

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Bottom culture of oysters
Damariscotta River, Damariscotta and Newcastle

Dodge Cove Marine Farm, LLC
DAM HI2

June 23, 2022

**AQUACULTURE LEASE RENEWAL
FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION**

Dodge Cove Marine Farm applied to the Department of Marine Resources to renew the aquaculture lease DAM HI2 for a period of 20 years to May 15, 2042. The 6.95-acre lease is located in the coastal waters of the State of Maine, south of Hog Island in the Damariscotta River in the Towns of Damariscotta and Newcastle in Lincoln County, for the purpose of cultivating American oysters (*Crassostrea virginica*) and European oysters (*Ostrea edulis*) using bottom culture techniques. This lease was initially issued on May 16, 2002 to Dodge Cove Marine Farm, Inc. On July 30, 2008, the lease was transferred to Dodge Cove Marine Farm, LLC under the same terms and conditions as the original lease. On September 19, 2013, this lease was renewed for a period of ten years, to May 15, 2022 under the same terms and conditions as the original lease. DMR accepted this current renewal application as complete on March 4, 2022.

1. PROCEDURE

Notice of the completed renewal application and the 30-day public comment period and opportunity to request a public hearing was published in the Lincoln County News. On March 21, 2022, notice was also provided to the municipalities of Damariscotta and Newcastle, riparian landowners within 1,000 feet of the site, and other state agencies, and sent to subscribers of DMR's aquaculture email list-serve. There were two comments received, one from the Maine Department of Inland Fisheries & Wildlife (IF&W) and the other from Bernard DeLisle, a member of the Damariscotta Harbor Committee, who completed the Harbormaster Questionnaire. Because a hearing is optional for lease renewal applications unless DMR receives five or more written requests from interested persons during the comment period, a hearing was not held for this renewal application.

2. STATUTORY CRITERIA

Aquaculture lease renewals are governed by 12 M.R.S. §6072(12) and by DMR's Chapter 2.45 rules, which provide that an aquaculture lease shall be renewed if: the lessee has complied with the lease agreement during its term; the Commissioner determines that renewal of the lease is in the best interest of the state; the renewal will not cause the lessee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres; and the lease is not being held for speculative purposes.

A. Compliance with lease

The review of the case file associated with this lease indicates compliance with the lease agreement. There are no outstanding complaints regarding this lease.

Therefore, I find that the applicant has complied with the lease agreement during its term.

B. Best interest of the State of Maine

In determining whether it is in the best interest of the State to renew the lease, DMR takes into consideration, among other things, the potential for conflict with other new or existing uses of the area which the Commissioner determines to be a higher use of the area from the perspective of the public interest. On March 22, 2022, DMR received one comment from IF&W that minimal impacts to wildlife are anticipated for this project. Mr. DeLisle replied on April 19, 2022 to the Harbormaster Questionnaire and indicated that the proposal will not affect navigation within the area because the proposal is a bottom lease; there are no permitted moorings in the proposed site; the proposed lease would not affect storm anchorages; the proposal would not affect the ability of riparian owners to access their property; and there is no commercial fishing in the proposed area and because the lease is bottom culture recreational fishing would not be affected. DMR did not receive any other comments concerning new or existing uses of the area. Based on the record, there is no evidence of conflicts with new or existing uses of the area.

Therefore, I find that it is in the best interests of the State of Maine to renew this lease.

C. Aggregate lease holdings

According to DMR records, this applicant holds the following leases.

Lease	Lease Acronym	Acreage
Dodge Cove Marine Farm, LLC	DAM HI	2.0000
Dodge Cove Marine Farm, LLC	DAM HI2	6.9500
Dodge Cove Marine Farm, LLC	DAM HI5	3.5500
Dodge Cove Marine Farm, LLC	NMR NML	0.0365
Muscongus Bay Aquaculture, Inc	DAM DP	6.5300
Muscongus Bay Aquaculture, Inc	DAM GS2	5.0000
Muscongus Bay Aquaculture, Inc	DAM HI3	7.0000

One hundred percent of Dodge Cove Marine Farm is owned by Muscongus Bay Aquaculture.¹ One hundred percent of Muscongus Bay Aquaculture is owned by Atlantic Aqua Farms USA, Inc.² Therefore, DMR aggregates the acreage leased by both Dodge Cove and Muscongus Bay. Together, Dodge Cove Marine Farm, LLC and Muscongus Bay Aquaculture, Inc lease 31.0665 acres from the State of Maine.

Therefore, I find that the renewal of this lease will not cause the lessee to lease more than 1,000 acres.

D. Speculative purposes

Chapter 2.45(2)(A) of DMR's rules provide that in determining whether a renewal is being conducted for speculative purposes, the Commissioner must consider "whether the current lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term." The renewal application indicates that oysters were cultivated during the previous lease term.³ This is consistent with a review of the record, which indicates aquaculture activities occurred on the site during the previous lease term.

Therefore, I find that the lease is not being held for speculative purposes.

¹ See page 2 of Muscongus Bay Aquaculture, Inc.'s corporate applicant form for an Experimental Lease in Edgecomb in the Damariscotta River, Northwest of Glidden Ledge, received and deemed complete by DMR on Sept. 9, 2021.

² *Id.*

³ See page 1, item 2 of the renewal application.

