a sum in a proportion that the Lessee's individual acreage bears to the total acreage of specified leased parcels of State water bottoms in Tomales Bay, Marin County, California, until the sum of five thousand dollars ($5,000.00) is reached. This escrow deposit is established in compliance with Section 7 of the Fish and Game Commission Policy, Awarding of Tomales Bay Aquaculture Leases, adopted January 7, 1989 (Appendix 3). Such money shall be deposited over a two-year period payable one-half upon entering upon the lease, and one-half upon the first anniversary of such inception date. The escrow deposit shall be increased if the Fish and Game Commission determines that, if abandoned, any particular culture operation is likely to be more

expensive to remove. The escrow deposit may be reduced by the Commission upon demonstration that the probable cost of removal of all improvements would be less than the deposit previously required. In its annual proof of use report, the Lessor shall advise the Commission of its best estimate of the probable cost of removal for each lease operation. The escrow agreement, escrow holder, and escrow depository shall be agreed upon by the Executive Director of the Fish and Game Commission, the Lessor and Tomales Bay Shellfish Growers Association.

It shall be the responsibility of the Lessee to maintain the specified security balance at the level established by the Commission, regardless of the number of lessees who continue in aquaculture operations within the bay.

If Lessee abandons this lease without removing growing structures therefrom, the escrow deposit shall be expended to remove growing structures, or otherwise clean, or in the alternative, the remaining lessees in Tomales Bay and the Tomales Bay Shellfish Growers Association may undertake the clean-up leaving the secured amount whole.

In order to assure compliance with the escrow provisions of this lease, Lessee shall dedicate to the agreed upon escrow account specified in the "Escrow Agreement For Cleanup of Aquaculture Leases, Tomales Bay, California (Addendum 1)", hereby attached to and made part of this agreement, a total of four hundred forty-nine dollars and fifty cents ($449.50), a sum proportional to Lessee's total lease acreage of sixty-one and nine-tenths (61.9) acres. This amount equals one-half of the amount, eight hundred ninety-nine dollars ($899.00), deposited in the "Tomales Bay Escrow Account" by the former partnership (Shellfish Unlimited).

E. Lessee shall observe and comply with all rules and regulations now or hereinafter promulgated by any governmental agency having authority by law, including but not limited to, State Water Resources Control Board, State Coastal Commission, State Lands Commission, U.S. Coast Guard, and U.S. Army Corps of Engineers. Any other permits or licenses required by such agencies will be obtained by Lessee at his own sole cost and expense.

F. Lessee recognizes and understands in accepting this lease, that its interest therein may be subject to a possible possessory interest tax that the county may impose on such interest, and that such tax payment shall not reduce any rent or royalty due to the Lessor hereunder, and any such tax shall be the liability of, and be paid by, Lessee.

G. Any modification of natural or existing features of the real property described in this lease, which is not consistent with the authorized uses under this lease, is expressly prohibited without prior written consent of the Lessor.

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, 1136 Duer Road, Sebastopol, CA 95473, a written declaration under penalty of perjury,l showing the dqte and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram showing area, amounts, and dates planted. Such declaration shall be submitted on or before July 15, of each year for the previous year July 1 - June 30, inclusive.

I. This lease shall be canceled at any time Lessee fails to possess a valid aquaculture registration issued pursuant to Fish and Game Code Section 15101. Lessee agrees not to commit, suffer or permit any waste on said premises, or any act to be done thereon in violation of any laws or ordinances. This lease shall be subject to termination by Lessee at any time during the term thereof, by giving Lessor notice in writing at least ninety (90) days prior to the date when such termination shall become effective. In the event of such termination by Lessee, any unearned rental shall be forfeited to the Lessor.

J. This lease of State water bottom only grants Lessee the exclusive right to cultivate and harvest the specified species of oysters, mussels, and clams authorized in the original lease agreement.

K. The lease shall be clearly marked with buoys or stakes to prevent intereference with boating or fishing activities that may take place in the area. Minimum marking of the lease shall include: One (1) buoy or stake on each of the four corners of the lease. All buoys or stakes used to define the boundaries of the lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage System regulations (33 CFR sections 62.33 and 66.01-10). Lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and stakes to be established on this lease. Each buoy or stake shall be set and maintained to extend at least three (3) feet above the surface of the water at mean-higher high water. All buoys or stakes shall bear the Aquaculture Lease No. M-430-17.

If buoys or stakes used to mark this lease are lost, displaced or other wise removed the lease area, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to abandonment proceedings.

L. In compliance with sections 1, 2, and 3 of the Policy, Awarding of Tomales Bay Aquaculture Leases, adopted by the Fish and Game Commission at its meeting on January 12, 1989 (Appendix 3), Lessee agrees to cooperate with the Lessor in the monitoring of the health of eel grass beds located on the lease and in conducting a study to gather baseline sedimentation data on eel grass lying

within the lease boundary. Lessee further agrees to participate with the Lessor in the design, implementation, and operation of a study to collect baseline information on sedimentation occurring within the leasehold during the period July 1, 1990 and June 30, 1994, and the monitoring of wintering shorebirds during the period November 1 to February 28 each year, adequate to measure any population or use changes due to lease operations.

If any of the environmental monitoring programs discussed above indicate, or any other reliable information leads the Lessor to conclude that Lessee's aquaculture operation is directly associated with a significant adverse change in the Tomales Bay ecosystem, Lessor shall notify the Executive Director of the Fish and Game Commission and the Lessee, of such findings. Upon receipt of notice, Lessee shall take all necessary steps to modify, relocate or discontinue the operation in accordance with the Lessor's advice, unless Lessee demonstrates that its aquaculture operations are not a substantial factor, directly or cumulatively, causing the adverse environmental change. Failure to promptly respond shall be grounds for termination of the lease.

