

STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES  
Renewal Application

Winter Point, Inc.  
Lease NMR MC  
Docket #2011-17R

## FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

On June 13, 2011, the Department received an application from Winter Point, Inc., to renew its aquaculture lease for 13.49 acres for suspended and bottom culture of American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), northern hard clams/quahogs (*Mercenaria mercenaria*), and surf/hen clams (*Spisula solidissima*), located in Mill Cove in the New Meadows River in West Bath, Sagadahoc County, Maine. The renewal would be for a period of ten years to October 21, 2021.

This lease was initially issued on October 22, 2001 to Winter Point, Inc. and Chance Along Farm, Inc. Chance Along Farm relinquished its interest in the lease; a new lease naming Winter Point, Inc. as sole lessee was executed on January 23, 2008, with the same expiration date as the original lease, i.e., October 21, 2011.

### 1. PROCEDURE

Notice of the application for lease renewal and the public comment period was published in the *Commercial Fisheries News* August, 2011 edition and in the *Brunswick Times Record* on July 26 and August 15, 2011. The public, riparian landowners within 1,000 feet of the lease site, and other interested persons were given 30 days to submit comments or to request a hearing on the application for lease renewal. 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.A. §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**

My review of the records of this lease discloses 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**

DMR records show that the applicant holds only this lease of 13.49 acres.

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

### **D. Speculative purposes**

In determining whether the lease is being held for speculative purposes, the Department considers whether substantially no aquaculture or research has been conducted on the lease site. The applicant has conducted aquaculture on the lease site during its term, as shown by the annual reports it has filed with the Department and by the statement of the lessee on the renewal application.

**Therefore, I find** that the lease is not being held for speculative purposes.

## **3. LEASE CONDITIONS**

The following conditions are carried over from the original lease and will apply to the renewed lease:

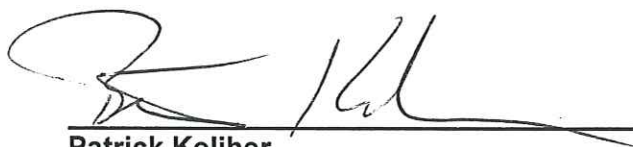
1. Navigation is allowed in the open areas of the lease.
2. No dragging by persons other than the applicants or their employees is allowed.
3. The lease area shall be marked in accordance with U.S. Coast Guard requirements and Department of Marine Resources regulations Chapter 2.80.

4. A navigational passageway shall be maintained across the southwest corner and deepest water area; the passageway, buoy placement, and buoy color shall be approved by the U.S. Coast Guard as appropriate for marking the passageway.

**4. DECISION**

The Commissioner of Marine Resources grants the application of Winter Point, Inc. to renew its aquaculture lease NMR MC for a period of ten years, to October 21, 2021. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: Oct 11, 2011



**Patrick Keliher**  
**Acting Commissioner**  
**Department of Marine Resources**