

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

**Andrew Johnson and
Samuel Chapman**

Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish,
Squam Creek Salt Pond, Westport Island,
Lincoln County

SHE SQ2
Docket Number 2013-11-R

October 31, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Andrew Johnson and Samuel Chapman, d/b/a Westport Oyster Company, applied to the Department on January 10, 2013 to renew the aquaculture lease, SHE SQ2, for a period of ten years to September 11, 2023. The 0.568 acre lease is issued for bottom and suspended culture eastern/American oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), northern quahogs (*Mercenaria mercenaria*), soft clams (*Mya arenaria*) and bay scallops (*Argopectin irradians*) located in Squam Creek Salt Pond, Westport Island, Lincoln County, Maine. This lease was originally granted September 12, 2003.

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 March 21, 2013 and again on April 18, 2013. Notice was also published in the April 2013 *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.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

The 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

According to DMR records, the total lease acreage held by lessee, including this lease, SHE SQ2, consisting of 0.568 acres, will not exceed 1,000 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

Rule 2.45 provides that in considering whether a lease is being held 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 for speculative purposes.

3. LEASE CONDITIONS

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

- The lease area must be marked in accordance with the U.S. Coast Guard requirements and Department of Marine Resources Chapter 2.80; and
- Recreational boating and fishing shall be allowed in the open areas of the lease.

4. DECISION

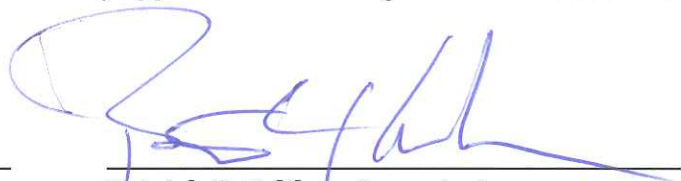
The Commissioner of Marine Resources grants the application of Westport Oyster Company to renew its aquaculture lease, SHE SQ2, for a period of ten years to September 11, 2023. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease, except as modified by this decision.

5. REVOCAION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §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.

Dated: _____

10/31/14



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