M. In addition to the conditions and restrictions herein provided for in this lease, and any right or privilege granted, conveyed or leased hereunder shall be subject to, and Lessee agrees to comply with all applicable provisions of the California Fish and Game Code, and regulations of the Fish and Game Commission, in particular Fish and Game Code sections 15400-15415, inclusive, and expressly recognizes the right of the Legislature and the Fish and Game Commission to enact new laws and regulations. In the event of any conflict between the provisions of this lease and any law or regulation enacted in the future, the latter will control.

N. This lease is personal to the Lessee and shall not be transferred, assigned, hypothecated, or subleased, either voluntarily or by operation of law, without prior approval of the Fish and Game Commission.

O. In the event of any breach by Lessee of any of the provisions hereof, other than the payment of any sum due from Lessee to Lessor hereunder, which breach is not remedied, abated and cured by Lessee within 60 days after notice in writing, shall cause this lease to thereupon cease and terminate.

P. The attached Nondiscrimination Clause (OCP-1) is hereby made a part of this agreement.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Lessee	MARTIN STRAIN Point Reyes Oyster Co. P. O. Box 16 Tomales, CA 94971

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

R. Lessee hereby indemnifies and holds harmless the Lessor, its officers, agents, and employees, against any and all claims and demands of every kind and nature whatsoever, arising out of, or in any way connected with the use by Lessee of said lease, or the exercise of the privilege herein granted.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By: Robert R Treanor

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: Dawn Castel
Lessor

POINT REYES OYSTER CO.

By: Martin Strain
Lessee

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
POINT REYES OYSTER COMPANY

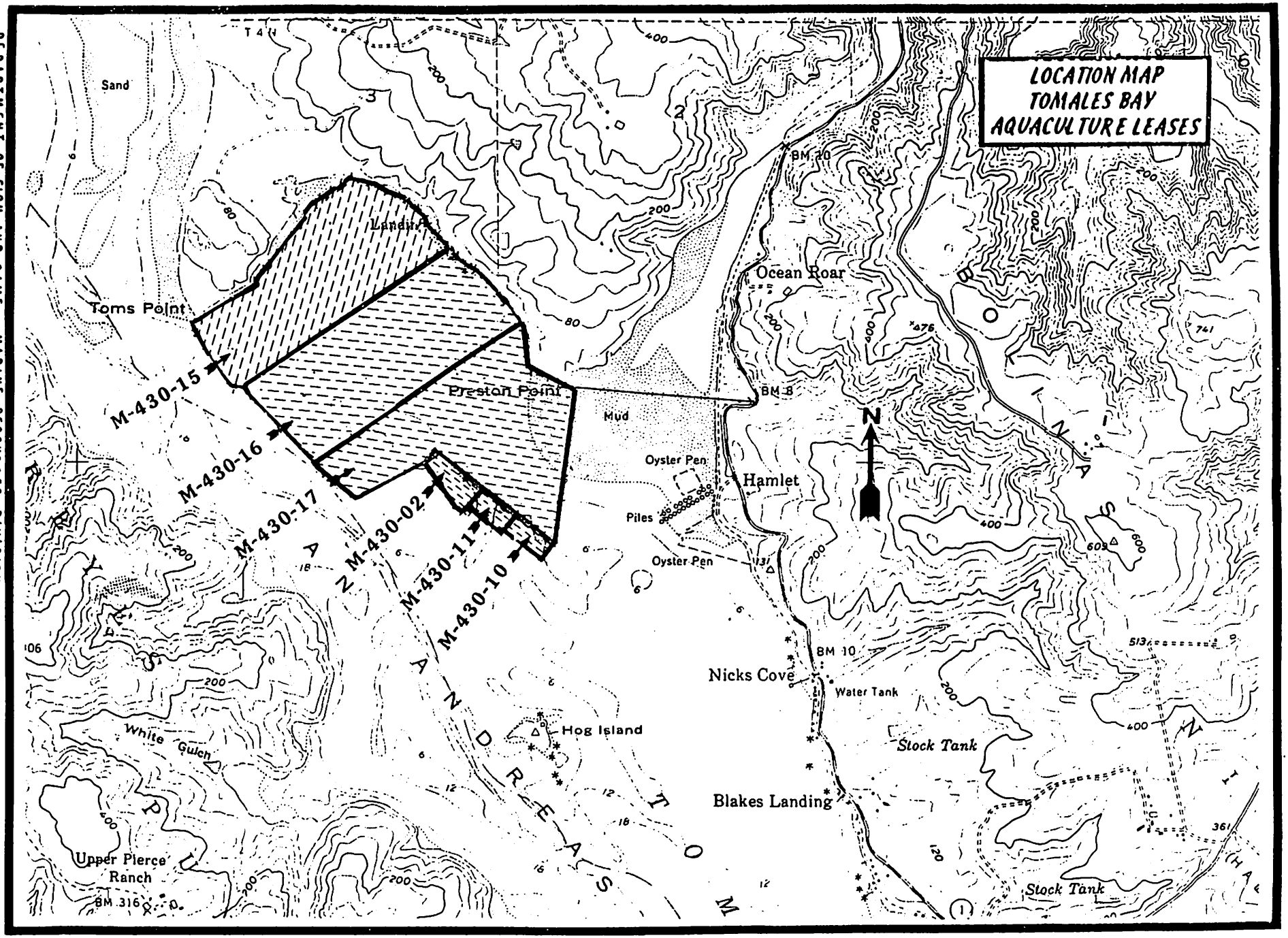
NONDISCRIMINATION CLAUSE

(OCP - 1)

1. During the performance of this contract, contractor* and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations wit which they have a collective bargaining or other agreement.

