

STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES  
Aquaculture Lease Renewal Application

Phoenix Salmon US Inc.  
Lease COB MI2  
Docket # 2011-06R

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

On February 11, 2011, the Department received an application from Phoenix Salmon US Inc., to renew, for a period of ten years to June 4, 2021, its aquaculture lease for 30 acres for net pen culture of Atlantic salmon (*Salmo salar*), Atlantic halibut (*Hippoglossus hippoglossus*), haddock (*Melanogrammus aeglefinus*), Atlantic cod (*Gadus morhua*), rainbow/steelhead trout (*Oncorhynchus mykiss*), and suspended culture of blue sea mussels (*Mytilus edulis*), located south of Matthews Island in Cobscook Bay in the City of Eastport, Washington County, Maine. This lease was initially issued on June 5, 2001 to Lee M. Harris and George S. Harris, Jr. and was transferred to Phoenix Salmon US, Inc. on December 27, 2007.

### 1. PROCEDURE

Notice of the application for lease renewal and the public comment period was published in the *Commercial Fisheries News* April 2011 edition and in the *Quoddy Tides* on March 11 and March 25, 2011. The public, riparian landowners within 1,000 feet of 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, rent has been paid in a timely manner, the bond has been kept current, and the site has passed inspections 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 considers, 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 Phoenix Salmon US Inc and its related corporations within the corporate structure owned by Cooke Aquaculture hold 24 aquaculture leases covering a total of 609.33 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.

**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. Fishing, including lobster, crab, urchin, scallop, and recreational fishing, is allowed on the open areas of the lease.
2. Navigation is allowed on the open areas of the lease.
3. The lease area shall be marked in accordance with U.S. Coast Guard requirements and Department of Marine Resources regulations Chapter 2.80.

**4. DECISION**

The Commissioner of Marine Resources grants the application of Phoenix Salmon US Inc. to renew its aquaculture lease COB MI2 for a period of ten years, to June 4, 2021. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease.

Dated: 6/27/11

  
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Norman H. Olsen  
Commissioner  
Department of Marine Resources