

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

Norumbega Oysters, Inc.
DAM PPN

Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish,
Damariscotta River, Newcastle, Lincoln County

Docket Number 2014-07-R
October 20, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Norumbega Oysters, Inc applied to the Department on April 30, 2014 to renew the aquaculture lease, DAM PPN, for a period of ten years to July 10, 2024. The 5.98 acre lease is issued for bottom and suspended culture of American/eastern oysters (*Crassostrea virginica*), European oysters (*Ostrea edulis*), surf/hen clams (*Spisula solidissima*), blue sea mussels (*Mytilus edulis*), bay scallops (*Argopectin irradians*), and sea scallops (*Placopecten magellanicus*) located in the Damariscotta River, Newcastle, Lincoln County, Maine. This lease was originally granted July 12, 1994 and a transfer of a lease from Hog Island Shellfish Inc. to Norumbega Oysters Inc. was granted on November 16, 2010 for the remainder of the 10 year term expiring on July 11, 2014.

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 *Lincoln County News* on May 15, 2014 and again on June 5, 2014. Notice was also published in the June 2014 *Commercial Fisheries News*. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease site. No comments 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.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, DAM PPN, consisting of 5.98 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 for speculative purposes.

3. LEASE CONDITIONS

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

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

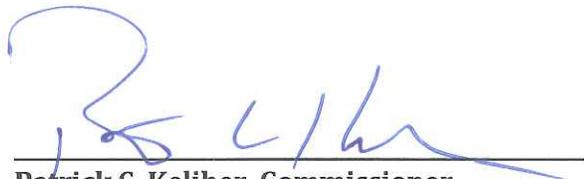
4. DECISION

The Commissioner of Marine Resources grants the application of Norumbega Oyster Inc. to renew its aquaculture lease, DAM PPN for a period of ten years to July 10, 2024. 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.

Dated: 10/20/14



Patrick C. Keliher, Commissioner
Department of Marine Resources