

STATE OF MAINE

DEPARTMENT OF MARINE RESOURCES

Coastal Rivers Conservation Trust

Aquaculture Lease Renewal Application

DAM BP

Suspended and bottom culture of shellfish in
Blackstone Point, Damariscotta River

3/28/22

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Coastal Rivers Conservation Trust¹ applied to the Department to renew the experimental aquaculture lease for scientific purposes (DAM BP) for a period of three years, ending May 31, 2024. The .06-acre lease is issued for suspended and bottom culture of American/eastern oysters (*Crassostrea virginica*), soft clams (*Mya arenaria*), and northern quahogs/hard clams (*Mercenaria mercenaria*) located in Blackstone Point, Damariscotta River, Damariscotta, Lincoln County, Maine. The original lease term began on June 1, 2012. The lease was renewed previously on June 1, 2015, and again on June 1, 2018.

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 October 7, 2021. Notice was also provided to riparian landowners within 1,000 feet of the site, the Town of Damariscotta, federal and other state agencies and sent to subscribers of DMR's aquaculture email list-serve. No requests for a hearing on this application were received by the Department during the comment period, and no hearing was held.

2. STATUTORY CRITERIA

Applications for the renewal of experimental aquaculture leases for scientific purposes are governed by 12 M.R.S. §6072-A (18) and by Chapter 2.45 of the Department's rules, which provide that an aquaculture lease shall be renewed unless the lessee has not complied with the lease agreement during its term; research has not been conducted during the term of the lease; or the Commissioner determines that it is not in the best interest of the State to renew the lease. Additionally, the Commissioner may not grant a lease renewal if it would cause the lessee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

¹ Formerly known as Damariscotta River Association.

A. Compliance with lease

The review of the case file associated with this lease indicates compliance with the lease agreement. Annual inspections of the lease during the previous lease term showed no issues, except for one occurrence of a marking issue that the leaseholder has indicated they will address when installing gear in the coming season. There are no outstanding complaints regarding this lease.

Therefore, I find that the applicant has complied with the lease agreement during its term.

B. Research conducted

A review of the case file associated with this lease and the statement of the lessee on the renewal application show that the educational and scientific aquaculture activities for which this lease was originally proposed and granted have been conducted on this lease site over the lease term.

Therefore, I find that research has been conducted during the term of the lease.

C. 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.

D. Aggregate lease holdings

According to DMR records, the lessee holds the following leases: DAM BP (.06 acres).

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

3. LEASE CONDITIONS

Conditions on the current lease document, which was executed on February 20, 2020, are as follows:

- a. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
- b. Shellfish harvesting is prohibited on the site by anyone except the applicant or its authorized agents; students using the site are considered authorized agents for purposes of this condition. Dragging is prohibited within the lease boundaries.
- c. To minimize sediment disturbance, people may be in the water at the site for a maximum of 5 hours per day and 15 hours per week. Groups of more than eight people are limited to no more than one hour in the water, after which a one-hour sediment settling time is required during which no person is allowed in the water at the site.
- d. The lessee must maintain a log to record daily use of the site by all users and document the numbers of people and the times when they are in the water. The log must be available for inspection by DMR staff to determine compliance with these lease conditions.
- e. The lessee must post a sign at the site warning that oysters from the Damariscotta River must not be moved to other Maine coastal waters in order to prevent the spread of disease.
- f. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

Condition "a" pertains to site marking. Lease holders are required to mark sites in accordance with DMR's regulations and marking is further specified in lease agreements. Therefore, if the renewal is granted this condition will be removed from the lease agreement as it is already contemplated in applicable regulation.


4. DECISION

The Commissioner of Marine Resources grants the application of Coastal Rivers Conservation Trust to renew the experimental aquaculture lease DAM BP for a period of three years, to May 31, 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.

5. REVOCATION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 M.R.S. §6072-A (18) that the lease activities are substantially injurious to marine organisms, no substantial aquaculture research has been conducted over the course of the lease, or that any of the conditions of the lease has been violated.

6. DATE AND SIGNATURE

Dated: 3/28/22 

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

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

Damariscotta River Association

Aquaculture Lease Renewal Application
Suspended and bottom culture of shellfish
Blackstone Point, Damariscotta River

DAM BP

December 18, 2018

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Damariscotta River Association applied to the Department to renew the experimental aquaculture lease DAM BP for a period of three years to May 31, 2021. The .06-acre lease is issued for suspended and bottom culture of American/eastern oysters (*Crassostrea virginica*), soft clams (*Mya arenaria*, and northern quahogs/hard clams (*Mercenaria mercenaria*) located in Blackstone Point, Damariscotta River, Damariscotta, Lincoln County, Maine. This lease was initially issued on June 1, 2012. Lease was renewed previously on June 1, 2015.

