

STATE OF MAINE

Adam Campbell

DEPARTMENT OF MARINE RESOURCES

Zebadiah Campbell

Aquaculture Lease Transfer Application

Suspended and bottom culture of shellfish

PHSP NH

Pulpit Harbor Salt Pond, North Haven

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Adam Campbell applied to the Department of Marine Resources to add Zebadiah Campbell as a co-lessee for lease PHSP HN. The 16.59-acre lease, located in the Pulpit Harbor Salt Pond in the Town of North Haven in Knox County, is for the cultivation of American oysters (*Crassostrea virginica*) using suspended and bottom culture techniques. This lease was initially issued on August 18, 2003. On October 26, 2014, this lease was renewed for a period of ten years, under the same terms and conditions as the original lease. A subsequent renewal decision was issued on October 19, 2023 to extend the lease for a period of twenty years.

1. PROCEDURAL HISTORY

DMR deemed the transfer application complete on September 15, 2023. Notice of the 30-day public comment period was published in *The Courier-Gazette* on October 5, 2023. Notice was also provided to riparian landowners within 1,000 feet of the site, the Town of North Haven, other state agencies, and sent to subscribers of DMR's GovDelivery aquaculture email list. DMR did not receive any comments concerning this request during the comment period.

2. STATUTORY CRITERIA

Aquaculture lease transfers are governed by 12 M.R.S. §6072(12)A and by Chapter 2.60 of DMR's rules, which provide that the Commissioner may grant a transfer of an aquaculture lease if: the change in lessee's identity does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A); the lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8); 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. Aggregate lease holdings

Chapter 2.60(3)(D) of DMR's regulations provides that "the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres." According to DMR records, PHSP NH is 16.59 acres in size. Adam Campbell also holds lease PHMS NH2, which is 2.53 acres in size. According to DMR records, Zebadiah Campbell holds no current aquaculture leases.

Therefore, if the lease transfer is granted, it would not cause Adam or Zebadiah Campbell to hold leases covering an aggregate of more than 1,000 acres.

B. Speculative purposes

Chapter 2.60(3)(C) of DMR's regulations provides that in determining whether a transfer is for speculative purposes, DMR must consider "whether the current lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term." The application states that oyster seed was cultivated during the previous lease term.¹

Therefore, the lease is not being transferred for speculative purposes.

C. Change of Holder and Issuance Criteria

Chapter 2.60(3)(A) of DMR's regulations state the Department must determine the change in lessee's identity does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A).

The issuance criteria provide that a lease may be granted by the Commissioner upon determining that the project will not unreasonably interfere with: the ingress and egress of riparian owners; navigation; fishing or other uses of the area, taking into consideration other aquaculture uses of the area; the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna; or the public use or enjoyment within 1,000 feet of beaches, parks, docking facilities, or conserved lands owned by municipal, state, or federal governments. The Commissioner must also determine that the applicant has demonstrated that there is an available source of organisms to be cultured for the lease site; that the lease will not result in an unreasonable impact from noise or lights at the boundaries of the lease site; and that the lease will comply with visual impact criteria adopted by the Commissioner.

¹ See page 2 of the application.

There is no evidence in the record to indicate the addition of a new lessee will violate any of the lease issuance criteria. No comments from the public identifying any impacts to the criteria were received by the Department.

Therefore, the addition of a lessee does not violate any of the lease issuance criteria.

D. Preference Guidelines

Chapter 2.60(3)(B) of DMR's regulations state the Department must consider if a transfer is intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S.A. §6072(8).

The Department has not received any competing applications for this lease location.

Therefore, the transfer is not intended to circumvent the preference guidelines.

3. LEASE CONDITIONS

The following condition was applied to the lease by the renewal decision issued on October 19, 2023:

1. Recreational fishing and boating activities shall be allowed on the open areas of the lease.

This condition shall remain in effect after the addition of the co-lessee.

4. DECISION

The Commissioner grants the application of Adam Campbell to add Zebadiah Campbell as co-lessee. The lease is subject to the same terms, conditions, and obligations as set forth in the original lease, except as modified by this or subsequent DMR decisions.

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: 4/25/24


Patrick C. Keliher, Commissioner
Department of Marine Resources

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Suspended and bottom culture of eastern oysters
Pulpit Harbor Salt Pond, North Haven

Adam Campbell
PHSP NH

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

Adam Campbell applied to the Department of Marine Resources to renew the aquaculture lease PHSP NH for a period of twenty years. The 16.59-acre lease is located in the coastal waters of the State of Maine, in the Pulpit Harbor Salt Pond in the Town of North Haven in Knox County, for the purpose of cultivating eastern oysters (*Crassostrea virginica*) using suspended and bottom culture techniques. This lease was initially issued on August 18, 2003. On October 26, 2014, this lease was renewed for a period of ten years, under the same terms and conditions as the original lease. DMR accepted this current renewal application as complete on July 10, 2023.

