

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

Damariscotta River Association

Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish
Blackstone Point, Damariscotta River

DAM BP

December 18, 2018

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Damariscotta River Association applied to the Department to renew the experimental aquaculture lease DAM BP for a period of three years to May 31, 2021. The .06-acre lease is issued for suspended and bottom culture of American/eastern oysters (*Crassostrea virginica*), soft clams (*Mya arenaria*, and northern quahogs/hard clams (*Mercenaria mercenaria*) located in Blackstone Point, Damariscotta River, Damariscotta, Lincoln County, Maine. This lease was initially issued on June 1, 2012. Lease was renewed previously on June 1, 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 *Lincoln County News* on August 9, 2018 and August 30, 2018 and in the September edition of *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. §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 indicates 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: DAM BP (.06 acres)

Therefore, I find that the renewal of this lease will not cause the lessee to lease more than 1,000 acres.

D. Speculative purposes

Rule 2.45(3)(B) provides that in determining whether a renewal is being conducted 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 were applied to the lease by the original decision: Conditions imposed on this lease by the decision dated June 1, 2012.

- a. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
- b. Shellfish harvesting is 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. Dragging is prohibited within the lease boundaries.

- c. 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.
- d. 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.
- e. 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.
- f. 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 Damariscotta River Association to renew the experimental aquaculture lease DMA BP for a period of three years, to May 31, 2021. 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 M.R.S. §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.

6. DATE AND SIGNATURE

Dated: 12/18/18



**Patrick C. Keliher, Commissioner,
Department of Marine Resources**