

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Renewal Application
Suspended & bottom culture of shellfish
Weskeag River, South Thomaston

Weskeag River Shellfish
Farms, LLC
Lease WES UR
Docket #2010-12R
January 5, 2011

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

On June 23, 2010, the Department received an application from Weskeag River Shellfish Farms, LLC, to renew, for a period of ten years to October 4, 2020, its aquaculture lease for 7.14 acres for suspended and bottom culture of American oysters (*Crassostrea virginica*), soft-shell clams (*Mya arenaria*), and hard-shell clams (*Mercenaria mercenaria*) located in the upper Weskeag River, South Thomaston, Knox County, Maine. This lease was initially issued on October 5, 2000.

1. PROCEDURE

Notice of the application for lease renewal and the public comment period was published in the *Commercial Fisheries News* August, 2010 edition and in the *Village Soup* newspaper on July 27 and August 12, 2010. 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, rent has been paid in a timely manner, the bond has been kept current, and the site has passed inspections 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 this applicant holds only the 7.14 acres covered by this aquaculture leases.

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.

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

3. OTHER ISSUES

A. Lease Conditions

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

1. Jet skis are prohibited within the lease boundaries;
2. Navigation by watercraft other than jet skis is allowed in the open areas of the lease;
3. Clam harvesting or diving for harvesting purposes without the authorization of the leaseholder is prohibited within the lease boundaries; and
4. The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.

B. Clarification of culture techniques

The original decision describes the culture techniques proposed by the leaseholder as including gear deployed at and beneath the surface and the possible free planting of shellfish on the bottom. The decision grants the lease for "suspended and bottom culture techniques as described in the record" (decision dated October 5, 2000, p. 12).

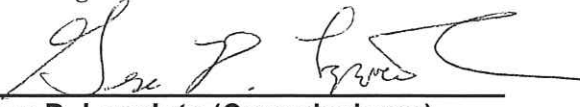
The original lease, however, refers instead to “suspended and bottom containment cultivation techniques”, which appears to be an error, as “bottom containment” is not reflected in the original decision. The term “bottom containment” is no longer used; it was intended to refer to the use of gear placed on the bottom, as opposed to at the surface or higher in the water column.

“Bottom culture”, as recognized by this Department, means planting shellfish directly on the bottom, without the use of gear other than marker buoys. “Suspended culture” means the use of gear, whether at or below the surface or on the bottom. Therefore, this lease will be modified upon renewal to read “suspended and bottom culture”, which is consistent with the culture techniques described and approved in the original decision.

4. DECISION

The Commissioner of Marine Resources grants the application of Weskeag River Shellfish Farms, LLC, to renew its aquaculture lease for 7.14 acres for suspended and bottom culture of American oysters (*Crassostrea virginica*), soft-shell clams (*Mya arenaria*), and hard-shell clams (*Mercenaria mercenaria*) located in the upper Weskeag River, South Thomaston, Knox County, Maine for a period of ten years, to October 4, 2020. With the exception of the changes described above, the renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: 5 January 2011



George D. Lapointe (Commissioner)
Department of Marine Resources