3. LEASE CONDITIONS

The following conditions were applied to the lease by the original and most recent renewal decision:

1. Lobster and crab fishing, recreational fishing, and boating are allowed in the open areas of the lease;
2. Dragging at night is prohibited; and
3. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.

Conditions 1 and 2 will remain on the lease, but condition 3 will be removed because it is a term of all aquaculture lease agreements and is a regulatory requirement.

4. DECISION

The Commissioner grants the application of Dodge Cove Marine Farm, LLC to renew its aquaculture lease DAM HI2 for a period of twenty years, to May 15, 2042. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease, except as modified by this decision.

5. REVOCAION OF LEASE

The Commissioner may commence revocation procedures upon determining, pursuant to 12 M.R.S. §6072(11) that no substantial aquaculture has been conducted within the preceding year, that the lease activities are substantially injurious to marine organisms, or that any of the conditions of the lease or any applicable laws or regulations have been violated.

6. DATE AND SIGNATURE

Dated: 6/23/22



**Patrick C. Keliher, Commissioner,
Department of Marine Resources**

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Renewal of Standard Aquaculture Lease
Bottom culture of oysters
Damariscotta River, Damariscotta

Dodge Cove Marine Farm, LLC
DAM HI2
Docket # 2011-24- R
September 19, 2013

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Dodge Cove Marine Farm, LLC, applied to renew its aquaculture lease DAM HI2 for 6.95 acres for the bottom culture of American and European oysters located in the upper Damariscotta River, Damariscotta, Lincoln County, Maine, for a period of ten years to May 15, 2022. This lease was initially issued on May 16, 2002 to Dodge Cove Marine Farm, Inc. On July 30, 2008, the lease was transferred to Dodge Cove Marine Farm, LLC under the same terms and conditions as the original lease.

1. PROCEDURE

Notice of the application and the public comment period was published in the *Lincoln County News* on October 20 and November 10, 2011 and in the November, 2011 issue of *Commercial Fisheries News*. The public, riparian landowners within 1,000 feet of the lease site, and other interested persons were given 30 days to submit comments or to request a hearing on the application for lease renewal. The Department received a total of eight requests for a public hearing in identical letters submitted on November 21, 2011.

On December 12, 2011, the Department received a copy of a letter sent to the leaseholder on behalf of those requesting the public hearing, who were shellfish harvesters concerned about what they believed to be the impact of the lease activities on the wild shellfish populations in the surrounding area. Department biologists discussed these concerns with the harvesters.

On February 22, 2012, the Department received a letter from six of the individuals who originally requested a hearing, withdrawing their request for a hearing on the renewal. With six of the eight requests being formally withdrawn, the Department was no longer required to hold a hearing.

As described below, the lease meets the criteria for renewal, and there are no other comments or complaints on file. Therefore, no public hearing will be held on this application.

2. STATUTORY CRITERIA

Applications for aquaculture lease renewals are governed by 12 M.R.S.A. §6072(12) and by Chapter 2.45 of the Department's rules, which provide that an aquaculture lease shall be renewed if: the lessee has complied with the lease agreement during its term; the Commissioner

determines that renewal of the lease is in the best interest of the state; the renewal will not cause the lessee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres; and the lease is not being held for speculative purposes.

A. Compliance with lease

My review of the records of this lease discloses that all annual reports have been filed, the rent is paid to date, the bond is current, and the site has passed inspection by DMR Marine Patrol. There are no outstanding complaints regarding this lease.

Therefore, I find that the applicant has complied with the lease agreement during its term.

B. Best interest of the State of Maine

In determining whether it is in the best interest of state to renew the lease, the Department takes into consideration, among other things, the potential for conflict with other new or existing uses of the area which the Commissioner determines to be a higher use of the area from the perspective of the public interest. There is no evidence of conflicts with other new or existing uses of the area.

Therefore, I find that it is in the best interests of the State of Maine to renew this lease.

C. Aggregate lease holdings

DMR records show that this applicant holds a total of three leases with an aggregate acreage of 9,315 acres.

Therefore, I find that the renewal of this lease will not cause the applicant to lease more than 1,000 acres.

D. Speculative purposes

In determining whether the lease is being held for speculative purposes, the Department considers whether substantially no aquaculture or research has been conducted on the lease site. The applicant has conducted aquaculture on the lease site during its term, as shown by the annual reports it has filed with the Department and by the statement of the lessee on the renewal application.

Therefore, I find that the lease is not being held for speculative purposes.

3. LEASE CONDITIONS

The following conditions are carried over from the original lease and will apply to the renewed lease:

1. Lobster and crab fishing, recreational fishing, and boating are allowed in the open areas of the lease;

2. Dragging at night is prohibited; and
3. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.

4. DECISION

The Commissioner of Marine Resources grants the application of Dodge Cove Marine Farm, LLC to renew its aquaculture lease DAM HI2 for a period of ten years, to May 15, 2022. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease.

5. REVOCATION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072 (11) and DMR Rule Chapter 2.42 that no substantial aquaculture has been conducted within the preceding year, that the lease activities are substantially injurious to marine organisms, or that any of the conditions of the lease or any applicable laws or regulations have been violated.

Dated: _____

9/19/13



**Patrick C. Keliher
Commissioner,
Department of Marine Resources**