

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Suspended culture of American/Eastern oysters
North of Bradley Point, Meduncook River, Cushing

Lessee: Barrett H. Lynde
Lease: MED BP
Docket #2015-22-R
February 2, 2016

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Barrett H. Lynde applied to the Department of Marine Resources to renew the aquaculture lease MED BP for a period of ten years to February 5, 2026. The 0.12-acre lease is issued for suspended culture of American/Eastern oysters and is located north of Bradford Point, Meduncook River, Cushing, Knox County, Maine. This lease was initially issued on February 6, 2006 to Gay Island Oysters, Inc. The owners of Gay Island Oysters, Inc., Barrett H. Lynde and Tara Lynde, sold the business in January 2015, however, the sale did not include this lease. Due to the sale, the name of the lessee was changed from Gay Island Oysters, Inc. to Barrett H. Lynde on March 13, 2015. The current lease expires February 5, 2016.

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 *Courier Gazette* on November 12 and December 3, 2015 and in the December edition of the *Commercial Fisheries News*. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease site. No comments and no 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. §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 lessee holds no other aquaculture leases.

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

- A.** The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources regulations Chapter 2.80.
- B.** Other public uses that are no inconsistent with the purposes of the lease are permitted within the lease boundaries.

A third lease condition, “Navigation, lobster fishing, and recreational boating and fishing shall be allowed on the open areas of the lease,” is being removed from the lease, since these uses are included in those permitted under condition B, above.


4. DECISION

The Commissioner of Marine Resources grants the application of Barrett H. Lynde to renew its aquaculture lease MED BP for a period of ten years, to February 5, 2026. 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 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: 2.2.16



Patrick C. Keliher
Commissioner,
Department of Marine Resources