

**STATE OF MAINE**

**DEPARTMENT OF MARINE RESOURCES**

Standard Aquaculture Lease Renewal

Suspended Culture of Marine Algae

Casco Bay, Long Island, Cumberland County

Wild Ocean Aquaculture, LLC

CAS LCI2

### **Findings of Fact, Conclusions of Law, and Decision**

Wild Ocean Aquaculture, LLC applied to the Department of Marine Resources (DMR) to renew the aquaculture lease CAS LCI2 for a period of 20 years. The 0.83<sup>1</sup>-acre lease is located in Casco Bay, Town of Long Island, Cumberland County and is for the suspended culture of sugar kelp (*Laminaria saccharina*), hollow-stemmed kelp/oarweed (*Laminaria longicruris*), horsetail kelp (*Laminaria digitata*), and winged kelp (*Alaria esculenta*).

This lease was originally granted on November 17, 2014 to Ocean Approved, LLC for a period of 10 years. Ocean Approved Inc.<sup>2</sup> submitted a transfer application that was deemed complete on October 9, 2018. The transfer of CAS LCI2 to Wild Ocean Aquaculture, LLC was granted on February 5, 2019.

#### **1. Proceedings**

DMR deemed the renewal application complete on November 7, 2024. Notice of the 30-day public comment period and opportunity to request a public hearing was published in the *Portland Press Herald* on November 14, 2024. Notice was also provided to the Town of Long Island, riparian landowners within 1,000 feet of the site, and other state agencies, and sent to subscribers of DMR's aquaculture email list-serve. The record closed on December 14, 2024. During the comment period, one comment was received from the Maine Department of Inland Fisheries & Wildlife (IFW).

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<sup>1</sup> After the original lease was granted, and then transferred to Wild Ocean Aquaculture, LLC, an update in ArcPro GIS software resulted in a new calculation of acreage for the site providing a measurement of 0.83 acres instead of the 0.86 acres indicated in the original decision.

<sup>2</sup> The original lease was granted to Ocean Approved LLC, the company was later sold, and the transfer application uses Ocean Approved Inc. as the listed holder.

In accordance with 12 M.R.S.A. § 6072(12), a public hearing on a lease renewal is at DMR's discretion unless ten or more requests for a public hearing are received during the comment period.<sup>3</sup> DMR did not receive any requests for a public hearing. DMR elected not to hold a public hearing on the renewal request.

## **2. Statutory Criteria**

Aquaculture lease renewals are governed by 12 M.R.S.A. § 6072(12) and by DMR's Chapter 2.45 rules,<sup>4</sup> which provide that an aquaculture lease shall be renewed if: the commissioner receives a timely application for renewal that includes information on the type and amount of aquaculture to be conducted during the new lease term; 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. Timeliness and Contents of Renewal Application**

The Commissioner must consider whether a renewal application was timely submitted. 12 M.R.S. 6072(12)(A). At the time that this lessee submitted the renewal application, 12 M.R.S. 6072(12)(A) required that a renewal application be submitted at least 30 days before the lease expiration date. After the enactment of P.L. 2025, ch. 389 (emergency, effective June 20, 2025), the last date on which renewal applications may be submitted was extended to 30 days after the lease expiration date. P.L. 2025, ch. 389, § 1. This statutory amendment applied to all renewal applications pending with the Department on the effective date of June 20, 2025 and all renewal applications submitted following the effective date. This renewal application was pending with the Department on June 20, 2025.

This renewal application was timely submitted under the law both as it was in effect when the application was deemed complete and after the enactment of P.L. 2025, ch. 389. CAS LCI2

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<sup>3</sup> On June 20, 2025, LD 1722 was enacted as emergency legislation, P.L. 2025, ch. 389. Public Law 2025, ch. 389, which applies to all pending renewal applications, amends 12 M.R.S.A. § 6072(12), so that, among other changes, lease renewals are no longer adjudicatory proceedings, meaning public hearings are not required for lease renewals. Notice of this renewal application was processed prior to P.L. 2025, ch. 389 taking effect, and the notice provided for this application complies both with the notice procedures in effect at the time and with the current law.

