

**STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES**

**Lease WES BC**

Paul Desaulniers,  
Transferor

Krista Tripp,  
Transferee

Aquaculture Lease Transfer Application

Date: December 18, 2018

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**1. THE PROCEEDINGS**

Paul Desaulniers of Rockland, Maine, applied to the Department of Marine Resources (“DMR”) to transfer to Krista Tripp of Spruce Head, Maine, his 0.967-acre aquaculture lease WES BC, located in the coastal waters of the State of Maine, in the Weskeag River, Town of South Thomaston, Knox County, Maine. The lease was originally granted on July 28, 2004 for a period of ten years and was subsequently renewed July 28, 2014 for the ten-year period ending July 27, 2024 for the purpose of cultivating American/Eastern oysters (*Crassostrea virginica*), using suspended culture techniques.

The transfer application was accepted as complete on June 14, 2018. The Department provided a notice of the application and of the 14-day comment period to all riparian owners, the Town of South Thomaston, harbormaster, the general mailing list of interested persons, specific case mailing list, and various state and federal agencies. A notice of the application and comment period was published in the *Courier Gazette* on June 21, 2018. No comments were received.

**2. STATUTORY CRITERIA & FINDINGS OF FACT**

Lease transfer requests are governed by 12 M.R.S.A. §6072 (12-A) and DMR Rule 2.60. They provide that the Commissioner of DMR may allow a lease to be transferred from one lessee to another upon determining that: (A) the change in the lessee’s identity does not cause any of the original criteria for issuing a lease to be violated; (B) the transfer is not intended to circumvent the preference guidelines for treatment of competing applications; (C) the transfer is not for speculative purposes; and (D) the transfer will not cause the transferee to be a tenant in more than 1,000 acres of aquaculture leases in Maine.

**A. Effect of Lessee Change on Lease Criteria**

The transferee has met the same requirements for providing information about financial and technical capability and corporate status as is required for an applicant for a standard lease. The transferee has experience in shellfish aquaculture and is acquainted with Maine’s aquaculture laws and rules. According to the transfer application, the transferee plans no changes in the aquaculture activities taking place on the lease site. No comments on this transfer application

were received by the Department. There is no evidence that the change in the identity of the lessee will affect any of the statutory criteria for issuing an aquaculture lease.

**THEREFORE, I FIND** that the change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 MRSA §6072 (7-A).

#### **B. Effect on Preference Guidelines**

There are no competing applications for this lease site, so the preference guidelines are not relevant to this application.

**THEREFORE, I FIND** that the lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 MRSA §6072 (8).

#### **C. Speculative Purposes**

Rule 2.60 provides that in considering whether a transfer 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 Transferor that aquaculture has been conducted on this lease site.

**THEREFORE, I FIND** that the lease transfer is not for speculative purposes.

#### **D. Acres Leased by Transferee**

The statute and rule require that in order to grant the lease transfer, the Commissioner must find that “the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.” According to DMR records, the transferee holds no leases prior to this transfer.

**THEREFORE, I FIND** that the lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

### **3. CONCLUSIONS OF LAW**

Based on the above findings, I conclude that:

- a. The change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 MRSA §6072 (7-A);
- b. The lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 MRSA §6072 (8);
- c. The lease transfer is not for speculative purposes; and
- d. The lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

These findings of fact and conclusions of law having been made as required by 12 MRSA §6072 (12-A) and by DMR rule 2.60, this lease transfer may be granted.

**4. DECISION**

Based on the foregoing, I grant the requested transfer of the aquaculture lease WES BC from Paul Desaulniers to Krista Tripp. The term of the lease is not affected by the transfer, so the new lease will expire on the same date as the current lease, which is July 27, 2024.

All provisions of the existing lease shall continue in full force and effect, including all conditions on the lease, as noted below. The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. The lessee shall post a bond or establish an escrow account pursuant to DMR Rule 2.40 (2) (A), conditioned upon its performance of the obligations contained in the aquaculture lease documents and all applicable statutes and regulations.

**5. CONDITIONS**

Pursuant to 12 MRSA §6072 (7-B), the Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities. Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease.

The existing conditions on this lease, which continue in effect after the transfer, are:

- a. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources Regulations Chapter 2.80.
- b. Navigation, recreational boating and fishing shall be allowed in the open areas of the lease.
- c. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

**6. REVOCAION OF LEASE**

The Commissioner may commence revocation procedures if it is determined that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements imposed in this decision, in the lease, or in the law is not being observed, the Commissioner may revoke the aquaculture lease.

Dated: 12/15/18

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