

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

Springtide Seaweed, LLC applied to the Department of Marine Resources (DMR) to change the species and gear authorization on existing standard lease FREN STA2, located west of Stave Island in the Town of Gouldsboro, Hancock County, Maine. The leaseholder is seeking authorization to add lantern nets, which would be deployed throughout the year along horizontal longlines, for the culture of American oyster (*Crassostrea virginica*) and green sea urchin (*Strongylocentrotus droebachiensis*).

1. THE PROCEEDINGS

The application was submitted to DMR on October 30, 2020. The application was deemed complete by DMR on November 18, 2020. Notice of the application and the 14-day public comment period were provided to other state and federal agencies, riparian landowners, the Town of Gouldsboro and its Harbormaster, and others on DMR's mailing list. The evidentiary record before DMR regarding this lease amendment application includes five exhibits (see exhibit list below).

LIST OF EXHIBITS^{1,2}

1. Application for a change of species and gear authorization
2. Executed lease document for FREN STA2 signed August 16, 2019
3. Original lease decision signed May 14, 2019
4. Original lease application, deemed complete April 20, 2018
5. Case file

2. STATUTORY CRITERIA & FINDINGS OF FACT

Approval of standard aquaculture lease amendments is governed by 12 M.R.S.A. § 6072 (13)(G) and Chapter 2.44 of DMR regulations. The statute and regulations provide that the Commissioner may grant amendments for the use of specific gear, species, and/or operational modifications on an existing lease site provided the proposed changes are consistent with the findings on the underlying lease application, would not materially alter the findings of the original decision, and would not result in a change to the original lease conditions.

¹ Exhibits 1-5 are cited below as: Amendment Application – “App”, Executed lease for FREN STA2 – “Exhibit 2”, DMR Decision on Lease FREN STA2 – “Exhibit 3”, Original Experimental Lease Application for FREN STA2 – “Exhibit 4” and Case File – “CF”.

² Page numbers are cited using the PDF page number, and not the page number written on the application.

A. Original Lease Decision

On May 14, 2019 DMR granted lease FREN STA2 to Springtide Seaweed, LLC (Exhibit 3, page 8). DMR's Findings of Fact, Conclusions of Law, and Decision, henceforth referred to as "the decision", found that the evidence in the record supported the conclusion that the aquaculture activities proposed by Springtide Seaweed, LLC met the requirements for granting a standard aquaculture lease as set forth in 12 M.R.S.A. § 6072 (Exhibit 3, page 8). In the executed lease document, the lease term for FREN STA2 was set for ten years, beginning on May 14, 2019 and ending on May 13, 2029 (Exhibit 2, page 1).

The decision provided authorization to cultivate marine algae³, using suspended culture (Exhibit 3, page 8). 1,000-foot longlines, depth control "droppers"⁴, and moorings comprise the gear authorized for the suspended culture of marine algae on FRAN STA2 (Exhibit 3, page 2). The decision authorized 1,000-foot longlines, suspended 3-6 feet below the surface of the water with depth control droppers, to be deployed on the lease site from September 1st through June 29th, annually. (Exhibit 3, pages 2 & 8). In the original application, a maximum of nine longlines running east-west, were proposed, with up to eight depth control droppers deployed along each longline (Exhibit 4, page 37). From June 30th to August 31st, annually, longlines and depth control droppers are removed from the lease site; the mooring systems remain in place year- round (Exhibit 3, 2).

Conditions imposed on lease FREN STA2, pursuant to 12 M.R.S.A § 6072 (7-B) and located on page 8 of the decision, are as follows:

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
2. Longlines may only be deployed on the lease site September 1st through June 29th of each year.
3. Lobster fishing and dragging are prohibited within the boundaries of the lease site during the times when longlines are deployed.
4. Boats with drafts of more than 3 feet are restricted from navigating in the proposed lease area during the times when longlines are deployed.

