

**STATE OF MAINE**  
**DEPARTMENT OF MARINE RESOURCES**  
Experimental Aquaculture Lease Application  
Bottom & suspended culture of shellfish  
South of Blackstone Point, Damariscotta River

**Damariscotta River Association**  
**Lease DAM BP**  
Docket # 2015-09-R  
October 8, 2015

## **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

The Damariscotta River Association has applied to the Department of Marine Resources (“DMR”) to renew its experimental scientific lease, (DAM BP), for three years to May 31, 2018. The lease consists of 0.06 acres (2,500 sq. ft.) located in the coastal waters of the State of Maine, on the east side of the Damariscotta River south of Blackstone Point in the Town of Damariscotta in Lincoln County, and is used for the purpose of cultivating American oysters (*Crassostrea virginica*), soft clams (*Mya arenaria*), and northern/hard clams or quahogs (*Mercenaria mercenaria*), using bottom and suspended culture techniques.

### **1. THE PROCEEDINGS**

Notice of the application for lease renewal and the public comment period was published in the *Lincoln County News* on June 18 and July 9, 2015 and in the July issue of the *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. No comments or hearing requests were received by the DMR 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**

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. Further, a review of yearly reports filed by lessee shows that the lease is being used for scientific research. 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 Interests of the State**

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 0.06 acres of 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**

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. CONDITIONS TO BE IMPOSED ON LEASE**

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.

2. Shellfish harvesting will be prohibited on the site by anyone except the applicant or its authorized agents; students using the site are considered authorized agents for purposes of this condition. Boating and fishing other than dragging will be allowed in the open areas of the lease site.

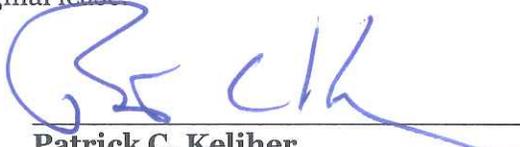
3. To minimize sediment disturbance, people may be in the water at the site for a maximum of 5 hours per day and 15 hours per week. Groups of more than eight people are limited to no more than one hour in the water, after which a one-hour sediment settling time is required during which no person is allowed in the water at the site.

4. The lessee must maintain a log to record daily use of the site by all users and document the numbers of people and the times when they are in the water. The log must be available for inspection by DMR staff to determine compliance with these lease conditions.

5. The lessee must post a sign at the site warning that oysters from the Damariscotta River must not be moved to other Maine coastal waters in order to prevent the spread of disease.

**4. DECISION**

The Commissioner of Marine Resources grants the application of the Damariscotta River Association to renew its aquaculture lease DAM BP for a period of three years, to May 31, 2018. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease

Dated: 10/8/15   
**Patrick C. Keliher**  
**Commissioner**  
**Department of Marine Resources**