<sup>4</sup> 13-188 C.M.R. ch. 2.

was set to expire on November 16, 2024. DMR received the application for renewal of CAS LCI2 on October 10, 2024. The renewal application was deemed complete on November 7, 2024. DMR applies the date the renewal application was initially received, not the date it was deemed complete, for purposes of timeliness under 12 M.R.S.A. §6072(12)(A). The renewal application was received 37 days before the expiration of the lease, which is within the submission timeframes specified in statute.

The application must include information on the type and amount of aquaculture to be conducted during the new lease term. 12 M.R.S.A. §6072(12)(A). The applicant utilized the lease renewal application form provided by DMR. This form includes sections to collect the necessary information on the type and amount of aquaculture to be conducted during the new lease term.

**Therefore**, DMR finds that the renewal application was submitted timely, and that the application includes information on the type and amount of aquaculture to be conducted during the new lease term.

#### **B. Compliance with Lease Agreement**

When issuing a decision on a lease renewal the Commissioner must consider whether the lessee has complied with the lease agreement during the term of the lease. The Department shall consider the compliance record of the leaseholder. 12 M.R.S.A. § 6072(12)(B).

According to DMR's records, there are no documented violations of the lease agreement over the prior term.

The original decision for CAS LCI2 includes approval for sugar kelp (*Laminaria saccharina*), hollow-stemmed kelp/oarweed (*Laminaria longicurvis*), horsetail kelp (*Laminaria digitata*), and winged kelp (*Alaria esculenta*). The source of stock is listed as Ocean Approved, LLC<sup>5</sup> which became Atlantic Sea Farms (ASF). ASF is currently an approved source for sugar kelp (*Laminaria saccharina*), horsetail kelp (*Laminaria digitata*), and winged kelp (*Alaria esculenta*). ASF is not an approved source for hollow-stemmed kelp/oarweed (*Laminaria longicurvis*). Therefore, hollow-stemmed kelp/oarweed (*Laminaria longicurvis*) is removed as an authorized species for CAS LCI2. If the lease holder wishes to cultivate hollow-stemmed

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<sup>5</sup> Signed lease decision for CAS LCI2, page 5.

kelp/oarweed (*Laminaria longicruris*) in the future, they would need to apply for a species amendment demonstrating that they have an available source of stock.

Given there are no documented violations of the lease agreement in the prior term and the revision of species due to current approved sources, the lease holder is in compliance with the lease agreement.

**Therefore**, DMR finds that the applicant has complied with the lease agreement during its term.

#### **C. Best Interest of the State of Maine**

When issuing a decision on a lease renewal the Commissioner must determine whether renewal of the lease is in the best interest of the State. 12 M.R.S.A. § 6072(12)(C). In determining whether it is in the best interest of the State to renew the lease, DMR takes into consideration, among other things, the potential for conflict with new or existing uses of the area which the Commissioner determines to be a higher use of the area from the perspective of public interest. Chapter 2 § 2.45(2)(B).

On November 26, 2024, DMR received a comment from IFW stating that minimal impacts to wildlife are anticipated.<sup>6</sup> DMR did not receive any other comments specific to this renewal criterion. Based on the record, renewal of the lease would not result in conflicts with new or existing uses of the area.

**Therefore**, DMR finds that it is in the best interests of the State of Maine to renew this lease.

#### **D. Aggregate Lease Holdings**

The Commissioner may not issue a lease renewal if the renewal will cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 1,000 acres. 12 M.R.S.A. § 6072(12)(D), (13-A)(B); Chapter 2.45(3).

According to DMR records, Wild Ocean Aquaculture, LLC holds the following leases:

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<sup>6</sup> Email from C. Wentworth (IFW) to DMR Aquaculture dated November 26, 2024.

<b>Lease Acronym</b>	<b>Acreage</b>
CAS SI	5.36
CAS BA2	1.99
CAS LONG	1.74
CAS BASK2	4.01
CAS CF3	11
CAS CHEB2	3.03

The total acreage leased by Wild Ocean Aquaculture, LLC., if this renewal is approved would be 27.13 acres.

**Therefore**, DMR finds that the renewal of this lease will not cause the lessee, whether considered in conjunction or separately, to lease more than 1,000 acres.

#### **E. Speculative Purposes**

The Commissioner may not issue a lease renewal if the lease is being held for speculative purposes. 12 M.R.S.A. § 6072(12)(E). In determining whether the lease is being held for speculative purposes, the Commissioner must consider whether the lessee has conducted substantially no research or aquaculture in the lease areas during the previous lease term. Chapter 2.45(2)(A).