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 August 9, 2018 and August 30, 2018 and in the September 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. §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 indicates 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 lessee holds the following leases: DAM BP (.06 acres)

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

D. Speculative purposes

Rule 2.45(3)(B) provides that in determining whether a renewal 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: Conditions imposed on this lease by the decision dated June 1, 2012.

- a. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.
- b. Shellfish harvesting is prohibited on the site by anyone except the applicant or its authorized agents; students using the site are considered authorized agents for purposes of this condition. Dragging is prohibited within the lease boundaries.

- c. To minimize sediment disturbance, people may be in the water at the site for a maximum of 5 hours per day and 15 hours per week. Groups of more than eight people are limited to no more than one hour in the water, after which a one-hour sediment settling time is required during which no person is allowed in the water at the site.
- d. The lessee must maintain a log to record daily use of the site by all users and document the numbers of people and the times when they are in the water. The log must be available for inspection by DMR staff to determine compliance with these lease conditions.
- e. The lessee must post a sign at the site warning that oysters from the Damariscotta River must not be moved to other Maine coastal waters in order to prevent the spread of disease.
- f. 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 Damariscotta River Association to renew the experimental aquaculture lease DMA BP for a period of three years, to May 31, 2021. 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 M.R.S. §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.

6. DATE AND SIGNATURE

Dated: 12/18/18



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

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Experimental Aquaculture Lease Application
Bottom & suspended culture of shellfish
South of Blackstone Point, Damariscotta River

Damariscotta River Association
Lease DAM BP
Docket # 2015-09-R
October 8, 2015

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

The Damariscotta River Association has applied to the Department of Marine Resources (“DMR”) to renew its experimental scientific lease, (DAM BP), for three years to May 31, 2018. The lease consists of 0.06 acres (2,500 sq. ft.) located in the coastal waters of the State of Maine, on the east side of the Damariscotta River south of Blackstone Point in the Town of Damariscotta in Lincoln County, and is used for the purpose of cultivating American oysters (*Crassostrea virginica*), soft clams (*Mya arenaria*), and northern/hard clams or quahogs (*Mercenaria mercenaria*), using bottom and suspended culture techniques.

1. THE PROCEEDINGS

Notice of the application for lease renewal and the public comment period was published in the *Lincoln County News* on June 18 and July 9, 2015 and in the July issue of the *Commercial Fisheries News*. 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 or hearing requests were received by the DMR during the comment period.

2. STATUTORY CRITERIA

Applications for aquaculture lease renewals are governed by 12 M.R.S. §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, the rent is paid to date, the bond is current, and the site has passed inspection by DMR Marine Patrol. Further, a review of yearly reports filed by lessee shows that the lease is being used for scientific research. 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 Interests of the State

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 0.06 acres of aquaculture leases.

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 and by the statement of the lessee on the renewal application.

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

3. CONDITIONS TO BE IMPOSED ON LEASE

1. The lease site must be marked in accordance with both U.S. Coast Guard requirements and DMR Rule 2.80.

2. Shellfish harvesting will be prohibited on the site by anyone except the applicant or its authorized agents; students using the site are considered authorized agents for purposes of this condition. Boating and fishing other than dragging will be allowed in the open areas of the lease site.


3. To minimize sediment disturbance, people may be in the water at the site for a maximum of 5 hours per day and 15 hours per week. Groups of more than eight people are limited to no more than one hour in the water, after which a one-hour sediment settling time is required during which no person is allowed in the water at the site.

4. The lessee must maintain a log to record daily use of the site by all users and document the numbers of people and the times when they are in the water. The log must be available for inspection by DMR staff to determine compliance with these lease conditions.

5. The lessee must post a sign at the site warning that oysters from the Damariscotta River must not be moved to other Maine coastal waters in order to prevent the spread of disease.

4. DECISION

The Commissioner of Marine Resources grants the application of the Damariscotta River Association to renew its aquaculture lease DAM BP for a period of three years, to May 31, 2018. The renewed lease is subject to the same terms, conditions, and obligations as set forth in the original lease

Dated: 10/8/15 
Patrick C. Keliher
Commissioner
Department of Marine Resources