B. Proposed Changes to Gear Type and Findings

Springtide Seaweed, LLC is requesting the authorization to deploy up to 925 lantern nets, which measure 20" in diameter and 50" in length, on FREN STA2. (App, pages 5 & 9). Lantern nets would be deployed throughout the year on longlines suspended 20' below the surface of the water (App, page 20). At maximum capacity, the proposed lantern nets would be deployed within the westernmost third of the site, and would be deployed on (2) 840-foot longlines⁵ running north-south, and (7) 330-foot longlines running east-west, resulting in a grid-like deployment pattern (App, page 8). Marine algae longlines already

³ Sugar kelp (*Saccharina latissima*), skinny kelp (*Saccharina angustissima*), winged kelp (*Alaria esculenta*), horsetail/fingered kelp (*Laminaria digitata*), dulse (*Palmaria palmata*), Irish moss (*Chondrus crispus*), and nori/laver (*Porphyra sp.*)

⁴ According to Exhibit 3, depth control droppers are comprised of a floating buoy, a PVC pipe, and a small weight.

⁵ The application does not state the length of the north-south longlines, but indicates the space between mooring balls would be 140 feet.

permitted on the site would extend east, in line from these (7) 330-foot longlines; the leaseholder is proposing to reduce the length⁶ and total number⁷ of marine algae longlines permitted on the site in order to accommodate this proposed gear change. However, due to the proposed gear changes, a maximum of 28 moorings are proposed to be deployed on the site, instead of the currently authorized 27 (App, page 6).

The leaseholder is proposing a gear change that would result in longlines and lantern nets remaining onsite throughout the year. However, standard lease FRAN STA2 was issued with a condition stating that "Longlines may only be deployed on the lease site September 1st through June 29th of each year". Although the longlines proposed in this amendment application would be deployed 20 feet below the water's surface, and therefore deeper than the longlines originally proposed,⁸ their presence could still interfere with some of the other uses of the area discussed in the original lease decision and relevant to the aforementioned condition. Specifically, the decision states:

According to the application, longlines would be removed from the site, at a minimum, during the months of July and August (App 14-15). During the time when the site is devoid of longlines, the area would be available for commercial and recreational fishing (SR 9).

According to the Gouldsboro Harbormaster, lobster fishing in the area is "heavy from June to October" but "local fishermen were at scoping [and] had no objections".

As the original decision specifically discusses how the removal of longlines on a seasonal basis would decrease the proposal's impact on fishing in the area, and because mid-water horizontal longlines would pose interference to fishing, regardless of their depth below the surface of the water, the original longlines granted and the longlines proposed in this application should be considered to be synonymous. The year-round presence of the new proposed longlines is significant, as lobster fishing and dragging is prohibited within the boundaries of the lease site during the times when the longlines are deployed. Therefore, the request to deploy longlines throughout the year would result in a change to the original lease conditions and therefore cannot be granted per DMR Rule 2.44(1).

C. Proposed Species Changes and Findings

Springtide Seaweed, LLC is requesting the authorization to cultivate American oyster (*Crassostrea virginica*) and green sea urchin (*Strongylocentrotus droebachiensis*) on standard lease site FREN STA2 (App, page 2). The leaseholder has demonstrated that there is an available source of these species for cultivation, as they propose to obtain green sea urchin stock from the University of Maine Center for Cooperative Aquaculture Research,⁹ and oyster seed from approved hatcheries. However, as Section 2.B of this decision found that the proposed gear change required for the culture of these species on FREN STA2

⁶ Although not explicitly stated, it appears the length of the marine algae longlines would be reduced to ~670 feet (App, page 7).

⁷ According to page 7 of the application, the total number of longlines would be reduced from 9 to 7.

⁸ Longlines currently permitted on FRAN STA2 are located 3-6 feet below the surface of the water.


⁹ The application also indicates that stock may be sourced from the Springtide Seaweed, LLC nursery in future years.

cannot be granted as it would result in a change to the original lease conditions, the culture plan for these species cannot be approved.

4. DECISION

Based on the foregoing, the Commissioner denies the request from Springtide Seaweed, LLC for the authorization to add lantern nets, deployed throughout the year along horizontal longlines, and for the culture of American oyster (*Crassostrea virginica*) and green sea urchin (*Strongylocentrotus droebachiensis*), on FREN STA2.

Dated: 4/16/21



Patrick C. Keliher, Commissioner
Department of Marine Resources