The renewal application states that seaweed aquaculture occurred on the lease including 3,000 feet of long lines deployed for the cultivation of sugar and skinny kelp.<sup>7</sup> Seeding was done in the fall, and kelp was harvested in the spring. Typically, 6,000 to 15,000 pounds of raw kelp were harvested from CAS LCI2.

Based on the record, the lessee has conducted aquaculture activities in the lease area during the previous term.

**Therefore**, DMR finds that the lease is not being held for speculative purposes.

#### **3. Conclusions of Law**

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<sup>7</sup> Page 2 of the final lease renewal application.

Based on the above findings, DMR concludes that:

- A. The Commissioner received the application for renewal more than 30 days prior to the expiration of the lease, and the application includes information on the type and amount of aquaculture to be conducted during the new lease term.
- B. The lessee has complied with the lease agreement during the term of the lease.
- C. The renewal of the lease is in the best interest of the State.
- D. The renewal of the lease will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 1,000 acres.
- E. The lease is not being held for speculative purposes.

Accordingly, the record supports the conclusion that the proposed aquaculture activities meet the requirements for the granting of a renewal of an aquaculture lease set forth in 12 M.R.S.A. § 6072(12).

#### **4. Lease Conditions**

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 M.R.S.A. § 6072(7-B). Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease. The following conditions were part of the previous lease:

- A. The lease shall be marked in accordance with the requirements of the U. S. Coast Guard and the Department of Marine Resources;
- B. Fishing and boating shall be incorporated into the lease; and
- C. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

Condition A is a regulatory requirement and included in the lease agreement, so it is removed. Condition B is designated as Condition 1 and revised for consistency and clarity. Condition C is designated as Condition 2 and will remain.

The conditions applied to the renewed lease shall be as follows:

- 1. Navigation, recreational boating and fishing shall be allowed on the lease.

2. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

## **5. Decision**

The Commissioner grants the application of Wild Ocean Aquaculture, LLC. to renew aquaculture lease CAS LCI2 for a period of 20 years. 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.

## **6. Revocation of Lease**

The Commissioner may commence revocation procedures upon determining, pursuant to 12 M.R.S.A. § 6072(11) that no substantial aquaculture has been conducted within the preceding year, that the lease activities are substantially injurious to marine organisms or public health, or that any of the conditions of the lease or any applicable laws or regulations have been violated.

Dated: 1-26-2026



**Carl J. Wilson, Commissioner,  
Department of Marine Resources**

**STATE OF MAINE**  
**DEPARTMENT OF MARINE RESOURCES**

**Lease: CAS LCI2**

Ocean Approved, Inc.,  
Transferor

Wild Ocean Aquaculture, LLC,  
Transferee

Date: February 5, 2019

**TRANSFER OF AQUACULTURE LEASE CAS LCI2**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**1. THE PROCEEDINGS**

Ocean Approved, Inc. applied to the Department of Marine Resources ("DMR") to transfer to Wild Ocean Aquaculture, LLC, its 0.86-acre aquaculture lease CAS-LCI2, located in the coastal waters of the State of Maine in Casco Bay, Long Island, Cumberland County. The lease was originally granted on November 17, 2014 for a period of ten (10) years for the purpose of cultivating sugar kelp (*Saccharina latissimi*), horsetail kelp (*Laminaria digitate*), winged kelp (*Alaria esculenta*), and hollow-stemmed kelp/oarweed (*Laminaria longicruris*) using suspended culture techniques. The current lease expires on November 16, 2024.

The transfer application was accepted as complete on October 9, 2018. The Department provided a notice of the application and of the 14-day comment period to all riparian owners, the Town of Long Island, the general mailing list of interested persons, and the following reviewing agencies: U.S. Army Corps of Engineers, U.S. Coast Guard, National Marine Fisheries Service, Maine Department of Inland Fisheries & Wildlife, Maine Department of Conservation, and the Department of Marine Resources Marine Patrol. A notice of the application and comment period was published in the *Forecaster (Portland edition)* on October 31, 2018. No comments were received.

