

STATE OF MAINE

DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal

Suspended & bottom culture of shellfish and
marine algae

Damariscotta River, South Bristol

The University of Maine,

Darling Marine Center

DAM LW2

June 16, 2020

SCIENTIFIC AQUACULTURE LEASE RENEWAL

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

The University of Maine, Darling Marine Center applied to the Department of Marine Resources (“Department”) to renew a scientific experimental aquaculture lease DAM LW2 for a period of three years to September 30, 2022. The lease is located on three tracts totaling 1.79 acres in Lowe’s Cove, Damariscotta River, in the Town of South Bristol, Lincoln County, Maine, and is issued for bottom and suspended culture of the following species:

- American oysters (*Crassostrea virginica*)
- European oysters (*Ostrea edulis*)
- Sea scallops (*Placopecten magellanicus*)
- Blue mussels (*Mytilus edulis*)
- Soft-shelled clams (*Mya arenaria*)
- Hard clams (*Mercenaria mercenaria*)
- Razor clams (*Ensis leei*)
- Surf clams (*Spisula solidissima*)
- Arctic surf clams (*Mactromeris polynyma*)
- Sugar kelp (*Saccahrina latissimi*)
- Horsetail kelp (*Laminaria digitata*)
- Dulse (*Palmaria palmata*)
- Winged kelp (*Alaria esculenta*)

This lease was initially issued on October 1, 2013 and was most recently renewed on October 21, 2016. DMR accepted the renewal application as complete on November 22, 2019.

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 December 5, 2019. 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

The renewal of a scientific experimental aquaculture lease is governed by 12 M.R.S.A. §6072-A(18) and by Chapter 2.45 of the Department's rules, which provide that an experimental lease for scientific purposes may be renewed if: the lessee has complied with the lease agreement during the 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 conducted by the Department. 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 Department records, DAM LW2 is the only lease held by the University of Maine, Darling Marine Center. The total acreage of the lease is 1.79.

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

D. Speculative purposes

Chapter 2.45(2)(A) of the Department's rules provides that in determining whether a renewal is being conducted for speculative purposes, the Commissioner 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 research 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:

- a) The lease area shall be marked in accordance with U.S. Coast Guard requirements and the DMR Rule Chapter 2.80.
- b) Dragging and use of mobile fishing gear are not permitted on the lease. Lobstering and other fixed-gear fishing are permitted on the lease, provided they do not interfere with aquaculture gear. Navigation by vessel and travel by foot are allowed on the lease.
- c) The lessee must inform anyone using the lease site of the restriction on the movement of European and American oysters from the Damariscotta River pursuant to DMR Rule Chapter 24.10(4)(F).

- d) 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 the University of Maine, Darling Marine Center to renew the scientific experimental aquaculture lease DAM LW2 for a period of three years, to September 30, 2022. 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. REVOCAION OF LEASE

The Commissioner may commence revocation procedures upon determining pursuant to 12 M.R.S.A §6072-A(22) 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: _____

6/16/20



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

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application
Suspend & bottom culture of shellfish and kelp
Damariscotta River, South Bristol

Darling Marine Center of the
University of Maine

DAM LW2
Docket #2016-09-R
October 21, 2016

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

The Darling Marine Center of the University of Maine applied to the Department to renew the scientific experimental aquaculture lease DAM LW2 for a period of three (3) years to September 30, 2019. The lease is on located on three tracts totaling 1.79 acres in Lowe's Cove, Damariscotta River, in the Town of South Bristol, Lincoln County, Maine, and is issued for bottom and suspended culture of the following species:

- American oysters (*Crassostrea virginica*)
- European oysters (*Ostrea edulis*)
- Sea scallops (*Placopecten magellanicus*)
- Blue mussels (*Mytilus edulis*)
- Soft-shelled clams (*Mya arenaria*)
- Hard clams (*Mercenaria mercenaria*)
- Razor clams (*Ensis directus*)
- Surf clams (*Spisula solidissima*)
- Arctic surf clams (*Mactromeris polynyma*)
- Sugar kelp (*Saccharina latissima*)
- Horsetail kelp (*Laminaria digitata*)
- Dulse (*Palmaria palmata*)
- Winged kelp (*Alaria esculenta*)

This lease was initially issued on October 1, 2013. DMR accepted the renewal application as complete on June 29, 2016.

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 in the August 2016 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.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 lessee holds no other leases.

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 2.60 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 were applied to the lease by the original decision:

- a. The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources regulations Chapter 2.80.
- b. Dragging and use of mobile fishing gear are not permitted on the lease. Lobstering and other fixed-gear fishing are permitted on the lease, provided they do not interfere with aquaculture gear. Navigation by vessel and travel by foot are allowed on the lease.
- c. The lessee must inform anyone using the lease site of the restriction on the movement of American oysters from the Damariscotta River pursuant to DMR Rules Chapter 24.
- d. 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 the Darling Marine Center at the University of Maine to renew scientific experimental aquaculture lease DAM LW2 for a period of three (3) years, to September 30, 2019. 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 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: 10/21/16



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