

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Blue Mussels and Kelp, Casco Bay, Chebeague Island

Lessee
Lease CAS BA2
Docket # 2012-14-R
September 26, 2013

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Wild Ocean Aquaculture applied to the Department to renew its aquaculture lease for two acres for suspended culture of blue sea mussels (*Mytilus edulis*), sugar kelp (*Laminaria saccharina*), hollow-stemmed kelp/oarweed (*Laminaria longicruris*), fingered/horsetail kelp (*Laminaria digitata*), winged kelp (*Alaria esculenta*), dulse (*Palmaria palmata*), nori/laver (*Porphyra*), and sea lettuce (*Ulva lactuca*), located west of Bangs Island, Casco Bay, Chebeague Island, Cumberland County, Maine, for a period of ten years to January 16, 2023.

This lease was initially issued to Aqua Farms, LLC on January 17, 2003. The Department approved a species amendment on February 4, 2009 to add the seven species of marine algae/kelp. DMR approved the transfer of the lease from Aqua Farms, LLC, to Wild Ocean Aquaculture, LLC, on July 14, 2011.

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 *Portland Press Herald* on November 10, 2012 and January 30, 2013 and in the February 2013 edition of *Commercial Fisheries News*.¹ Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease. Bangs Island is owned by Maine Department of Conservation (DOC) and managed by Maine Department of Inland Fisheries and Wildlife (DIFW). Both DOC and DIFW were notified of the renewal application. It is common practice that DIFW will not provide comment on applications and renewals unless they have concerns about impacts to wildlife. 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

¹ DMR rules, Chapter 2.64 (4) (C)

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

My 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

DMR records show that Wild Ocean Aquaculture, LLC, holds two leases (CAS CF2, 1.66 acres; CAS BA2, 2 acres), making their aggregate acreage 3.66 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

In determining whether the lease is being held for speculative purposes, the Department considers whether substantially no aquaculture or research has been conducted on the lease site. The applicant has conducted aquaculture on the lease site during its term, as shown by the annual reports it has filed with the Department and by the statement of the lessee on the renewal application.

Therefore, I find that the lease is not being held for speculative purposes.

3. LEASE CONDITIONS

The following conditions appear in the original lease:

1. The required lease markings shall be limited to marking of the moorings and structures in accordance with U.S. Coast Guard requirements;

2. Lobster fishing and recreational fishing shall be allowed on the open areas of the lease;
3. The leaseholder will clear all lobster gear that becomes tangled with his equipment when the owner identifies the equipment to the leaseholder;
4. The leaseholder shall remove all predator nets from the bottom of the lease area; and
5. The leaseholder shall conduct annual SCUBA dives on the lease site in order to monitor the benthic conditions of the lease area; results of the dives shall be submitted to the Department on a reporting form to be provided to the leaseholder; the report shall be due annually in the fall.

In the course of approving the transfer of the lease in 2011, the Department reviewed the conditions and eliminated condition 5 (see the transfer decision dated July 14, 2011). Therefore, conditions 1-4 will apply to the renewed lease.

4. DECISION

The Commissioner of Marine Resources grants the application of Wild Ocean Aquaculture, LLC to renew its aquaculture lease CAS BA2 for a period of ten years, to January 16, 2023. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the lease prior to this renewal and as described above.

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: _____

9/26/2013



**Patrick C. Keliher
Commissioner,
Department of Marine Resources**