

STATE OF MAINE

Lessee: Cooke Aquaculture USA, Inc.

DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application
for net-pen culture of Atlantic salmon,
rainbow/steelhead trout, Atlantic halibut
Atlantic cod, and blue sea mussels;
Johnson Cove, Cobscook Bay, Eastport

Lease: COB JK

Docket # 2017-08-R

April 20, 2018

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Cooke Aquaculture USA, Inc. applied to the Department to renew its lease COB JK for a period of ten years to September 1, 2027. The 22-acre lease located south of Kendall Head, Johnson Cove, Cobscook Bay, Washington County, Eastport, Maine, is issued for net-pen culture of Atlantic salmon (*Salmo salar*), rainbow/steelhead trout (*Oncorhynchus mykiss*), Atlantic halibut (*Hippoglossus hippoglossus*), Atlantic cod (*Gadus morhua*), and blue sea mussels (*Mytilus edulis*). Since its last renewal on September 2, 2007, this lease was transferred from Cobscook Bay Salmon to Phoenix Salmon US, Inc. (to be renamed Cooke Aquaculture USA, Inc.) on May 3, 2011. There have been no other transfers, reductions in acreage, species and gear amendments, or other amendments to this lease since its last renewal.

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 *Quoddy Tides* on July 14 and 28, 2017 and in the August, 2017 edition of the *Commercial Fisheries News*. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease site. Two comments in opposition to the renewal of the lease 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. §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 inspections conducted by the Department of Maine Resources. 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 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 hold 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." The annual reports filed with DMR by the lessee and the statement of the lessee on the renewal application indicate 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:

- a. The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources Regulations Chapter 2.80; and
- b. 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 JK for a period of ten years, to September 1, 2027. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease.

5. REVOCATION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 M.R.S. §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: 4.20.18



Patrick C. Keliher, Commissioner
Department of Marine Resources