

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Pen culture of Atlantic salmon
Broad Cove, Cobscook Bay, Eastport

Cooke Aquaculture USA, Inc.
Lease COB BC
Docket #2016-13-R
June 9, 2017

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Cooke Aquaculture USA, Inc. applied to the Department to renew the aquaculture lease COB BC for a period of ten years to December 11, 2026. The 45-acre lease is issued for net pen culture of Atlantic salmon (*Salmo salar*) and bottom culture of blue sea mussels (*Mytilus edulis*) located in Broad Cove, Cobscook Bay, Eastport, Washington County, Maine. This lease was originally issued to Ocean Products, Inc. in 1986 and was acquired by Connors Brothers, Limited in 1990 as lease CONA BC. It was renewed in 1996 and transferred in 2006 by Heritage Salmon, Inc. to Phonenix Salmon US, Inc. and renewed again in 2006. Phoenix changed its corporate name to Cooke Aquaculture USA, Inc. in 2011. The current lease expired December 11, 2016, but provisions set forth in 12 M.R.S.A. §6072(12) specify that leases will remain in effect until the Commissioner makes a decision on the renewal application.

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 *Quoddy Tides* on February 10, 2017 and February 24, 2017, and in the March 2017 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 requests for a hearing on this application were received by the Department. Comments were received from the Maine Department of Inland Fisheries and Wildlife (MDIFW) during the notice period. MDIFW noted that a Shorebird Feeding Area overlaps the northwest corner of the lease site. MDIFW encouraged the lessee to consult with regional biologists to help limit impacts to species that utilize the habitat during their annual seasonal migration between July 15 and September 15.

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, and the bond is current. There are no outstanding complaints regarding this lease.

A site inspection by DMR Marine Patrol on June 5, 2017 revealed that some of the net pens had drifted outside of the COB BC lease site. DMR contacted the lessee who agreed to move the pens within the lease boundaries before a stocking permit will be issued by the Department.

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 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), SWAN 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

Rule 2.60 provides that in considering whether a transfer 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

As provided in DMR Rules Chapter 2.37 (1) (B), the Department is including in lease conditions for renewed leases a general condition providing that other public uses that are not inconsistent with the lease purposes are permitted. In adding this condition to the renewed lease, the Department intends to

make no substantive change in the public uses of the waters that are permitted to continue within the lease boundaries.

Therefore, the conditions that apply to the new lease are:

1. The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources regulations Chapter 2.80.
2. 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 Cooke Aquaculture USA, Inc. to renew aquaculture lease COB BC for a period of ten years, to December 11, 2026. 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 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.

6. DATE AND SIGNATURE

Dated: _____


8/9/17



Patrick C. Keliher, Commissioner
Department of Marine Resources