

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Suspended culture of mussels & kelp
Eastern Bay, Bar Harbor

Tim Levesque & Pemaquid
Mussel Farms, LLC
Lease EAST GL
Docket #2015-21-R
February 5, 2016

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Tim Levesque and Pemaquid Mussel Farms applied to the Department to renew the aquaculture lease EAST GL for a period of ten years to January 11, 2026. The 8.03-acre lease is issued for suspended culture of blue mussels (*Mytilus edulis*) and kelp (*Saccharina latissima*) located east of Googins Ledge in Eastern Bay, Bar Harbor, Hancock County, Maine. This lease was initially issued on January 12, 2006. Since the lease was issued, the Department has authorized the culture of kelp, the addition of Pemaquid Mussel Farms, LLC, as a co-lessee, and the use of sinking mussel rafts on the lease site.

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 *Mount Desert Islander* on October 22, 2015, and in the November, 2015 edition of *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, Tim Levesque holds no other leases. Pemaquid Mussel Farms, LLC, of which he is a co-owner, holds only lease PEN STH2 on 1.86 acres.

Therefore, I find that the renewal of this lease will not cause either lessee to lease more than 1,000 acres.

D. Speculative purposes

Rule 2.60 provides that in considering whether a transfer is being conducted 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 were applied to the lease by the original decision:

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 regulations and Department of Marine Resources regulations Chapter 2.80.

Lease conditions are normally carried over to the renewed lease. Because the Department is no longer placing permissive conditions on leases, the first condition will be replaced with language providing that other public uses that are not inconsistent with the lease purposes are permitted, as provided in DMR Rules Chapter 2.37 (1) (B). In making this revision, the

Department intends to make no substantive change in the public uses of the waters that are permitted to continue within the lease boundaries.

Therefore, the conditions that apply to the new lease are:

1. The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources regulations Chapter 2.80.
2. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

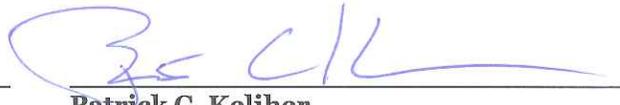
4. DECISION

The Commissioner of Marine Resources grants the application of Tim Levesque and Pemaquid Mussel Farms to renew aquaculture lease EAST GL for a period of ten years, to January 11, 2026. 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: 2/5/14



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