

STATE OF MAINE

DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application
Bottom and suspended culture of American
and European Oysters, northern quahogs,
surf/hen clams, soft clams, and bay scallops
east of Little Point, Damariscotta River, Newcastle

Mook Sea Farms, Inc.

Lease DAM EL3

Docket #2016-08-R

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Mook Sea Farms, Inc. applied to the Department to renew its aquaculture lease DAM EL3 for a period of ten years to August 27, 2026. The 15.15-acre lease located east of Little Point, Damariscotta, River, Newcastle, Lincoln County, Maine, is issued for bottom and suspended culture of American/Eastern, European oysters, surf/hen clams, northern quahogs, soft clams, and bay scallops. This lease was initially issued on May 14, 2012 and represented a consolidation of two existing lease sites of the lessee, DAM EL and DAM EL2.

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 *Lincoln County News* on July 14 and August 4, 2016 and the August issue of the *Commercial Fisheries New*, 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, the transferee holds the following leases: DAM EL3, 15.15 acres; DAM PI, 0.66 acres; DAM PINx, 0.80 acres; and DAM PP2, 24.00 acres, for an aggregate amount of 40.61 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

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 are carried over from the original lease and will apply to the renewed lease:

- a. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80 using devices that are readily visible to mariners in all sea conditions.
- b. Navigation corridors must be maintained free of gear as depicted on Exhibit 16¹ and at the northeast corner of the former lease DAM EL lease site, which is the southwest tract of the new, combined lease.
- c. Moorings may be set within the navigation corridors on the lease site as authorized by the Newcastle harbormaster.
- d. The "Hale mooring" must be accommodated in its present location (44° 01' 16.68" N, 69° 32' 38.34" W) on the southwest tract of the lease, formerly lease DAM EL.
- e. The lessee may temporarily displace and relocate moorings on the lease site after reasonable notice to and authorization from the Newcastle harbormaster.
- f. The lessee must promptly alter or remove gear on the lease site at the harbormaster's request if it is outside the lease boundaries or if it interferes with navigation in the open areas of the lease site which are to be left gear-free as shown in Exhibit 16.
- g. Oyster cages may be sunk to the bottom of the lease site only in areas where a minimum of four feet of water will remain above them at mean low water and must be marked when ice is not present.
- h. Navigation and recreational fishing are permitted in the open areas of the lease site.
- i. Dragging is limited to the hard bottom substrate in the channels within the lease boundaries.
- j. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

4. DECISION

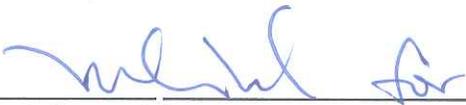
The Commissioner of Marine Resources grants the application of Mook Sea Farms, Inc. to renew its aquaculture lease DAM EL3 for a period of ten years, to August 27, 2026. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease, except as modified by this decision.

¹ Exhibit 16 is page 10 of the original decision dated May 14, 2012 and is incorporated here by reference. A copy of Exhibit is also attached as Exhibit 16 to this decision.