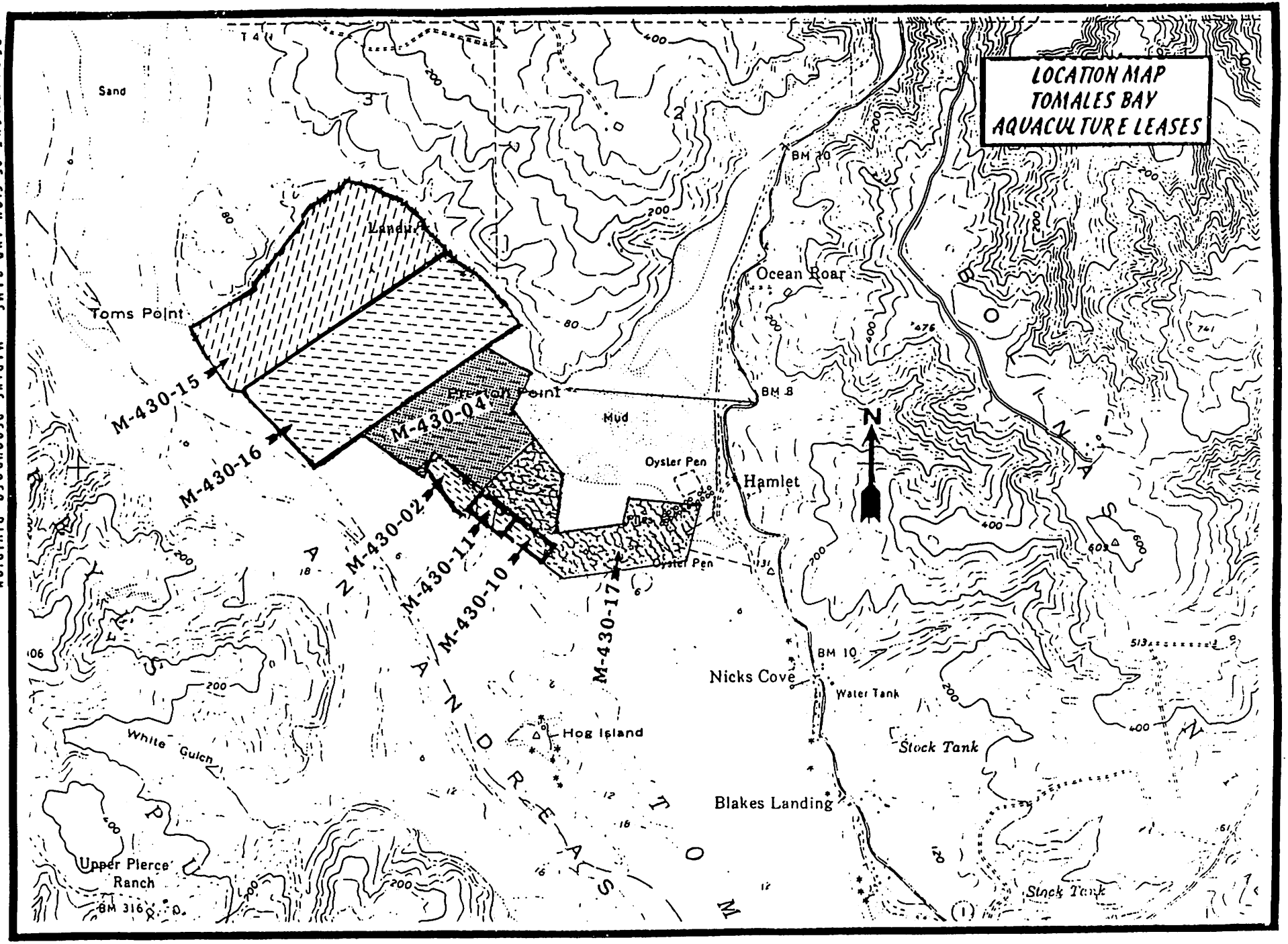
2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perfor work under the contract.

* All references to "contractor" shall be deemed to be Lessee.



DEPARTMENT OF FISH AND GAME MARINE RESOURCES DIVISION

Appendice 1



DEPARTMENT OF FISH AND GAME MARINE RESOURCES DIVISION

Appendice 2

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
~~SHELLFISH UNLIMITED~~ Point Reyes Oyster Company
ESCROW AGREEMENT FOR
CLEANUP OF AQUACULTURE LEASES
TOMALES BAY, CALIFORNIA

(Addendum 1)

This Escrow Agreement is being entered into as of the 1st day of March, 1991, between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and ~~Shellfish Unlimited~~ Point Reyes Oyster Company, hereinafter referred to as "Lessee", and Tomales Bay Shellfish Growers Association, a California Nonprofit Corporation now forming, hereinafter referred to as the "Association."

Lessee has entered into an aquaculture lease this 1st day of March, 1991, for the lease of State water bottoms situated in Tomales Bay, Marin County, State of California, more particularly described as Lease No. M-430-17.

This Escrow Agreement is subject to Lease No. M-430-17 and in accordance with Paragraph D thereof.

As a financial guarantee of growing structure or other lease improvement removal and/or cleanup expense in the event that the aforementioned aquaculture lease is abandoned or otherwise terminated, the parties agree as follows:

1. Lessee will deposit or cause to be deposited in escrow in cash or by certified check, funds totaling ~~$899.00~~ $449.50, which funds will consist of the following:

(a) ~~$449.50~~ $224.75 deposited upon entering upon the lease;
(b) ~~$449.50~~ $224.75 deposited upon the first anniversary of such inception date.

In the event that Lessor fails to deposit funds as required by Subparagraphs (a) or (b) herein, Lessor may terminate Lessee's aquaculture lease by giving sixty days notice to Lessee by registered or certified mail.

2. Mr. F. Robert Studdert shall act as Escrow Agent and shall place the escrow deposits in an interest-bearing account in the West America Bank, North Gate Branch, at San Rafael, California, subject to disposition as hereinafter provided. Such deposits shall be retained in a separate account designated "Tomales Bay Cleanup Fund" by Escrow Agent as trustee for Lessor, and shall designate the Association as the beneficial owners.