**2. STATUTORY CRITERIA & FINDINGS OF FACT**

Lease transfer requests are governed by 12 M.R.S §6072 (12-A) and DMR Rule 2.60. They provide that the Commissioner of DMR may grant a transfer upon determining that:

- a. the change in the lessee's identity does not cause any of the original criteria for issuing a lease to be violated;
- b. the transfer is not intended to circumvent the preference guidelines for treatment of competing applications;

- c. the transfer is not for speculative purposes; and
- d. the transfer will not cause the transferee to be a tenant in more than 1,000 acres of aquaculture leases in Maine.

#### **A. Effect of Lessee Change on Lease Criteria**

The transferee has met the same requirements for providing information about financial and technical capacity as is required for an applicant for a standard lease. The transferee has extensive experience in shellfish aquaculture and is acquainted with Maine's aquaculture laws and rules. According to the transfer application, the transferee plans no changes in the aquaculture activities taking place on the lease site.

No comments on this transfer application were received by the Department. There is no evidence that the change in the identity of the lessee will affect any of the statutory criteria for issuing an aquaculture lease.

**THEREFORE, I FIND** that the change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S. §6072 (7-A).

#### **B. Effect on Preference Guidelines**

There are no competing applications for this lease site, so the preference guidelines are not relevant to this application.

**THEREFORE, I FIND** that the lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S. §6072 (8).

#### **C. 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 Transferor that aquaculture has been conducted on this lease site.

**THEREFORE, I FIND** that the lease transfer is not for speculative purposes.

#### **D. Acres Leased by Transferee**

The statute and rule require that in order to grant the lease transfer, the Commissioner must find that "the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres." According to DMR records, the transferee holds the following leases: CAS-CF2 (1.60 acres) and CAS-BA2 (2.0 acres), making the total acreage held by the transferee 3.60 acres. However, the Transferor and the Transferee are in the process of having the Transferor's lease CAS CHEB2 (3.03 acres) transferred to the Transferee which if granted will make the total acreage held by Transferee 6.63 acres. If this transfer is granted, the total acreage held by the Transferee will be 7.49 acres.

**THEREFORE, I FIND** that the lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

#### **3. CONCLUSIONS OF LAW**

Based on the above findings, I conclude that:

- a. The change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S. §6072 (7-A);
- b. The lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S. §6072 (8);
- c. The lease transfer is not for speculative purposes; and
- d. The lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

These findings of fact and conclusions of law having been made as required by 12 M.R.S. §6072 (12-A) and by DMR rule 2.60, this lease transfer may be granted.

#### **4. DECISION**

Based on the foregoing, I grant the requested transfer of the aquaculture lease CAS-LCI2 from Ocean Approved, LLC to Wild Ocean Aquaculture, Inc. The term of the lease is not affected by the transfer, so the new lease will expire on the same date as the current lease November 16, 2024.

All provisions of the existing lease shall continue in full force and effect, including all conditions on the lease, as noted below. The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. The lessee shall post a bond or establish an escrow

account pursuant to DMR Rule 2.40 (2) (A), conditioned upon its performance of the obligations contained in the aquaculture lease documents and all applicable statutes and regulations.

## **5. CONDITIONS**

Pursuant to 12 M.R.S. §6072 (7-B), the Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities. Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease.

The existing conditions on this lease, which continue in effect after the transfer, are:

- A. The lease shall be marked in accordance with the requirements of the U. S. Coast Guard and the Department of Marine Resources;
- B. Fishing and boating shall be incorporated into the lease; and
- C. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

## **6. REVOCATION OF LEASE**

The Commissioner may commence revocation procedures if it is determined that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements imposed in this decision, in the lease, or in the law is not being observed, the Commissioner may revoke the aquaculture lease.

Dated:

2-5-19



Patrick C. Keliher, Commissioner  
Department of Marine Resources

STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES  
Standard Aquaculture Lease Application  
Suspended culture of seaweeds, Casco Bay

Ocean Approved, LLC  
Docket #2012-07  
CAS-LCI2  
November 17, 2014

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

Ocean Approved LLC, a Maine corporation, applied on August 22, 2012, to the Department of Marine Resources (“DMR”) for a standard aquaculture lease for an 0.86-acre site located in the coastal waters of the State of Maine, south of Little Chebeague Island in Casco Bay, in the Town of Long Island in Cumberland County, for the purpose of cultivating the following seaweeds:

Sugar Kelp (*Laminaria saccharina*),  
Hollow-stemmed Kelp/Oarweed (*Laminaria longicurvis*),  
Fingered/Horsetail Kelp (*Laminaria digitata*)  
Winged/Edible Kelp (*Alaria esculenta*)

DMR declared the application as complete on July 29, 2013. No one intervened in this case. A public hearing on this application was held on October 28, 2014 at the Long Island Town Hall, Long Island, Maine.

