

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish,
Pulpit Harbor Salt Pond, North Haven

Adam and Michelle Campbell
PHSP-NH
Docket Number 2013-13-R

October 26, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Adam and Michelle Campbell applied to the Department to renew their aquaculture lease PHSP NH for 16.59 acres for suspended and bottom culture of American/Eastern Oysters (*Crassostrea virginica*) located in the Pulpit Harbor Salt Pond, North Haven, Knox County, Maine, for a period of ten years to August 17, 2023. This lease was initially issued on August 18, 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 July 2013 edition of *Commercial Fisheries News* and *the Courier Gazette* on June 27, 2013¹. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease in a letter sent on May 30, 2013. Prior to and during the public comment period, the Department received correspondence from a riparian couple requesting that upon renewal, the Commissioner impose a condition allowing them to install a dock on the lease and permit swimming (in actuality, swimming was already permitted on the lease). In addition, the riparians sent a letter to the leaseholders on June 6, 2013 requesting that they sign an enclosed affidavit allowing them, their heirs, and future successors in title, to install a dock on the lease.

Shortly thereafter, the leaseholders contacted the Department to explain that they have no objection to allowing the riparian couple to install a dock for their own personal use, but they were not comfortable signing a formal and long-term affidavit that includes future successors in title.

¹ DMR rules, Chapter 2.64 (4) (C)

The leaseholders further explained that when asked, they have always allowed docks to be installed on their lease, and offered to build and install it at cost.

In July 2013, Department staff followed-up with the riparian couple to explain that swimming was in fact allowed on the lease, pass along the leaseholder's reservation to signing an affidavit, and encourage them to discuss the situation with the leaseholders and see if they could reach agreement without Department intervention. Shortly thereafter, the riparian couple called the Department to explain that they now support renewal of the lease as is (without further conditions) as long as the Department sends them written confirmation that swimming is permitted on the lease. The Department sent a letter on July 12, 2013 to explain that swimming is allowed on the lease and reiterate our understanding that they now support renewal of PHSP NH without additional conditions. The Department received a letter on July 18, 2013 from the riparian couple that confirmed our understanding. No additional comments or 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, PHSP NH, consisting of 16.59 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 being held for speculative purposes.

3. LEASE CONDITIONS

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

- Recreational fishing and boating activities shall be allowed on the open areas of the lease;
- All upweller rafts and/or other aquaculture gear shall be located within the boundaries of the applications’ experimental lease CAMP PN; and

- The lease area shall be marked in accordance with U. S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.

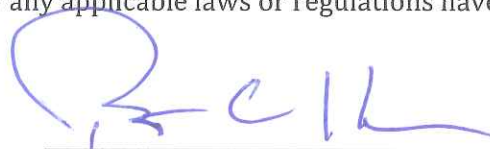
4. DECISION

The Commissioner of Marine Resources grants the application of Adam and Michelle Campbell to renew their aquaculture lease PHSP NH for a period of ten years, to August 17, 2023. 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 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: 10/26/14



Patrick C. Keliher, Commissioner
Department of Marine Resources