3. The Association shall be responsible for paying all fees and expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Association and Escrow Agent.

4. The interest earned on the trust account held in escrow and all interest earned on that interest shall be for the sole account of the Association and may be withdrawn by the Association at any time for distribution to its members without notice to Lessor.

5. Lessees shall make payments to the Escrow Agent on account of the Tomales Bay Cleanup Fund in the manner prescribed in paragraph 1(a) and (b) until the sum of five thousand dollars ($5,000.00) is reached. Thereafter, the Tomales Bay Cleanup Fund shall be maintained by the Lessees at Five Thousand Dollars ($5,000.00) as hereinafter provided, regardless of the number of lessees who continue in aquaculture operations in Tomales Bay.

6. When Lessees deposit funds into escrow, Escrow Agent shall notify Lessor in writing within ten days of receipt thereof.

7. Escrow Agent shall notify Lessor and Association in writing when two thousand five hundred dollars ($2,500.00) has been deposited to the escrow account and provide written verification from the bank of such deposit. Thereafter, on the anniversary date of such initial notification, Escrow Agent shall report and certify the balance of funds on deposit accompanied by the accounting records provided by the banking institution of deposit.

8. The Lessor may increase or decrease the security amount held in escrow upon cause shown therefor and sixty days notice to the Association. Lessee's annual Proof of Use Report shall contain a reasonable estimate of the cost of removal of growing structures from each operation. Any increase required by the Lessor shall be deposited by the Lessees in the same proportion as provided in Paragraph 1; and any decrease shall be returned to the Lessees by the Escrow Agent in the same proportion provided in Paragraph 1.

9. Should Lessee transfer his interest under the lease with the approval of the California Fish and Game Commission, Escrow Agent shall transfer such escrow deposit to the successor in interest, and thereafter notify all parties hereto of such transfer. The successor in interest shall have all of the rights and obligations of Lessee with respect to such escrow deposit.

10. If, on termination of an aquaculture lease, Lessee removes all growing structures and improvements within sixty days, Lessee's escrow deposit shall be returned to Lessee by Escrow Agent no later than two weeks after receipt of written notice by Escrow Agent from Lessor authorizing such return.

11. If at any time during the lease term, any Lessee abandons a lease without removing growing structures and improvements, Lessor and/or Association shall do one of the following acts:

(a) The Association may undertake the cleanup, within sixty days, of the abandoned lease and Lessor shall not resort to the escrow security;

(b) Lessor shall appropriate and apply any portion of the escrow security as may be reasonably necessary to fund the cleanup;

(c) Lessor may elect to have growing structures and improvements remain in place and return Lessee's escrow deposit as provided in Paragraph 10.

12. Lessor shall have a right to draw upon the escrow account in the event of default by the Lessees. Upon seven days written notice to the Escrow Agent from the Lessor of the default, Escrow Agent must immediately distribute funds as instructed by Lessor.

13. Should Lessor actually resort to any monies contained within the escrow account under any of the above applicable provisions, Lessees agree to deposit to the escrow account, in the same proportion as provided in Paragraph 1, the amount for which resort to the escrow security was had and necessary to restore the escrow security to the original sum required hereunder in thirty days after written demand by Lessor, except upon disbursement on account of return of escrow security to any Lessee as provided in Paragraph 10.

Restoration of escrow security shall be postponed during any period that Lessor re-advertises for bid and subsequently re-awards any Tomales Bay aquaculture lease. Upon Lessor granting a lease to a successful bidder, the Lessee thereunder shall assume the obligations and rights of his predecessor Lessee, including, but not limited to, the deposit of funds as prescribed in Paragraph 1(a) and (b).

Lessor shall not award or re-award a lease until the notice of deposit required by Paragraph 6 is received.

14. Escrow Agent shall rely on the written notifications from the Lessor and the Association, and the Lessor and the Association shall hold Escrow Agent harmless when Escrow Agent releases and disburses funds and interest pursuant to such a written notification.

15. Any notice required to be given under this Escrow Agreement may be given by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed communicated as of mailing. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To the Lessor:	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, CA 95814
To the Association:	TOMALES BAY SHELLFISH GROWERS ASSOCIATION P. O. Box 829 Marshall, CA 94940
To the Escrow Agent:	F. ROBERT STUDDERT 36 Professional Center Parkway San Rafael, CA 94903

To the Lessee:

PT. REYES OYSTER COMPANY
P. O. Box 16
Tomales, CA 94971

~~Lisa Jang~~
~~SHELLFISH UNLIMITED~~
~~966 Borden Villa Drive, #103~~
~~Santa Rosa, CA 95401~~

16. At the time this Escrow Agreement is executed by all parties, the Lessor shall deliver to the Escrow Agent a fully executed counterpart of this agreement.

In witness whereof, the parties have executed this Agreement by their proper officers on the date first set forth above.

LESSOR: Karyn A. Meyer

Acting Asst. Director, Admin.

ASSOCIATION: _____

LESSEE: ~~Lisa Jang~~
Martin Strain

INDIVIDUAL ACKNOWLEDGMENT

NO. 201

State of Calif.
County of Sonoma } SS.

On this the 4 day of February 1991, before me, Ronald A. Moody, the undersigned Notary Public, personally appeared Martin Strain,

☐ personally known to me
☑ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that he executed it.
WITNESS my hand and official seal.

