



JOSH STEIN

D. REID WILSON

KATHY B. RAWLS

SHELLFISH CULTIVATION LEASE THIRD PARTY APPEALS DETERMINATION REQUEST FORM

PETITIONER'S NAME:

COUNTY AND GENERAL LOCATION OF THE SHELLFISH
LEASE(S) (i.e., WATERBODY):

PROPOSED SHELLFISH LEASE NUMBER(S) AND APPLICANT
NAME:

*Please complete the blanks above to make clear the shellfish lease(s)
you are challenging.*

PLEASE TAKE NOTE that the undersigned Petitioner, a person other than the applicant who is aggrieved by the decision of the Secretary of the Department of Environmental Quality (DEQ) and delegated to the Division of Marine Fisheries' (DMF) Director, to grant a shellfish lease, hereby requests permission from the Marine Fisheries Commission's (MFC) Shellfish Cultivation Lease Review Committee (SCLRC) to file an appeal to determine the appropriateness of a contested case hearing pursuant to N.C.G.S. § 113202(g). Requests are reviewed and a determination is made by the SCLRC whether a contested case hearing is appropriate. If the SCLRC determines that a contested case hearing is appropriate, the Petitioner must file a contested case petition with the Office of Administrative Hearings within thirty (30) days of receiving notice of the SCLRC's determination. A determination by the SCLRC that the Petitioner may not commence a contested case is a final agency

decision which may be appealed to Superior Court as a Petition for Judicial Review under N.C.G.S. § 113-202(g) and Chapter 150B in accordance with N.C.G.S. § 113-202(g).

For this application to be complete, the Petitioner must address each of the three factors from N.C.G.S. § 113-202(g) listed below. The SCLRC's decision to grant a hearing will be based on whether the Petitioner: *(Please answer these questions on a separate page or e-document and submit with this form).*

- (1) Has alleged that the decision is contrary to a statute or rule;**
(Please cite the relevant statute or regulation allegedly violated by the shellfish lease decision.)
- (2) Is directly affected by the decision; and** *(Please describe how you are directly affected by the shellfish lease decision. Persons directly affected by a decision may include persons who can demonstrate a history of substantial use of public resources in the area directly affected by the shellfish lease.)*
- (3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.** *(Please summarize the evidence and arguments you would present at a hearing in support of your appeal explaining why the shellfish lease was improperly approved.)*

The MFC notes that there are some opinions of the State Bar which indicate that non-attorneys or attorneys not licensed to practice law in the state may not represent other people or corporate bodies at quasi-judicial proceedings such as this Third Party Hearing Request before the Review Committee. These opinions note that the practice of non-lawyers representing others in quasi-judicial proceedings through written argument may be considered the practice of law. Before you proceed with this hearing request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

DELIVERY OF THIS HEARING REQUEST

The law requires that this request must be **received** by (not postmarked by) the SCLRC, in care of the DMF, within thirty (30) days of the date of the disputed shellfish lease decision in accordance with N.C.G.S. § 113-202(g). Failure to do so constitutes waiver of the right to request a hearing. Please also provide a courtesy copy of this request to NC Department of Justice (DOJ).

Contact Information for DMF Office:
for DOJ:

By U.S. Mail:

NC Division of Marine Fisheries
Division
MFC Office
PO Box 769
Morehead City, NC 28557
9001

Contact Information

By U.S. Mail:

Environmental

MFC Counsel
9001 Mail Service Center
Raleigh, NC 27699-

**By express mail or hand delivery:
or hand delivery:**

NC Division of Marine Fisheries
Division
MFC Office
3441 Arendell Street
Morehead City, NC 28557
27603

By express mail

Environmental

MFC Counsel
114 W. Edenton Street
Raleigh, NC

By Email:

MFC@deq.nc.gov

szambon@ncdoj.gov

Based on the attached responses to the above factors, the undersigned hereby requests a third party appeal determination.



