

2019 No. ****

SEA FISHERIES, ENGLAND

SHELLFISH

The Tollesbury and Mersea (Blackwater) Fishery Order 2019

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - - - 14th July 2019

The Tollesbury and Mersea Native Oyster Fishery Company Limited (“the applicant”) has made an application to the Secretary of State, in accordance with section 1(2) of the Sea Fisheries (Shellfish) Act 1967 (“the Act”)(a), for an order conferring a right of several fishery under section 1 of the Act.

The Secretary of State(b) has prepared a draft order and served a copy of it on the applicant in accordance with paragraph 1 of Schedule 1 to the Act(c).

The applicant has caused printed copies of the draft order to be published and circulated, and has given notice of the application, in accordance with paragraph 2 of that Schedule.

[The Secretary of State has considered representations received, in accordance with paragraphs 3, 4 and 6 of that Schedule, and considers that it is expedient to make the Order.]

The Secretary of State has had regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961(d), in accordance with paragraph 6(2) of that Schedule.

The Secretary of State makes this Order in exercise of the powers conferred by section 1 of the Act.

(a) 1967 c. 83; in relation to England and Wales, section 1 was amended by paragraph 15 of Schedule 2 to the Fishery Limits Act 1976 (c. 86), section 202(1) and (2) of the Marine and Coastal Access Act 2009 (c. 23) (“the 2009 Act”) and S.I. 1999/1820. Subsection (1A) was inserted by S.I. 1999/1820 and subsection (4) was repealed, in relation to England and Wales, by section 202(3) of the 2009 Act. Subsection (6) was substituted by section 203 of the 2009 Act.

(b) See section 22(1) for the definition of “the appropriate Minister” for the purposes of section 1 (which is to be read as a reference to the Secretary of State by virtue of article 2 of S.I. 2002/794).

(c) Schedule 1 was amended, in relation to England and Wales, by Part 5 of Schedule 22 to the Fishery Limits Act 1976 and sections 202(4) and 214 of the 2009 Act, and by S.I. 2017/524.

(d) 1961 c. 55.

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Tollesbury and Mersea (Blackwater) Fishery Order 2019 and comes into force on 14th July 2019.

(2) It extends to England and Wales.

(3) In this Order—

“the fishery” means the area of the Blackwater River in the county of Essex described in the Schedule;

“the Grantee” means the Tollesbury and Mersea Native Oyster Fishery Company Limited, whose company number is 00011066 and whose registered office is 15 High Street, West Mersea, Colchester, Essex, CO5 8QA;

“the management plan” means the plan marked “Tollesbury and Mersea (Blackwater) Fishery Order 2019 management plan” and deposited with the Secretary of State for Environment, Food and Rural Affairs, as updated from time to time in accordance with article 6.

Right of several fishery

2. The Secretary of State confers on the Grantee the right of several fishery for—

- (a) clams of the species *Mercenaria mercenaria*,
- (b) mussels of the species *Mytilus edulis*, and
- (c) oysters of the species *Crassostrea gigas* and *Ostrea edulis*,

within the limits of the fishery for a period of 20 years beginning with 14th July 2019.

Marking out the limits of the fishery

3. The Grantee must mark out the limits of the fishery and maintain those marks in position and in good repair.

Management of the fishery

4. The Grantee must manage the fishery in accordance with the management plan.

Publication of the management plan and updates to it

5. The Grantee must—

- (a) publish the management plan on its website^(a), and
- (b) make that plan available for inspection at its registered office.

Review and update of the management plan

6.—(1) The Grantee must review and, if necessary, update the management plan—

- (a) for the first time, by 14th July 2020, and
- (b) at least once a year thereafter.

(2) The Grantee must, at least 4 weeks before making any update to the management plan—

- (a) notify the interested parties in writing of the proposed updates, and
- (b) publish the proposed updates.

(3) The Grantee must, before making any update to the management plan, take account of any written representations it receives.

(a) <http://merseanativeoysters.co.uk/>.

(4) In paragraph (2)(a), “the interested parties” means—

- (a) the Secretary of State,
- (b) Natural England, and
- (c) any person likely to be affected by the management plan as updated.

Name
Minister of State

Date Department for Environment, Food and Rural Affairs

SCHEDULE

Article 1(3)

Area of the fishery

1.—(1) The area is identifiable by virtue of the boundary line plotted by sequentially joining each of the points having the co-ordinates of latitude and longitude according to the World Geodetic System 1984(a) (“a set of co-ordinates”) specified in columns 2 and 3 of the table which correspond to the relevant entry in column 1.

(2) For the purpose of identifying the fishery, all lines between a point identified by a set of co-ordinates are straight, other than in respect of the lines between a set of co-ordinates identified as—

- (a) C and D,
- (b) E and F,
- (c) G and H,
- (d) I and J,
- (e) K and L,
- (f) M and A,

where the line is the contour of the lowest astronomical tide.

(3) In sub-paragraph (2), “lowest astronomical tide” means the lowest tide level which can be predicted to occur under average meteorological conditions and under any combination of astronomical conditions.

Table

<i>(1)</i> <i>Point number</i>	<i>(2)</i> <i>Latitude</i>	<i>(3)</i> <i>Longitude</i>
A	51° 46.242' N	000° 55.668' E
B	51° 46.188' N	000° 55.674' E
C	51° 44.958' N	000° 55.664' E
D	51° 44.556' N	000° 53.368' E
E	51° 44.550' N	000° 53.237' E
F	51° 43.452' N	000° 51.170' E
G	51° 43.440' N	000° 51.061' E
H	51° 43.350' N	000° 50.534' E
I	51° 43.806' N	000° 50.354' E

(a) The World Geodetic System 1984 (“WGS 84”) defines a reference frame for the earth, for use in geodesy and navigation. It was developed by the United States’ National Geospatial-Intelligence Agency and is maintained by it. WGS 84 is defined at paragraph 2.1 of the United States’ National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” (<http://earth-info.nga.mil/GandG/publications/tr8350.2/wgs84fin.pdf>).

J	51° 45.852' N	000° 53.870' E
K	51° 45.966' N	000° 53.904' E
L	51° 46.146' N	000° 53.587' E
M	51° 46.212' N	000° 53.801' E

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants the Tollesbury and Mersea Native Oyster Fishery Company Limited (“the Grantee”) a right of several fishery. This is the exclusive right to deposit, propagate, dredge, fish for and take clams, mussels and oysters in the River Blackwater for the period of 20 years beginning with 14th July 2019.

The area in respect of which the right is conferred lies within the Blackwater River in the county of Essex, the boundary line of which is determined by joining each of the sequential sets of co-ordinates set out in the Schedule. The area is shown (for illustrative purposes only) delineated on the map below. The area comprises approximately 10.93 square kilometres.

Article 4 requires the Grantee to manage the fishery in accordance with the management plan as defined in article 1(3). Article 6 provides for the periodic review of the management plan.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

