

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF

**:DEPT OF AGRICULTURE/
BUREAU OF AQUACULTURE**

**FAIRHAVEN
CLAM AND LOBSTER CO., LLC**

: JULY 7, 2004

FINAL DECISION

I have reviewed the June 18, 2004 *Proposed Final Decision*. I affirm that *Decision* and accept the recommendations of the hearing officer. I *deny* the request of the Department of Agriculture/Bureau of Aquaculture (DA/BA) to revoke the licenses of the respondent Fairhaven Clam and Lobster Co., LLC and place conditions on the renewal of those licenses.

In addition to confirming the finding of the hearing officer that the DA/BA did not present sufficient evidence to support its proposed conditions for the renewal of the respondent's licenses, I note that it is not apparent that the DA/BA has the authority to put conditions on a renewed license. Section 26-192c of the General Statutes provides that the Department may revoke, suspend, amend or refuse to issue shellfishing licenses; there is no express authority for the unilateral placement of conditions on the renewal of a license.

The respondent is strongly cautioned and advised that it is obliged under the provisions of its licenses to conduct its shellfishing operations within the boundaries of its assigned lots. In addition, shellfishing licenses remain in the jurisdiction and control of the DA/BA, which has the authority and responsibility to administer the state's shellfish sanitation program to assure safe shellfishing to protect the public health. §26-192a.

7/7/04
Date

/s/ Bruce A. Sherman
Bruce A. Sherman, DVM, MPH