

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Suspended culture of shellfish,
Meduncook River, Cushing, Knox County

Gay Island Oyster Inc.
MED GI
Docket Number 2014-15-R
November 6, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Gay Island Oyster Inc. applied to the Department on August 13, 2014 to renew the aquaculture lease, MED GI, for a period of ten years to August 25, 2024. The 1.728 acre lease is issued for suspended culture of American/eastern oysters (*Crassostrea virginica*) and sea scallops (*Placopecten magellanicus*) located in the Meduncook River, town of Cushing, Knox County, Maine. This lease was originally granted August 26, 2004.

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 September 11, 2014 and again on October 2, 2014. Notice was also published in the October 2014 *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.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, MED GI, consisting of 1.728 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 for speculative purposes.

3. LEASE CONDITIONS

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

- Navigation, lobster fishing, recreational boating and fishing shall be allowed in the open areas of the lease site;
- All structures placed on the bottom of the lease site, such as over-wintering cages, shall be placed in the deeper water near the northwest corner of the lease site; and
- The lease area must be marked in accordance with the U.S. Coast Guard requirements and Department of Marine Resources Chapter 2.80.

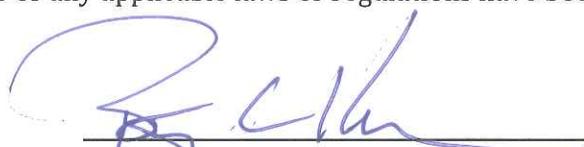
4. DECISION

The Commissioner of Marine Resources grants the application of Gay Island Oyster Inc. to renew its aquaculture lease, MED GI, for a period of ten years to August 25, 2024. 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. REVOCAATION 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: 11/6/14



Patrick C. Keliher, Commissioner
Department of Marine Resources