Ronald A. Moody
Notary's Signature

OFFICIAL SEAL
RONALD A. MOODY
Notary Public-California
MARIN COUNTY
My Comm. Exp. Nov. 6, 1992

ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document Lease of State water M-430-17
Number of Pages 13 Date of Document Signed 2-4-91
Signer(s) Other Than Named Above _____

7100-010

© NATIONAL NOTARY ASSOCIATION • 8236 Remmet Ave. • P.O. Box 7184 • Canoga Park, CA 91306

AMENDMENT NO. 3
TO
INDENTURE OF LEASE

This amendment of Aquaculture Lease made and entered into as of the 1st day of April 1996, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, Inc., hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, on March 1, 1991, Lessor did enter into Lease Agreement No. M-430-17 with Shellfish Unlimited (a partnership comprised of Point Reyes Oyster Company and Bay Bottom Beds Incorporated) for the purpose of cultivating oysters, mussels and clams, and

WHEREAS, on December 4, 1992 The Fish and Game Commission approved dissolution of the partnership and decreed that said leasehold (123.8± acres) be divided equally between the two partners in two (2) 61.9-acre parcels and

WHEREAS, on February 5, 1993 the Fish and Game Commission of the State of California approved the reconfiguration and redescription of said 61.9 acre lease into two parcels of reduced size (said Lease M-430-17, 61.9± acres and Lease M-430-19, 61.9± acres), and

WHEREAS, The Fish and Game Commission at its meeting on October 7, 1994 adopted new administrative procedures to standardize annual proof-of-use reporting and the rental period for aquaculture leaseholds, and approved revision of the Escrow Agreement for Cleanup of Aquaculture Leases in Tomales Bay (Addendum 1), and determined that the amendment of this aquaculture agreement would be in the best interest of the State.

NOW THEREFORE, THIS AMENDMENT WITNESSETH:

That, in accordance with actions taken by the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section 15400, Lessor does hereby amend said lease for such consideration, specific purposes and subject to covenants, terms, conditions, reservations, restrictions and limitations as are set forth herein.

This amended lease falls within the authorized term of the initial lease, twenty-five (25) years, which commenced on the 1st day of March 1991, and ends on February 29, 2016, for a total rental of two thousand one hundred and sixty-six dollars and fifty cents ($2,166.50) per year, and a privilege tax on all products harvested as provided by Fish and Game Code sections 8051, 18406.5, and 15406.7. Beginning January 1, 1997, said annual rental fee will

be payable to Lessor on a calendar year basis, January 1 -- December 31. The next annual rental fee will be due July 1, 1996, and will cover the period July 1, 1996 to December 31, 1996 in the amount of one thousand eighty-three dollars and twenty five cents ($1,083.25). If said annual rental fee is not paid within sixty (60) days after the close of the month in which it is due, an additional 10 percent penalty shall be paid. Lessor, at its option, may declare the lease abandoned for failure to pay such rental fees within 90 days from the beginning of the rental period; although such abandonment shall not relieve Lessee of its obligation to pay such rental and penalty which are due and owing. Lessee agrees to pay Lessor reasonable attorney fees and costs incurred in collecting any amounts and/or penalties due and owing from Lessee under the provisions of this lease. Lessee agrees to pay said fee(s) to Lessor at its office in the City of Sacramento, State of California, or at such other place as Lessor may, from time to time, designate.

This lease is made upon the following additional terms, conditions, and covenants, to wit:

H. As evidence of progress in aquaculture, Lessee shall submit each year to the State at the Marine Resources Division office, P. O. Box 1560, Bodega Bay, California 94923, a written declaration under penalty of perjury, showing the date and amount of each type of aquaculture development and date and amount of designated species comprising each planting, including a diagram (map) showing area, amounts, and dates planted. Such annual proof-of-use shall be submitted on or before February 1 of each year for the previous year, January 1 -- December 31, inclusive.

Q. All notices herein provided to be given or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the Lessor	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, California 95814
To the Lessee	MARTIN STRAIN POINT REYES OYSTER COMPANY P. O. Box 16 Tomales, California 94971

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other, as hereinbefore provided.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written.

APPROVED:

FISH AND GAME COMMISSION

By:_____

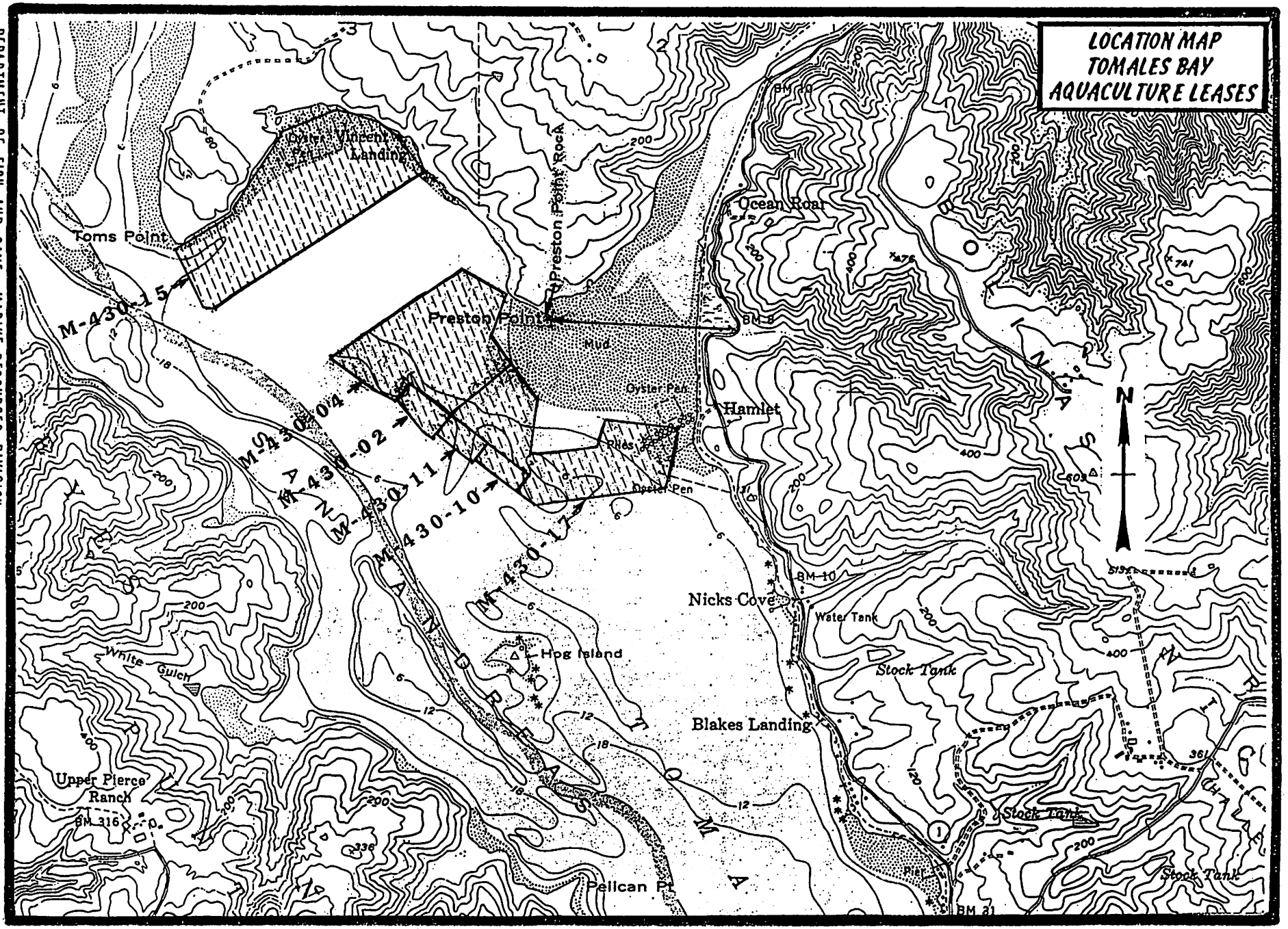
STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By:_____