#### **1. THE PROCEEDINGS**

Notices of the hearing and copies of the application and DMR site report were provided to numerous state and federal agencies for their review, as well as to various educational institutions, aquaculture and environmental organizations, the Town of Long Island and the Long Island Harbormaster, members of the Legislature, representatives of the press, riparian landowners, and other private individuals. Notice of the hearing was published in the *Forecaster* on September 26, 2014 and October 10, 2014 and in the *Commercial Fisheries News* October 2014 edition.

Sworn testimony was given at the hearing by: Applicant, Toleff Olson from Ocean Approved and by DMR’s Aquaculture Environmental Coordinator, Jon Lewis. Mr. Olson described his proposed project. Mr. Lewis described the site visit. Jay Clement from the U.S. Army Corps of Engineering and John Wallace, Long Island Harbormaster, were in attendance. No members of the public attended. The hearing was recorded by DMR. The Hearings Officer was Gail Mackinson.

The evidentiary record before the Department regarding this lease application includes the Department Case File (CF) submitted as Exhibit 1, the revised application (App) dated July 24, 2013, submitted as Exhibit 2 and the site report (SR) dated October 10, 2014, submitted as Exhibit 3.

## **2. DESCRIPTION OF THE PROJECT**

The applicant is applying for a standard (10 year lease) that occupies the footprint of his expiring 3-year experimental lease (CAS LCI). According to the testimony of Mr. Olson, the culture gear will consist of two 1500' lines (or less as needed to fit within the 1,500' lease site) seeded with kelp and submerged to a depth of 7 feet. Buoys or weights are added or subtracted to existing buoys to maintain proper buoyancy. Mr. Olson testified in response to a question posed by the Hearings Officer about changes to gear, that the one change he made was the addition of two center moorings to take the bow out of the lines.

### **A. Proposed Operations**

Mr. Olson testified that the site will be seeded and harvested using a 24' pontoon barge and an 18' outboard boat. Seeding generally takes place in the fall and harvesting in the winter and spring. Seeding can be accomplished in one or two working days with juvenile kelp wrapped around the lines. Harvesting is done by lifting the lines with the barge and removing the kelp, generally completed in 10 days or less. The lines are removed after the yearly harvest. The 1500' lines can hold up to 60,000 kelp plants (App 11).

### **B. Site Characteristics**

The Department's Aquaculture Environmental Coordinator (AEC), Jon Lewis, testified that he and Marcy Nelson conducted a site visit at the proposed lease site on July 2, 2014. During the site visit, a diver survey, using a hand-held digital video recorder, was performed. According to Mr. Lewis, the proposed lease site is located parallel to and at least 300 ft. from the southwest shore of Little Chebeague Island in Casco Bay. The site is a long, narrow rectangle, 25 ft. wide by 1,500 ft. long, with water depths on the site ranging from 19.9 ft. to 26.7 ft. at mean high water and from 11.3 ft. at the eastern edge of the site to 18.1 ft. at the western edge of the site at mean low water. The topography is generally flat, mud bottom with a gradual downward slope to the west. Little Chebeague Island is a small, undeveloped island owned by the State of Maine, Bureau of Parks and Land. It is connected to Great Chebeague Island via a sandbar exposed at low water. The shoreline adjacent to the proposed lease can be characterized as a sand beach bordered by rocky outcrops. The upland is dominated by dense shrub and forest (SR 2-3). The area around the site is currently classified by the Department's Water Quality Classification program as "open/approved for the harvest of shellfish" (SR 8).

## **3. STATUTORY CRITERIA AND FINDINGS OF FACT**

Approval of standard aquaculture leases is governed by 12 M.R.S.A. §6072. This statute provides that a lease may be granted by the Commissioner of DMR upon determining that the project will not unreasonably interfere with the ingress and egress of riparian owners; with navigation; with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in an area; with the ability of the lease site and surrounding areas to support existing ecologically significant flora and

fauna; or with the public use or enjoyment within 1,000 feet of beaches, parks, docking facilities, or conserved lands owned by municipal, state, or federal governments. The Commissioner must also determine that the applicant has demonstrated that there is an available source of organisms to be cultured for the lease site; that the lease will not result in an unreasonable impact from noise or lights at the boundaries of the lease site; and that the lease will be in compliance with visual impact criteria adopted by the Commissioner relating to color, height, shape and mass.

