

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

IN THE MATTER OF THE APPLICATION OF)	
HERITAGE SALMON INC. FOR THE)	
TRANSFER OF AN AQUACULTURE LEASE)	FINDINGS OF FACT,
LOCATED IN SOUTH BAY, LUBEC,)	CONCLUSIONS OF LAW AND
WASHINGTON COUNTY, MAINE TO SITECO,)	DECISION
LLC AND ULTIMATELY TO PHOENIX)	
SALMON US INC.)	

On July 12, 2005, Heritage Salmon, Inc. applied for the transfer of an aquaculture lease to SITECO, LLC and ultimately to Phoenix Salmon US Inc. The 31.88-acre aquaculture lease, CONA SB2, is located in South Bay in Lubec, Maine. The lease was issued on March 24, 2005 for a term of ten years, for the net pen culture of Atlantic salmon.

Notice of the application for lease transfer was published in the August 2005 issue of Commercial Fisheries News and the July 22, 2005 and August 12, 2005 issues of the Quoddy Tides newspaper. Members of the public, riparians and interested persons were given to August 21, 2005 to submit comments and/or request a hearing on the application for lease transfer. No comments or requests for a hearing were received by the Department.

Applications for aquaculture lease transfers are governed by 12 M.R.S.A. §6072(12-A) and Chapter 2.60 of the Department's rules, which provide that an aquaculture lease may be transferred to another person for the remaining portion of its term if the commissioner determines that the change in lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S.A. §6072(7-A); the 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 transfer is not for speculative purposes; and the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 300 acres¹.

Phoenix Salmon US intends to utilize this site for the same purpose as allowed for in the original decision and lease. Therefore, the change in lessee will not result in a change in the type of activity that has been permitted on the site, pursuant to the lease issued in accordance

with the statutory criteria set forth in 12 M.R.S.A. §6072(7-A). The change in lessee to Phoenix Salmon US will not violate any of those criteria.

Section 8 of 12 M.R.S.A. § 6072 sets forth an order of preference if more than one person applies to lease an area. There were no competing applications for this lease area. Therefore, the 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).

According to Department regulations, Chapter 2.60, "speculative purposes" shall be found to exist whenever the owner of the lease to be transferred has not conducted any substantial aquaculture on the lease sites, including but not limited to seeding, cultivation or harvest of organisms. The lease site has been used for salmon aquaculture during the lease term. Therefore, the transfer is not for speculative purposes.

Phoenix Salmon US holds a total of 4 leases, totaling 45 acres. Phoenix Salmon US is an affiliate of Cook Aquaculture Inc, which holds a total of 15 leases, totaling 276.27 acres. Additionally, Heritage Salmon has applied for the transfer to three other leases to Phoenix Salmon US, totaling 103 acres. The total acreage for Cook Aquaculture would therefore be 456.15. In accordance with 12 M.R.S.A. §6072(13-A), Cook Aquaculture has submitted a fallowing plan which indicates that no more than 300 acres would be active and the remainder would be fallowed. Therefore, the transfer of this lease will not cause the transferee to lease more than 500 acres, of which no more than 300 acres will be non-fallowed at any time.

¹ Pursuant to 12 M.R.S.A. §6072-A(13-A), the Commissioner may authorize a person to exceed the 300 acre limit, up to a maximum of 500 acres, provided that no more than 300 acres are "non-fallowed" at any time.

Decision

The Commissioner of Marine Resources grants the application of Heritage Salmon, Inc. for the transfer of the 31.88-acre aquaculture lease located in South Bay in Lubec, Maine, to SITECO, LLC and ultimately to Phoenix Salmon US Inc. for the remainder of the lease term, to March 23, 2015. In the transfer of this lease Phoenix Salmon US Inc. is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: _____

George D. Lapointe (Commissioner)
Department of Marine Resources