POINT REYES OYSTER COMPANY, INC.

By:_____

By:_____



DEPARTMENT OF FISH AND GAME • MARINE RESOURCES DIVISION

ADDENDUM TO
AQUACULTURE LEASE
BETWEEN
DEPARTMENT OF FISH AND GAME, LESSOR
AND
POINT REYES OYSTER COMPANY
ESCROW AGREEMENT FOR
CLEANUP OF AQUACULTURE LEASES
TOMALES BAY, CALIFORNIA

(Addendum 1)

This Escrow Agreement is being entered into as of the 1st day of April 1996, between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, Inc. hereinafter referred to as "Lessee", and California Aquaculture Association a California Nonprofit Corporation, hereinafter referred to as the "Association."

Lessee has entered into an agreement for the lease of State water bottoms for aquaculture situated in Tomales Bay, Marin County, State of California, more particularly described as Lease No. M-430-17.

This Escrow Agreement is subject to Lease No. M-430-17 and in accordance with Paragraph D thereof.

As a financial guarantee of growing structure or other lease improvement removal and/or cleanup expense in the event that the aforementioned aquaculture lease is abandoned or otherwise terminated, the parties agree as follows:

1. Lessee will deposit or cause to be deposited in escrow in cash or by certified check, funds totaling $450.00, which funds will consist of the following:

(a) $225.00 deposited upon entering upon the lease;
(b) $225.00 deposited upon the first anniversary of such inception date.

In the event that Lessee fails to deposit funds as required by Subparagraphs (a) or (b) herein, Lessor may terminate Lessee's aquaculture lease by giving sixty days notice to Lessee by registered or certified mail.

2. The Treasurer of the California Aquaculture Association shall act as Escrow Agent for Lessees who are association members in good standing and shall place the escrow deposits in an interest-bearing account in the Union Bank Branch, at Brawley, California, subject to disposition as hereinafter provided. Such deposits shall be retained in a separate account designated "Tomales Bay Cleanup Fund" by Escrow Agent as trustee for Lessor, and shall designate the Association as the beneficial owners.

3. The Tomales Bay Lessees contributing to the "Tomales Bay Cleanup Fund" shall be responsible for paying all fees and expenses incurred by Escrow Agent in administering the escrow account. These expenses and payment terms shall be determined by the Tomales Bay Lessees and Escrow Agent.

4. The interest earned on the trust account held in escrow and all interest earned on that interest shall be for the sole account of the Tomales Bay Lessees and may be withdrawn by the Escrow Agent at any time for distribution to Association members, who are Tomales Bay Lessees, without notice to Lessor.

5. Lessees shall make payments to the Escrow Agent on account of the Tomales Bay Cleanup Fund in the manner prescribed in paragraph 1(a) and (b) until the sum of five thousand dollars ($5,000.00) is reached. Thereafter, the Tomales Bay Cleanup Fund shall be maintained by the Lessees at Five Thousand Dollars ($5,000.00) as hereinafter provided, regardless of the number of lessees who continue in aquaculture operations in Tomales Bay.

6. When Lessees deposit funds into escrow, Escrow Agent shall notify Lessor in writing within ten days of receipt thereof.

7. Escrow Agent shall notify Lessor and Association in writing when two thousand five hundred dollars ($2,500.00) has been deposited to the escrow account and provide written verification from the bank of such deposit. Thereafter, on the anniversary date of such initial notification, Escrow Agent shall report and certify the balance of funds on deposit accompanied by the accounting records provided by the banking institution of deposit.

8. The Lessor may increase or decrease the security amount held in escrow upon cause shown therefor and sixty days notice to the Tomales Bay Lessees. Lessee's annual Proof of Use Report shall contain a reasonable estimate of the cost of removal of growing structures from each operation. Any increase required by the Lessor shall be deposited by the Lessees in the same proportion as provided in Paragraph 1; and any decrease shall be returned to the Lessees by the Escrow Agent in the same proportion provided in Paragraph 1.