5. REVOCATION OF LEASE

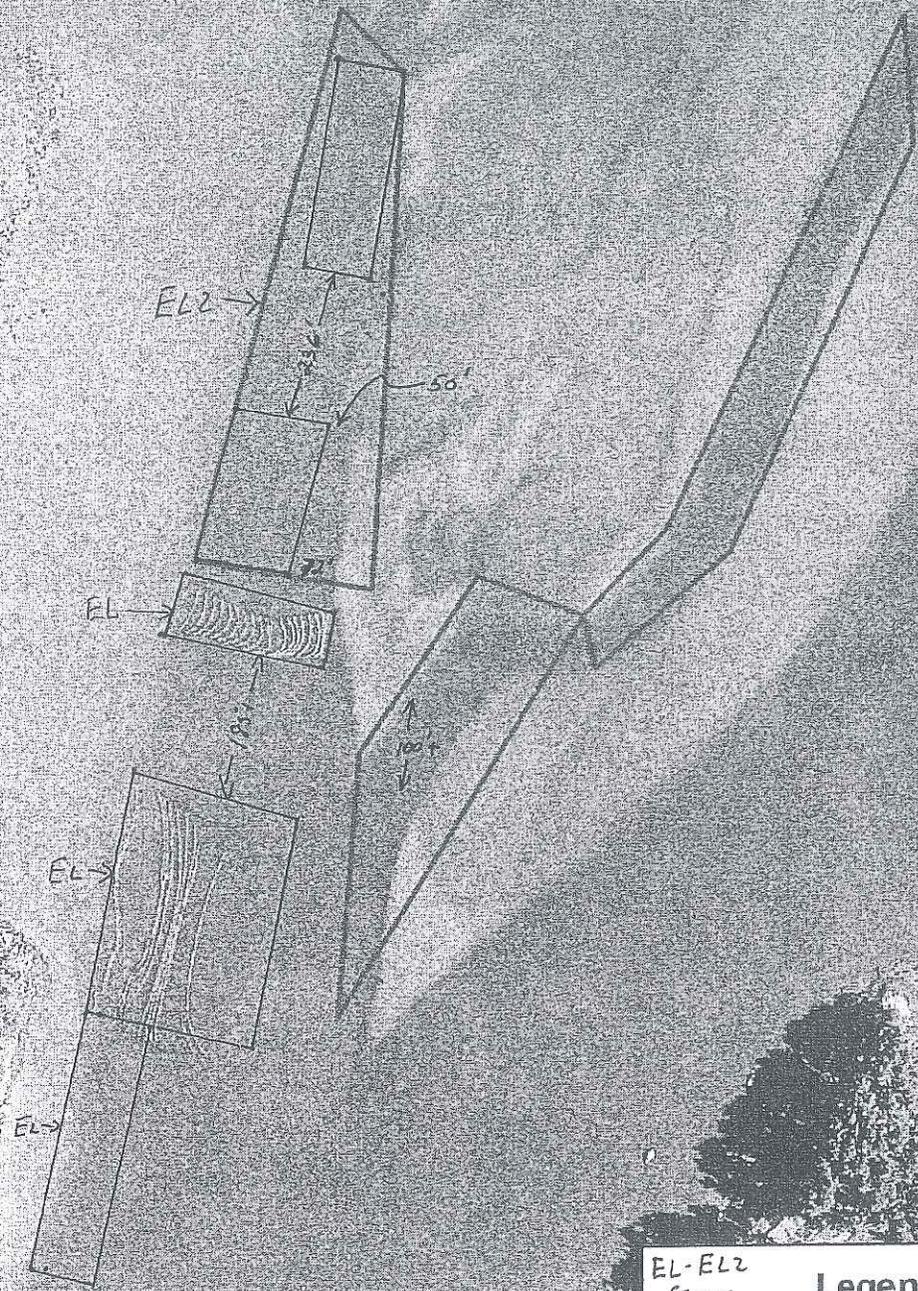
The Commissioner may commence revocation procedures upon determining pursuant to 12 MRSA §6072 (11) and DMR Rule Chapter 2.42 that no substantial aquaculture has been conducted within the preceding year, that the lease activities are substantially injurious to marine organisms, or that any of the conditions of the lease or any applicable laws or regulations have been violated.

Dated: 10.12.16



Patrick C. Keliher
Commissioner,
Department of Marine Resources

EXHIBIT
 11-2-11, court'd hearing
 16
 WOOD SEA FARMS
 # 2011-08
 PENNSAID 800-631-6989



EL-EL2
 Gear
Legend
 [Rectangle] 1996 SITE REVIEW/BUOYS

EL + EL2 Gear as now deployed on DAW EL + as proposed 11-2-11 to be deployed on DAW EL 2.