

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

**Robert A. Cates
Lease LIT CH**

Lease Renewal Application
January 6, 2009

Docket 2007-14R

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

On September 12, 2007, Robert A. Cates applied to renew, for a period of ten years to December 15, 2017, his aquaculture lease for 6.3 acres for pen culture of Atlantic salmon (*Salmo salar*), rainbow/steelhead trout (*Oncorhynchus mykiss*), and Atlantic halibut (*Hippoglossus hippoglossus*) located in Little River in Cutler, Washington County, Maine. This lease was initially issued on May 12, 1987 and was previously renewed on December 16, 1997.

1. PROCEDURE

Notice of the application for lease renewal was published in the January, 2008 issue of *Commercial Fisheries News* and the December 18, 2007 and January 1, 2008 issues of *Downeast Coastal Press*. The public, riparian landowners within 1,000 feet of the lease site, and other interested persons were given until January 18, 2008 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, the bond has been kept current, and the site has passed inspections by DMR Marine Patrol, most recently in December, 2007.

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 13.2 acres of aquaculture leases, including this lease and lease LIT CN, also located in the Little River in Cutler, Maine.

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

D. Speculative purposes

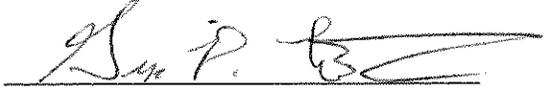
In determining whether the lease is being held for speculative purposes, the Department considers whether substantially no aquaculture or research has been conducted on the lease site. While the applicant has not conducted aquaculture on this lease since 2004 because of the business challenges of raising finfish on smaller lease sites, he has been actively striving to do so by seeking partners to participate in finfish aquaculture on this site and his neighboring site. At this time, the sites are the subject of certain agreements between Mr. Cates and a corporation engaged in the culturing of finfish in Maine, negotiated in the expectation that the sites will likely be used for finfish culture in the near future.

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

Decision

The Commissioner of Marine Resources grants the application of Robert Cates for renewal of the 6.3-acre aquaculture lease located in the Little River in Cutler, Washington County, Maine, for a period of ten years, to December 15, 2017. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the previous lease. The condition placed on this lease in the previous renewal decision, dated January 21, 1999, "Marker buoys must be placed on the boundaries of the lease area indicating the presence of submerged mooring cables and nets", will be included in the new lease.

Dated: 7/5/11 2009


George D. Lapointe (Commissioner)
Department of Marine Resources