

**STATE OF MAINE
DEPARTMENT OF MARINE
RESOURCES**

**Cooke Aquaculture USA, Inc.
MACH CI2**

Net pen culture of finfish and suspended
culture of shellfish, Cross Island, Machias
Bay, Cutler, Maine

February 4, 2021

**AQUACULTURE LEASE RENEWAL, LEASE MACH CI2
FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION**

Cooke Aquaculture USA, Inc. applied to the Department of Marine Resources to renew the aquaculture lease MACH CI2 for a period of 20 years to August 25, 2040. The 44.7-acre lease is located off the northwest side of Cross Island in Machias Bay, Cutler, Washington County, Maine, and is issued for the net pen culture of Atlantic salmon (*Salmo salar*), halibut (*Hippoglossus hippoglossus*), arctic char (*Salvelinus alpinus*), and Atlantic cod (*Gadus morhua*), and the suspended and bottom culture of blue mussels (*Mytilus edulis*). This lease was initially issued on August 26, 2010 to Phoenix Salmon, US, Inc. In 2011, Phoenix Salmon changed its corporate name to Cooke Aquaculture, USA, Inc.

On their application for lease renewal, Cooke Aquaculture, USA indicated that they would like any renewed lease to be for the net pen culture of Atlantic salmon, and bottom and suspended culture of blue mussels, but that all other species could be removed from the lease.¹ Therefore, the renewed lease for MACH CI2 will not include halibut, arctic char, or Atlantic cod. In addition, in reviewing the renewal application for MACH CI2 submitted by Cooke and the case file associated with this lease, a discrepancy was found between the original lease decision signed on August 26, 2010 and the lease agreement executed on October 12, 2010. The August 2010 decision found that bottom culture of blue mussels was not suitable at MACH CI2, and was therefore not authorized for the site. However, the executed lease from October 2010 authorized both the bottom and suspended culture of blue mussels. Because the original lease decision did not authorize MACH CI2 for bottom culture of mussels, any renewed lease will not include authorization for bottom culture. Should Cooke wish to conduct bottom culture on the site, they may submit an amendment application; any proposed changes will be evaluated with consideration given to the findings of the original decision.

¹ Application for renewal submitted by Cooke Aquaculture, USA and deemed complete by DMR on September 17, 2020.

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 *Machias Valley News Observer* on November 4, 2020. Personal notice was given to the Town of Cutler and its harbor masters, riparian landowners within 1,000 feet of the lease site and state agencies. Two requests for a public hearing on this application were received from members of the public during the comment period. No other public comments were received, and no public hearing was held.

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, and the site has passed inspection conducted by the Department. The rent is paid to date, and the bond is current. 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 the 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. Two requests for a public hearing on this renewal application were received during the comment period, but neither referenced specific concerns regarding the

lease. In their review of the renewal application, the Maine Department of Inland Fisheries and Wildlife indicated that ‘minimal impacts to wildlife are anticipated for this project’.²

Based upon review of the file, there is no evidence to indicate that renewal of lease MACH CI2 would conflict with new or existing uses of the areas

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, Cooke Aquaculture holds an aggregate of 637.69 acres of aquaculture leases comprised of the following leases: COB BC (45), COB BP(33), COB CC (15), COB DC (25), COB HP (10), COB JK (22), COB LU2 (32.14), COB MI2 (30), COB PC (26.5), COB RN2 (32.14), COB SB (31.88), COB TE (15), COB TW (15), EASTW CALF (28), EASTW SCN (10), EASTW SI (10), MACH CI2 (44.7), MACH CIN (35), MACH CW2 (35), MACH II (40), MACH LI (20), MACH ST (10), SWAIN BI (15), SWAN BIS (38.5), SWAN HS (18.83).

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

D. Speculative purposes

Chapter 2.45(2)(A) of the Department’s rules provide that in determining whether a renewal is being conducted for speculative purposes, the Commissioner must consider “whether the current lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term.” According to the application for lease renewal, since this lease began in 2010, the site has been stocked with salmon in three-year rotations³. 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 and there are plans to conduct aquaculture on the site into the future.

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

² Email to C. Burke from R. Settele on October 30, 2020 in response for a request for agency review and comment on the completed renewal application.

³ Application for renewal submitted by Cooke Aquaculture, USA and deemed complete by DMR on September 17, 2020.

3. LEASE CONDITIONS

The following conditions were applied to the lease by the original decision:

1. The lease area shall be marked in accordance with both U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.
2. Dragging is prohibited on the lease site. Lobstering is permitted on the lease site, outside the mooring grid.
3. Phoenix is required to notify the Public Health Division of the Department of Marine Resources six months before it plans its first harvest of mussels from this site and to obtain a harvest permit from the Division. Subsequent harvests must be conducted in accordance with rules adopted by the Department.

The above three conditions will remain on the renewed lease, but condition 3 will be updated to reflect the updated name from Phoenix to Cooke Aquaculture. As such, condition 3 will now read:

3. Cooke Aquaculture USA, Inc., is required to notify the Public Health Division of the Department of Marine Resources six months before it plans its first harvest of mussels from this site and to obtain a harvest permit from the Division. Subsequent harvests must be conducted in accordance with rules adopted by the Department.

4. DECISION

The Commissioner of Marine Resources grants the application of Cooke Aquaculture, USA, Inc., to renew aquaculture lease MACH CI2 for a period of twenty years, to August 25, 2040. 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 M.R.S. §6072(11) 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: FEB 4th 2021



Patrick C. Keliher, Commissioner,
Department of Marine Resources