9. Should Lessee transfer his interest under the lease with the approval of the California Fish and Game Commission, Escrow Agent shall transfer such escrow deposit to the successor in interest, and thereafter notify all parties hereto of such transfer. The successor in interest shall have all of the rights and obligations of Lessee with respect to such escrow deposit.

10. If, on termination of an aquaculture lease, Lessee removes all growing structures and improvements within sixty days, Lessee's escrow deposit shall be returned to Lessee by Escrow Agent no later than two weeks after receipt of written notice by Escrow Agent from Lessor authorizing such return.

11. If at any time during the lease term, any Lessee abandons a lease without removing growing structures and improvements, Lessor and/or Association shall do one of the following acts:

(a) The Association may undertake the cleanup, within sixty days of written notification from Lessor that said lease is abandoned, and Lessor shall not resort to the escrow security account.

(b) Lessor, after sixty days have elapsed, as defined in paragraph 11(a), may appropriate and apply any portion of the escrow security account as may be reasonably necessary to fund the cleanup;

(c) Lessor may elect to have growing structures and improvements remain in place and return Lessee's escrow deposit as provided in Paragraph 10.

12. Lessor shall have a right to draw upon the escrow account in the event of default by the Lessees. Upon seven days written notice to the Escrow Agent from the Lessor of the default, Escrow Agent must immediately distribute funds as instructed by Lessor.

13. Should Lessor actually resort to any monies contained within the escrow account under any of the above applicable provisions, Lessees agree to deposit to the escrow account, in the same proportion as provided in Paragraph 1, the amount for which resort to the escrow security was had and necessary to restore the escrow security to the original sum required hereunder in thirty days after written demand by Lessor, except upon disbursement on account of return of escrow security to any Lessee as provided in Paragraph 10.

Restoration of escrow security shall be postponed during any period that Lessor re-advertises for bid and subsequently re-awards any Tomales Bay aquaculture lease. Upon Lessor granting a lease to a successful bidder, the Lessee thereunder shall assume the obligations and rights of his predecessor Lessee, including, but not limited to, the deposit of funds as prescribed in Paragraph 1(a) and (b).

Lessor shall not award or re-award a lease until the notice of deposit required by Paragraph 6 is received.

14. Escrow Agent shall rely on the written notifications from the Lessor and the Association, and the Lessor and the Tomales Bay Lessees shall hold Escrow Agent and Association harmless when Escrow Agent releases and disburses funds and interest pursuant to such a written notification.

15. In the event that any legal action is pursued in relation to this Escrow Agreement, the parties hereby agree to pay their own attorney's fees and legal costs regardless of who prevails.

16. Any notice required to be given under this Escrow Agreement may be given by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed communicated as of mailing. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To the Lessor:	DEPARTMENT OF FISH AND GAME 1416 Ninth Street Sacramento, California 95814
To the Association:	CALIFORNIA AQUACULTURE ASSOCIATION P. O. Box 1004 Niland, California 92257
To the Escrow Agent:	THE TREASURER CALIFORNIA AQUACULTURE ASSOCIATION P. O. Box 1004 Niland, California 92257
To the Lessee:	Martin Strain Point Reyes Oyster Company, Inc. P. O. Box 16 Tomales, California 94971

17. At the time this Escrow Agreement is executed by all parties, the Lessor shall deliver to the Escrow Agent a fully executed counterpart of this agreement.

In witness whereof, the parties have executed this Agreement by their proper officers on the date first set forth above.

LESSOR: _____

_____

ASSOCIATION: _____

_____

LESSEE: _____

_____

AMENDMENT NO. 4
TO
INDENTURE OF LEASE

This amendment of Aquaculture Lease is made and entered into as of the 15th day of June 2000, by and between the State of California, acting by and through its Department of Fish and Game, hereinafter referred to as "Lessor", and Point Reyes Oyster Company, Inc., hereinafter referred to as "Lessee".

WITNESSETH:

WHEREAS, on March 1, 1991, Lessor did enter into Lease Agreement No. M-430-17 with Shellfish Unlimited (a partnership comprised of Point Reyes Oyster Company and Bay Bottom Beds Incorporated) for the purpose of cultivating oysters, mussels, and clams, and

WHEREAS, on December 4, 1992 the Fish and Game Commission approved dissolution of the partnership and decreed that said leasehold (123.8 ± acres) be divided equally between the two partners in two (2) 61.9 ± acres parcels and

WHEREAS, on February 5, 1993 the Fish and Game Commission approved the reconfiguration and redescription of said acres into two parcels of reduced size (said Lease M-430-17, 61.9 ± acres and Lease M-430-19, 61.9 ± acres), and

WHEREAS, the Fish and Game Commission adopted new administrative procedures at its meeting on October 7, 1994 to standardize proof-of-use reporting and rental periods, and

WHEREAS, the Fish and Game Commission at its meeting on October 7, 1994 adopted new administrative procedures to standardize annual proof-of-use reporting and the rental period for aquaculture leaseholds, and approved revision of the Escrow Agreement for Cleanup of Aquaculture Leases in Tomales Bay (Addendum 1), and determined that the amendment of this aquaculture agreement would be in the best interest of the State, and

WHEREAS, Lessee has requested, at a duly called and noticed hearing of the Fish and Game Commission on June 15, 2000, an amendment to the lease agreement to allow the culturing of Manila clams in the ground under netting.

