

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

**Joe Larrabee
PEN BB**

Aquaculture Lease Renewal Application
Suspended culture of shellfish, Belfast Bay,
Penobscot Bay, Northport, Waldo County

Docket Number 2014-02-R
October 7, 2104

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

Joe Larrabee, d/b/a/ Bayside Mussel Farm, applied to the Department on February 27, 2014 to renew the aquaculture lease, PEN BB, for a period of ten years to June 1, 2024. The 6 acre lease is issued for suspended culture of blue mussels (*Mytilus edulis*) and sugar kelp (*Laminaria saccharina*) in Northport, Waldo County, Maine. This lease was originally granted June 2, 2004. On October 28, 2011, a lease species amendment was granted allowing the addition of sugar kelp (*Laminaria saccharina*).

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 *Republican Journal* on April 13, 2014 and again on April 24, 2014. Notice was also published in the May 2014 *Commercial Fisheries News*. Personal notice was given to the municipality. There are no riparian landowners within 1,000 feet of the lease site, however, on April 6, 2014; the Department of Marine Resources received a letter from Mark Crosby, a resident of Northport, Maine. In his letter, Mr. Crosby objected to the renewal of the lease, maintaining that the mussel rafts create hazards for navigation. In an email to Mr. Crosby on May 6, 2014, the Department responded that the issue of navigation was thoroughly explored during the 2004 public hearing on the lease and it was determined that the mussel rafts did not create a navigational hazard. The U.S. Coast Guard and the U.S. Army Corps of Engineers reviewed the proposed site location and concurred with the Commissioner's decision that the mussel rafts did not create a navigational hazard. No further communication was received from Mr. Crosby.

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 total lease acreage held by lessee, including this lease, PEN BB, consisting of 6 acres, will not exceed 1,000 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 for all three tracts:

- The lease area must be marked in accordance with the U.S. Coast Guard requirements and Department of Marine Resources Chapter 2.80.;
- Lobster fishing, recreational boating and fishing shall be allowed in the open areas of the lease.

4. DECISION

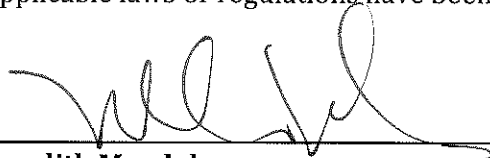
The Commissioner of Marine Resources grants the application of Joe Larrabee to renew his aquaculture lease, PEN BB, for a period of ten years to June 1, 2024. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease, except as modified by this decision.

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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: 10.7.2014



Meredith Mendelson
Deputy Commissioner
Department of Marine Resources