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 *The Courier-Gazette*. On July 18, 2023, notice was also provided to the municipality of North Haven, 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 was one comments received from the Maine Department of Inland Fisheries & Wildlife (MDIF&W). The Department sent a harbormaster questionnaire to the Harbormaster of North Haven but did not receive a response. 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.A. §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, the Department finds 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 August 28, 2023, DMR received one comment from MDIF&W that minimal impacts to wildlife are anticipated for this project. 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, the Department finds 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 lease:

Lease Acronym	Acreage
PHMS NH2	2.53

In total, Adam Campbell leases 19.12 acres from the State of Maine.

Therefore, the Department finds 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.¹ This is consistent with a review of the record, which indicates aquaculture activities occurred on the site during the previous lease term.

Therefore, the Department finds that the lease is not being held for speculative purposes.

3. LEASE CONDITIONS

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

1. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80;
2. Recreational fishing and boating activities shall be allowed on the open areas of the lease; and
3. All upweller rafts and/or other aquaculture gear shall be located within the boundaries of the applications experimental lease CAMP PN.

Condition 2 will remain on the lease. Condition 1 is already specified in regulation and is included as part of the lease agreement. Condition 3 was specific to experimental lease CAMP PN, which is no longer active. In accordance with law, all lease activities must occur within the boundaries of the proposed site. In consideration of these factors, Conditions 1 and 3 will be removed if the lease is renewed.

4. DECISION

The Commissioner grants the application of Adam Campbell to renew the lease PHSP NH for a period of 20 years. 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.A. §6072(11) that no substantial aquaculture has been conducted within the preceding

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

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: 10/19/23



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

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish,
Pulpit Harbor Salt Pond, North Haven

Adam and Michelle Campbell
PHSP-NH
Docket Number 2013-13-R

October 26, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Adam and Michelle Campbell applied to the Department to renew their aquaculture lease PHSP NH for 16.59 acres for suspended and bottom culture of American/Eastern Oysters (*Crassostrea virginica*) located in the Pulpit Harbor Salt Pond, North Haven, Knox County, Maine, for a period of ten years to August 17, 2023. This lease was initially issued on August 18, 2003.

1. PROCEDURE

Notice of the application for lease renewal and the 30-day public comment period and opportunity to request a public hearing was published in the July 2013 edition of *Commercial Fisheries News* and *the Courier Gazette* on June 27, 2013¹. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease in a letter sent on May 30, 2013. Prior to and during the public comment period, the Department received correspondence from a riparian couple requesting that upon renewal, the Commissioner impose a condition allowing them to install a dock on the lease and permit swimming (in actuality, swimming was already permitted on the lease). In addition, the riparians sent a letter to the leaseholders on June 6, 2013 requesting that they sign an enclosed affidavit allowing them, their heirs, and future successors in title, to install a dock on the lease.

Shortly thereafter, the leaseholders contacted the Department to explain that they have no objection to allowing the riparian couple to install a dock for their own personal use, but they were not comfortable signing a formal and long-term affidavit that includes future successors in title.

¹ DMR rules, Chapter 2.64 (4) (C)

The leaseholders further explained that when asked, they have always allowed docks to be installed on their lease, and offered to build and install it at cost.

In July 2013, Department staff followed-up with the riparian couple to explain that swimming was in fact allowed on the lease, pass along the leaseholder's reservation to signing an affidavit, and encourage them to discuss the situation with the leaseholders and see if they could reach agreement without Department intervention. Shortly thereafter, the riparian couple called the Department to explain that they now support renewal of the lease as is (without further conditions) as long as the Department sends them written confirmation that swimming is permitted on the lease. The Department sent a letter on July 12, 2013 to explain that swimming is allowed on the lease and reiterate our understanding that they now support renewal of PHSP NH without additional conditions. The Department received a letter on July 18, 2013 from the riparian couple that confirmed our understanding. No additional comments or requests for a hearing on this application were received by the Department during the comment period.

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

The 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

According to DMR records, the total lease acreage held by lessee, including this lease, PHSP NH, consisting of 16.59 acres, will not exceed 1,000 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

Rule 2.45 provides that in considering whether a lease is being held for speculative purposes, the Department must consider “whether the current lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term.” It is clear from annual reports filed with DMR by the Lessee and by the statement of the lessee on the renewal application that aquaculture has been conducted on this lease site.

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:

- Recreational fishing and boating activities shall be allowed on the open areas of the lease;
- All upweller rafts and/or other aquaculture gear shall be located within the boundaries of the applications’ experimental lease CAMP PN; and

- The lease area shall be marked in accordance with U. S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.

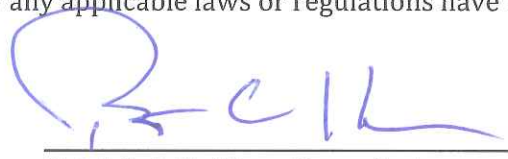
4. DECISION

The Commissioner of Marine Resources grants the application of Adam and Michelle Campbell to renew their aquaculture lease PHSP NH for a period of ten years, to August 17, 2023. 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: 10/26/14



Patrick C. Keliher, Commissioner
Department of Marine Resources