NOW, THEREFORE, in accordance with actions taken by the Fish and Game Commission of the State of California, pursuant to Fish and Game Code Section

15400, Lessor does hereby amend said lease for such consideration, specific purposes, and subject to the additional covenants, terms, conditions, reservations, restrictions, and limitations as are set forth herein, and does hereby grant to Lessee the authority to culture Manila clams in the ground under netting in those certain lands of the State of California, described as follows:

All that certain real property situated in the County of Marin, State of California, described as follows:

In Tomales Bay, Marin County, State of California, starting from Bench Mark 8 located at approximately 38°12'38.7" North latitude, 122°55'22" West Longitude on the Tomales Bay Quadrangle, Marin County, California, U.S. Dept. of the Interior Geological Survey 7.5 minute series topographical map; thence North 83°31' West for a distance of 2,749.3 feet to the top of Preston Point Rock lying off the northeast end of Preston Point; thence South 65°57'51" West 2,128.4 feet; thence South 50°27'48" East 807.0 feet to the true point of beginning; thence South 50°27'48" East 1,423.2 feet; thence South 39°32'12" West 351.0 feet; thence South 50°27'48" East 325.0 feet; thence North 82°23'05" East 1,830.0 feet; thence North 14°30'07" East 912.32 feet; thence North 84°24'28" West 1,020.54 feet; thence South14°30'07" West 386.43 feet; thence South 82°23'05" West 941.02 feet; thence North 5°35'32" East 750.0 feet; thence North 35°53'07" West 758.44 feet to a line which bears North 46°50'24" East from the true point of beginning; thence South 46°50'24" West 1,028.82 feet to the true point of beginning.

This parcel of water bottoms, containing an area of 61.9± acres, more or less, comprises Aquaculture Lease No. M-430-17

This lease, in accordance with provisions of Fish and Game Code Section 15400, as may from time to time be amended or changed by the State Legislature, is for the sole purpose of cultivating Pacific oyster (*Crassostrea gigas*), Suminoe oyster (*C. arakensis*), Eastern oyster (*C. virginica*), European flat oyster (*Ostrea edulis*), Native oyster (*O. lurida*), Manila clam (*Tapes japonica*), California sea mussel (*Mytilus californianus*), and bay mussel, (*M. edulis*)

The cultivation of additional species of aquatic plants and animals requires the approval of the Fish and Game Commission. Seed stocks must be certified before planting in compliance with Fish and Game Code Section 15201, and must be planted by Lessee in a manner and at a size approved by Lessor to assure that harvested animals are a product of the lease. A request for certification of planting stock will be submitted by Lessee to the Lessor at least ten (10) days prior to the proposed date of inspection.

Shellfish cultivation methods approved for the lease shall be confined to long lines, raft, stakes, racks and bags, rack and tray, floats, on the bottom, or bottom culture with net cover within the area approved by the Commission. No other mode of operation or culture method is authorized, unless Lessee shall first obtain approval from the Fish and Game Commission.

This lease is made upon the following additional terms, conditions, and covenants, to wit:

S. Net cover shall be restricted to the culture of the Manila clam. Netting mesh size shall be at least one-half inch. Net material shall be removed and disposed of on land when no longer servicable.

Except as herein amended, all other terms of said lease agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have caused this amendment to said aquaculture lease to be executed as of the day and year first above written

APPROVED:

FISH AND GAME COMMISSION

By: Robert R. Treanor
Robert R. Treanor, Executive Director

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME

By: Brenda K. Duncan for
Lessor

Michael F. Harris,
Deputy Director, Administration

POINT REYES OYSTER COMPANY, INC.

By: Marion Stamps, Pres.
Lessee

POINT REYES OYSTER COMPANY, INC.
INCORPORATED
SEAL
DECEMBER 21, 1993
CALIFORNIA CORPORATION NO. 1879776

Point Reyes Oyster Company, Inc.
P.O. Box 16
Tomales, CA 94971
(707) 765-6010

January 31, 2015

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 FEB -5 PM 3:06
MLS

Zonke Mastrup,
Executive Director
California Fish and Wildlife Commission
1416 Ninth Street
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Renewal of Aquaculture Leases M430-13 & M430-17, Tomales Bay, Marin County

Dear Mr. Mastrup:

The initial 25-year term of aquaculture leases M430-13 and M430-17 , located on Tomales Bay, Marin County, California, expires on February 29, 2016. These leases have been in continuous aquaculture use since operations commenced in 1991. We would like to exercise our option to renew these leases. We can be reached at the above referenced address for discussions of terms. Thank you for your consideration.

Sincerely,

Martin Strain, President
Point Reyes Oyster Company, Inc.

Cc: Kirsten L. Ramey, Marine Region Aquaculture Coordinator

Point Reyes Oyster Company, Inc.
P.O. Box 16
Tomales, CA 94971

November 17, 2014

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2014 NOV 24 PM 2:03
MLS

Sonke Mastrup
Executive Director
Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Amendment to leases M430-13, M430-14 and M430-17 for the use of various algal species.

Dear Mr. Mastrup:

We would like to have our lease agreements amended to allow for the sale of the following types of algae commonly found on and amongst our cultured shellfish and associated culture equipment:

Genus:

Ulva sp.

Porphyra sp.

Prionisis sp.

Gracilariopsis sp.

Macrocystis sp.

Nereocystis sp.

In the course of sorting our shellfish we currently throw away piles of these types of algae. We got to thinking that perhaps some of our customers would like to purchase them as a rich source of vitamins and minerals. Therefore we are

approaching you to see if we can make use of these algal types that are currently going to waste.

Andrew E. Weltz, Environmental Scientist, Dept. of Fish and Wildlife initially identified the algal types. Jackie Sones, Research Scientist, Bodega Marine Laboratory confirmed the geno types. She added that speciation of these geno types is difficult and for our purposes not relevant.

Kirsten Ramey suggested that we contact you to begin the process of amending our leases in Tomales Bay to allow us to remove algae from our shellfish and gear with the express purpose of selling it. Our leases are M430-13, M430-14 and M430-17 in Tomales Bay, Marin County, California.

Thank you for the consideration.

Sincerely,

Martin Strain, President

Point Reyes Oyster Company, Inc.