

**STATE OF MAINE**  
**DEPARTMENT OF MARINE RESOURCES**  
Aquaculture Lease Renewal Application  
Suspended culture of blue mussels  
SE of Clapboard I., Casco Bay, Falmouth

**Wild Ocean Aquaculture, LLC**  
**Lease CAS CF2**  
Docket # 2012-15-R  
September 26, 2013

## **FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION**

Wild Ocean Aquaculture, LLC, applied to renew its aquaculture lease CAS CF2 for 1.66 acres for suspended culture of blue mussels located southeast of Clapboard Island in the town of Falmouth, Cumberland County, Maine, for a period of ten years from the date of this decision<sup>1</sup>, to September 25, 2023.

This lease was initially issued on September 27, 2004, to Aqua Farms, LLC, for suspended culture of blue mussels. On February 4, 2009, the department granted a species amendment to add 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*) to the authorized species for this lease.

The Department granted a lease variance on June 23, 2010 to permit a fourth mussel raft to be placed on the site, after review of a condition in the lease limiting the site to three rafts. The Department found no justification to retain the condition, as the neighboring landowner who initially requested the condition had no objection to allowing a fourth raft, a fourth raft could be deployed within the existing footprint of the lease site, and the lease site would continue to meet the lease decision criteria with the additional raft in place.

On October 5, 2010, the Department approved the transfer of the lease by Aqua Farms, LLC to Wild Ocean Aquaculture, LLC, under the same terms and conditions as those in the existing lease.

### **1. PROCEDURE**

Notice of the application for lease renewal and the public comment period 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*. The public, riparian landowners within 1,000 feet of

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<sup>1</sup> The leaseholder submitted the renewal application with over a year remaining on the lease, so that the renewed lease term would coincide with that of the company's other lease site, CAS BA2. The Department cannot issue a lease for longer than ten years. By applying early, the applicant is foregoing the remaining portion of the previous ten-year term, which would have expired on September 27, 2014.

the lease site, and other interested persons were given 30 days to submit comments or to request a hearing on the application for lease renewal. 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**

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 this applicant holds a total of two leases (CAS CF2, 1.66 acres; CAS BA2, 2 acres) with a total lease acreage of 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 are carried over from the original lease and will apply to the renewed lease:

1. Navigation, lobster fishing and recreational boating and fishing shall be allowed on the open areas of the lease.
2. The lease area shall be marked in accordance with U.S. Coast Guard requirements and Department of Marine Resources regulations Chapter 2.80.
3. The leaseholder shall provide mussel samples from the lease site to the Department's Biotoxin Monitoring staff in West Boothbay Harbor once per week when harvesting during the period of April through October and prior to each harvest during a toxic event.

**4. DECISION**

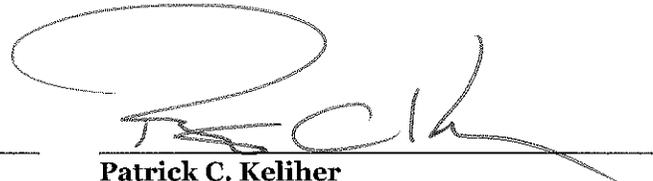
The Commissioner of Marine Resources grants the application of Wild Ocean Aquaculture, LLC to renew its aquaculture lease CAS CF2 for a period of ten years from the date of this decision. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the lease when it was transferred to Wild Ocean Aquaculture, LLC.

**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**