

STATE OF MAINE

DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application

Bottom culture of blue sea mussels

Mount Desert Narrows, Bar Harbor

Lessee: Acadia Aqua Farms, LLC

Lease: EAST HP

Docket # 2015-17-R

February 2, 2016

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Acadia Aqua Farms, LLC applied to the Department of Marine Resources to renew its aquaculture lease EAST HP for a period of ten years to December 13, 2025. The 40.45-acre lease is issued for the bottom culture of blue sea mussels (*Mytilus edulis*) located in Hadley Point, Mount Desert Narrows, Bar Harbor, Hancock County, Maine. This lease was initially issued to Great Eastern Mussel Farms, Inc. on December 14, 2005. The lease was transferred to Acadia Aqua Farms, LLC on February 28, 2011. The current lease expires December 13, 2015.

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 *Mount Desert Islander* on October 1 and 22, 2015 and the October 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. Riparians Robert and Ingrid Bahler submitted comments in opposition to the renewal of the lease but did not request a hearing. Riparian Nariman Behravesh contacted the DMR by telephone about concerns he had about the continued operation of the lease. The lessor spoke with Mr. Behravesh and addressed his concerns. Mr. Behravesh did not request a hearing on this application. No other 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.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 lessee holds the following leases: EAST HP (40.45 acres), EAST OP2 (31.62 acres), FLAN WN (14.30), FREN BI (32.33 acres), and PEN SN3 (38.00 acres) for a total of 156.70 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

- 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. Dragging in the lease area is prohibited by persons other than the leaseholder or its authorized agents.

- C. The leaseholder shall not drag in the area between the lease boundaries and adjacent shoreline to the south and west of the lease site.
- D. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

4. DECISION

The Commissioner of Marine Resources grants the application of Acadia Aqua Farms, LLC to renew its aquaculture lease EAST HP for a period of ten years, to December 13, 2025. 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. 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: 2.2.16



Patrick C. Keliher
Commissioner,
Department of Marine Resources