



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF PARKS & LANDS
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SUBMERGED LANDS LEASE – FINAL FINDINGS AND DECISION

APPLICANT: Kingfish Maine, Inc.

PROJECT LOCATION: Town of Jonesport

APPLICATION: Bureau of Parks and Lands Submerged Lands Application No. SL2560 as an application for a submerged lands conveyance and a Dredging Lease.

PROJECT DESCRIPTION: The applicant proposes to construct two intake pipes, two discharge pipes and a diffuser on submerged lands for its proposed land-based aquaculture facility. The applicant proposes to lease a corridor which would be 40 feet wide for the first 1,212 feet to accommodate the overall width of the four pipes, (two intake and two discharge), 20 feet wide for another 1,162 feet to accommodate the overall width of the two discharge pipes and 100 feet wide for the remaining 150 feet where the diffuser would be placed. The total length of the corridor would be 2,524 feet. The pipes would be secured to the bottom with concrete ballasts placed 16 feet apart on center. The applicant also proposes to excavate approximately 550 cubic yards of material in conjunction with the pipe installation. The excavated material would be used as backfill for the pipe trench and for on-site construction purposes.

REVIEW COMMENTS: Notification letters were sent to the municipality, abutters and Department of Marine Resources (DMR). DMR requests the accurate marking of the entire length of the exposed pipeline including the intake and diffuser locations. No comments in opposition were received.

FINDINGS: Based upon its review of all information in the administrative record, the Bureau of Parks and Lands makes the following findings in accordance with Title 12 M.R.S.A. section 1862 and pertinent regulations.

PUBLIC ACCESS WAYS:

The project will be associated with the applicant's private property and not on or adjacent to a public access point to the shore. As such, the Bureau finds that the project will not unreasonably interfere with public access ways to submerged lands.

PUBLIC TRUST RIGHTS:

DMR has required that the length of the project be marked to avoid potential entanglement of fishing gear. With the location markers the project will not unreasonably interfere with fishing, fowling, navigation, or other existing marine uses of the area.

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RECREATION:

The proposed project is secured to the bottom with concrete ballasts and will not unreasonably interfere with recreation.

SERVICES AND FACILITIES NECESSARY FOR COMMERCIAL MARINE ACTIVITIES:

The project will not unreasonably diminish the availability of services and facilities necessary for commercial marine activities.

INGRESS AND EGRESS OF RIPARIAN OWNERS:

The proposed pipes will be secured to the bottom with concrete ballasts and extend from private upland property. The project will not unreasonably interfere with ingress and egress of riparian owners.

RISK TO LIFE OR PROPERTY:

The proposed pipes present minimal safety risks to life or property because they are secured to the bottom with concrete ballasts. Additionally, as discussed under Public Trust Rights above, risks to life and property would be further reduced by marking the pipes. Accordingly, the Bureau finds that the proposed pipes will not result in significantly increased risk to life or property in the vicinity of the lease area under conditions of weather and vessel traffic that are likely to be encountered.

REQUIREMENTS OF OTHER AGENCIES:

The Bureau understands that Kingfish Maine, Inc. is in the process of obtaining all required federal, state, and municipal approvals. Standard language in the submerged lands lease requires that the lessee acquire all federal, state, and local approvals within a limited time frame after the lease is issued, and that the lessee comply with the terms of all such approvals throughout the lease period. Failure to obtain all necessary federal, state, and local approvals invalidates the lease for the portion of the project that does not receive a required permit. The Bureau finds that the proposed project complies with subsection 1.7(C)(6) because the lease is conditional upon receiving all necessary approvals.

SPECIAL PROTECTION AREAS OF SUBMERGED LANDS:

There is no evidence in the record that any portion of the proposed submerged lands lease area has been designated for special protection by an agency authorized to make such designations. Therefore, the Bureau finds that the proposed pipes will not conflict with established management guidelines designed to protect such designated areas.

COASTAL POLICIES:

The proposed use does not conflict with those aspects of the Coastal Policies or the Coastal Policy guidelines in 38 M.R.S. § 1801 that relate to the criteria considered by the Bureau.

PUBLIC INTEREST and CONSISTENCY WITH RULES

Based on all the findings above, and because the lease terms require Kingfish Maine, Inc. to obtain all necessary federal, state, and local approvals, the Bureau finds that the proposed pipes are not inconsistent with the Bureau's rules and are not otherwise contrary to the public interest, provided Kingfish Maine, Inc. obtains the necessary federal, state, and municipal approvals.

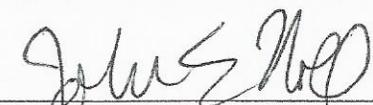
OUTSTANDING FEES:

Kingfish Maine, Inc. has paid the fee required for processing the application when it submitted the application in July 2020. The fee for the Dredging application was paid in September 2020. The Bureau finds that there are no outstanding fees relative to the application.

CONCLUSIONS: Based upon its review of all information in the administrative record, the Bureau of Parks and Lands concludes that the project meets the requirements set forth in 12 M.R.S.A. section 1862 and in the Bureau's Chapter 53 Submerged Lands Rules.

DECISION: In accordance with Title 12 M.R.S.A. section 1862, the Director of the Bureau of Parks and Lands has determined that Submerged Lands Lease No. 2248-L-49 and Submerged Lands Dredging Lease No. 06-22DL will be granted to Kingfish Maine, LLC .

APPEAL RIGHTS: In accordance with 5 M.R.S.A. section 11002 and Maine Rule of Civil Procedure 80C, this decision may be appealed to Superior Court within 30 days of receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person.

Signed: 
Andrew R. Cutko, Director
Bureau of Parks and Lands

Date: 9-24, 2020