Signature of Petitioner or Attorney

APR 25/25

Date

THOMAS PERALTO

tom.peralto@yahoo.com

Printed Name of Petitioner or Attorney
Petitioner or Attorney

Email address of

(617) 620-8029

Mailing Address of Petitioner or Attorney
number of Petitioner or Attorney

Telephone

CEDAR ISLAND NC 28520

City

State

Zip

PO. Box 769
3441 Arendell St.
Morehead City, N.C. 28557



Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Thomas Peralto <tom.peralto@yahoo.com>
Sent: Wednesday, April 23, 2025 9:10 AM
To: Bissette, Jesse <jesse.bissette@deq.nc.gov>; Smith, Tricia <tricia.smith@deq.nc.gov>
Subject: Re: [External] Re: Confirmation of Video Receipt & Public Hearing Process

You don't often get email from tom.peralto@yahoo.com. [Learn why this is important](#)

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Patricia Smith:

Please see below I was advised to contact Jesse within 30 days to request a contesting hearing; I wanted to make sure it is received and I get some advisement on the process.

Thank-you in advance,

Tom Peralto
(617) 620-8029

On Wednesday, April 23, 2025 at 09:03:19 AM EDT, Thomas Peralto <tom.peralto@yahoo.com> wrote:

Jesse Bissette,

See below;

I want submit a request for a contesting case hearing in appeal of Ralph W. Brittingham Jr proposed oyster lease ID -0024-008WC:

I needed to know if there was a format or form required to submit the request reviewing the N.C.G.S. 113-202(g) we meet all requirement:

1) contrary to statutes :
G.s.

113-202 the lease area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the lease holder.

14-399. Littering. (a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon

any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except: (1) When such property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or (2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such

private or public property or waters.
(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense. This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.

2) Directly affects me and my family:

- The duck lease that has been in place for 10 years between Dallas Goodwin and myself will not be renewed and will have a financial impact on me and my families income. In the investigation report and comments and videos I submitted the lease encroaches on the established duck blinds which have permanent peirs in place along the shoreline.
- The lease is located 29 feet off our shoreline and in visible range from my front porch and bedroom windows; the harsh South west winds will cause debris to be a constant problem and littering as stated in statute will be violated. This will create another financial hardship on me and my family. I presented videos of the local weather conditions in the lease area as part of my objections.
- The lease is located 29 feet off my shoreline and the required setback for a developed shoreline is 250 feet. I can see the lease area from my porch and bedroom windows and plan of building more houses even closer to the lease. I was informed that if a house in proximity of the lease it is considered developed?

Please advise of the forms, templates or instruction on how to file a for an appeal?

Thank-you for your time;

Regards,

Tom Peralto

(617) 620-8029

----- Forwarded Message -----

From: Harrison, Zach H <zach.harrison@deq.nc.gov>

To: tom.peralto@yahoo.com <tom.peralto@yahoo.com>; Melkonian, Mitch
<mitch.melkonian@deq.nc.gov>

Cc: Silva, Casey <casey.silva@deq.nc.gov>; Chuffo, Marla <marla.chuffo@deq.nc.gov>;
SVC_DEQ.DMF.Leasing.Shellfish <dmf.leaseshellfish@deq.nc.gov>

Sent: Thursday, April 17, 2025 at 04:28:25 PM EDT

Subject: Re: [External] Re: Confirmation of Video Receipt & Public Hearing Process

Tom,

The process is outlined in N.C.G.S. 113-202(g), and states:

"A person other than the applicant who is aggrieved by the Secretary's decision may file a petition for a contested case hearing only if the Shellfish Cultivation Lease Review Committee established pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made."

To file a request for determination of the appropriateness of a contested case hearing, a written request must be submitted to Jesse Bissette, the Marine Fisheries Commission Liaison, within 30 days of the decision to approve the shellfish lease, which was April 15, 2025. Requests can be sent to jesse.bissette@deq.nc.gov or to

MFC Office

Division of Marine Fisheries

3441 Arendell Street

Morehead City, NC 28557

Thanks,

Zach

Zach Harrison (he/him)