

STATE OF MAINE

Petit Manan Seafood

DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application

PINK PS2

Suspended and bottom culture of

American/Eastern oysters, Pinkham Bay,

Steuben

December 18, 2018

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Petit Manan Seafood applied to the Department to renew the aquaculture lease PINK PS2 for a period of ten years to December 3, 2027. The 2.13-acre lease is issued for suspended and bottom culture of American/eastern oysters located in the Pinkham Stream, Pinkham Bay, Steuben, Washington County, Maine, this lease was initially issued on December 3, 2007.

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 *County Wide Newspaper* on August 7, 2018 and August 21, 2018 and in the September 2018 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: PINK PS2 (2.13 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:

1. The lease sites shall be marked in accordance with the requirements of the U.S. Coast Guard and DMR Rule Chapter 2.80.
2. Fishing and boating shall be allowed in the open areas of the lease.
3. The lower tract, Tract 1, shall be used for bottom culture only and shall not contain any structures other than marking buoys as required under condition #1.

4. The lessee shall consult with the Maine Department of Inland Fisheries and Wildlife before using any form of predator control in the lease area.
5. The lessee shall maintain a 10-foot wide corridor of open, navigable water between the floating gear on the upper tract, Tract 2, and the eastern shore of the stream.
6. 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 Petit Manan Seafood to renew aquaculture lease PINK PS2 for a period of ten years, to December 3, 2027. 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**