#### **A. Riparian Access**

According to the site report, the only riparian owner within 1,000 feet of the proposed site is the State of Maine, Bureau of Parks and Land. Little Chebeague Island is an undeveloped island northwest of the more populated Long Island. The AEC concludes in the site report that the proposed activities will not interfere with riparian landowner access (SR 4).

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.

#### **B. Navigation**

A Harbormaster Questionnaire was sent to the Town of Long Island on August 1, 2013 but no response was received. John Wallace, Harbormaster, was present at the hearing and made the comment that there have been no concerns about the application or complaints about the three year experimental lease operated by the applicant.

According to the AEC's report, the proposed lease site is located approximately 700 feet to the northwest corner of the designated navigational channel between Little Chebeague Island and Long Island. The majority of the vessel traffic adheres to the deeper channel waters to the south and east of the proposed lease, especially at lower tides. Mr. Lewis testified that there is a sufficient navigational corridor for vessels. Fishing and recreational vessels are known to access the shallow cove between the proposed lease site and Little Chebeague Island. At low tide, a minimum of approximately 100 feet of navigable waters exist between the lease area and Little Chebeague Island. Additionally, the long lines for cultivating the kelp will be submerged 7 feet allowing shallow draft vessels to navigate directly over the farm (SR 5).

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with navigation

#### **C. Fishing & Other Uses**

AEC Jon Lewis testified that fishing in the proposed lease site is light. The majority of the traps were located south of the proposed lease site in deeper water. Mr. Lewis further testified that because the long lines are submerged 7 feet and the seaweed production cycle occurs in the fall to spring and lobster and crabbing primarily in the summer, it is unlikely that the presence of the aquaculture lease site will

interfere significantly with fishing. The applicant states that the only exclusive use required is around the long lines on which the kelp is cultivated (App 6).

**Other aquaculture leases.** According to the site report, a mussel farm, Trundy Point LLC., is located 632 feet to the southwest of the proposed lease site. The applicant has a lease site approximately 0.8 miles from the proposed site and two Limited Purpose License sites are 1.3 miles to the northeast (SR 5).

**Therefore, considering the number and density of aquaculture leases in the area, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area.

#### **D. Flora & Fauna**

According to the SCUBA observations in the site report, the dominant fauna in the area were mud shrimp, mysid shrimp, crabs, and lobster/crab burrows. The site report notes that sea vase, hermit crabs, colony of bryozoans and frilled anemone were seen to a lesser extent (SR 6). Species of marine flora observed by Department biologists during the site visit included very sparsely populated and short fronds of eelgrass located outside the western boundary of the proposed lease area. Flora observations were limited to unattached pieces of kelp, Irish moss, rockweed and unidentified red algae. There is historical presence of eelgrass in the shallows between the proposed lease site and the adjacent shoreline, however, the proposed activities will be located beyond the documented historical extent of the eelgrass in the area (SR 6). Moreover, Mr. Lewis testified that there had been no problems of any kind during the operation of the three year experimental lease on the same site.

**Fisheries & wildlife:** Copies of the application were provided to the Maine Departments of Environmental Protection and Inland Fisheries and Wildlife for review. The site report notes that there are no Endangered and Threatened Species, Species of Concern or Seabird Nesting Islands within 1.5 miles of the proposed lease. The shoreline surrounding Little Chebeague Island (as well as Long Island, Great Chebeague, etc.) is designated as a **Significant Habitat for Tidal Waterfowl and Wading Birds**. The proposed lease site is located in sub-tidal waters greater than 300 feet from the shoreline (SR 8). Additionally, the applicant provided a letter from the Maine Department of Inland Fisheries and Wildlife, dated August 14, 2012, which states that “our records indicate no occurrences of rare, threatened or endangered animal species within the project area” (App 22). There is no evidence in the record that the applicant’s seeding and harvesting operations during the term of the experimental lease interfered with, or altered the behaviors of waterfowl and wading birds along the shoreline of Little Chebeague Island.

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.

#### **E. Public Use & Enjoyment**

According to the site report, “there are no public docking facilities or beaches within 1000 feet of the proposed lease (SR 8).

**Therefore, I find** that the aquaculture activities proposed for this site will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities or certain conserved lands owned by municipal, state, or federal governments.

#### **F. Source of Organisms**

The application indicates that the source of stock for this proposed lease site will be obtained from Ocean Approved, LLC, which operates other lease sites cultivating kelp (App 1).

**Therefore, I find** that the applicant has demonstrated that there is an available source of stock to be cultured for the lease site.

#### **G. Light**

The application indicates that no lights will be used at the proposed lease site and that night work would only take place in the case of an emergency (App 5).

**Therefore, I find** that the aquaculture activities proposed for these sites will not result in an unreasonable impact from light at the boundaries of the lease site.

#### **H. Noise**

The applicant testified that he employs a 24 foot non-motorized pontoon barge and 18 foot outboard power boat, with a four stroke engine, for its seeding and harvesting operation. The site report observes that four stroke engines are substantially quieter than 2-stroke outboards and the diesel engines typically found on commercial fishing vessels (SR 8).

**Therefore, I find** that the aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease.

#### **I. Visual Impact**

The site report notes that no buildings or surface gear are proposed for use and growth lines are submerged to a depth of 7 feet. No other structures will be placed on the site, other than any navigational aids that may be required (SR 8).

**Therefore, I find** that the equipment, buildings, and watercraft to be used at the proposed lease site will comply with the visual impact criteria contained in DMR Regulation 2.37 (1) (A) (10).

### **4. CONCLUSIONS OF LAW**

Based on the above findings, I conclude that:

1. The aquaculture activities proposed for this site will not unreasonably interfere with the ingress and egress of any riparian owner.

2. The aquaculture activities proposed for this site will not unreasonably interfere with navigation. The lease site shall be marked in accordance with U. S. Coast Guard requirements.
3. The aquaculture activities proposed for this site will not unreasonably interfere with fishing or other uses of the area, taking into consideration the number and density of aquaculture leases in the area. Small-boat navigation and fishing shall be allowed within the open areas of the lease site.
4. The aquaculture activities proposed for this site will not unreasonably interfere with the ability of the lease site and surrounding areas to support existing ecologically significant flora and fauna.
5. The aquaculture activities proposed for this site will not unreasonably interfere with the public use or enjoyment within 1,000 feet of beaches, parks, or docking facilities owned by municipal, state, or federal governments.
6. The applicant has demonstrated that there is an available source of kelp seed to be cultured for the lease site.
7. The aquaculture activities proposed for this site will not result in an unreasonable impact from light at the boundaries of the lease site.
8. The aquaculture activities proposed for this site will not result in an unreasonable impact from noise at the boundaries of the lease site.
9. The aquaculture activities proposed for this site will comply with the visual impact criteria contained in DMR Regulation 2.37(1)(A)(10).

Accordingly, the evidence in the record supports the conclusion that the proposed aquaculture activities meet the requirements for the granting of an aquaculture lease set forth in 12 M.R.S.A. §6072.

##### **5. DECISION**

Based on the foregoing, the Commissioner grants the requested lease of .86 acres to Ocean Approved LLC., for ten years for the purpose of cultivating kelp using suspended culture techniques. The applicant shall pay the State of Maine rent in the amount of \$100.00 per acre per year. The applicant shall post a bond or establish an escrow account pursuant to DMR Rule 2.40 (2) (A) in the amount of \$5,000.00, conditioned upon performance of the obligations contained in the aquaculture lease documents and all applicable statutes and regulations.

## **6. CONDITIONS TO BE IMPOSED ON LEASE**

The Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities, pursuant to 12 MRSA §6072 (7-B). Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease.

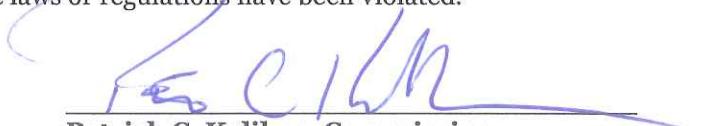
The following conditions shall be incorporated into the lease:

1. Fishing and boating shall be allowed on the lease site but dragging is prohibited; and
2. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.

## **7. 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.

Dated: 11/17/14

  
Patrick C. Keliher, Commissioner  
Department of Marine Resources