

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
Bottom culture of blue sea mussels,
Stinson Neck, Penobscot Bay, Deer Isle

Lessee: Acadia Aqua Farms, LLC
Lease: PEN SN3
Docket # 2015-02-R
May 28, 2015

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Acadia Aqua Farms, LLC applied to the Department to renew aquaculture lease PEN SN3 for a period of ten years to May 29, 2025. The 38-acre lease is issued for bottom culture of blue sea mussels and is located in Stinson Neck, Deer Isle, Hancock County, Maine. Lease PEN SN3 is a combination of two previous leases, PEN SN1 and PEN SN2, which were issued to Robert Burgess, Jack Hamblen, and Great Eastern Mussel Farms, Inc., in 1995. The two leases were renewed in 2005. Great Eastern Mussel Farms, Inc. relinquished its aquaculture leases in 2008, leaving Mr. Burgess and Mr. Hamblen as the remaining leaseholders. The two leases were combined in 2011 and renamed lease PEN SN3. Lease PEN SN3 was transferred to Acadia Aqua Farms, LLC on December 29, 2014 and expires on May 29, 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 *Island Ad-vantages* on March 26, 2015 and in the June issue of the *Commercial Fisheries News*. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease site. Six (6) comments and requests for a hearing were received by the Department during the comment period. The requests concerned the impact of wild harvest of mussels and mussel seed on marine worms in the Stinson Neck area. The Department informed those requesting a hearing that since neither seed mussels nor worms are harvested on the lease site, the issue was not relevant to the criteria for renewing the lease, and evidence about it would be excluded if a hearing were held. After communications between the DMR and the individuals who submitted the hearing requests, two of the six requests were withdrawn. Since five written requests for a hearing are required, no hearing was held.

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 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 the 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 interest of the State of Maine to renew this lease.

C. Aggregate lease holdings

The statute and rule require that in order to grant the lease renewal, the Commissioner must find that "The renewal will not cause the lessee to become a tenant of any kind in leases covering an aggregate of more than 1,000 acres." According to DMR records, the lessee holds the following leases: EAST OP2 (31.62 acres), EAST HP (40.45 acres), FLAN WN (14.30 acres), and FREN BI (32.33 acres), for a total of 118.70 acres. Adding the acreage of PEN SN3 (38 acres), the lessee will not hold more than 1,000 leased 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 2.45 provides that in considering whether a lease is being held 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

Pursuant to 12 M.R.S. §6072 (7-B), the Commissioner may establish conditions that govern the use of the lease area and impose limitations on aquaculture activities. Conditions are designed to encourage the greatest multiple compatible uses of the lease area, while preserving the exclusive rights of the lessee to the extent necessary to carry out the purposes of the lease.

The existing conditions on this lease, which continue in effect following the renewal, are:

1. The lease area shall be marked in accordance with the requirements of the U.S. Coast Guard and the Department of Marine Resources regulations Chapter 2.80.
2. No seeding, culturing, or harvesting operations in the lease tracts except between sunrise and sunset;
3. Operations shall not interfere with moorings in the lease area;
4. Lessees shall make every reasonable effort to confine the deposit and movement of seed mussels and other materials to within the boundaries of the lease area;
5. Storage is prohibited;
6. Lobstering and crabbing to be allowed on the lease; and
7. Other public uses that are not inconsistent with the purposes of the lease are permitted.

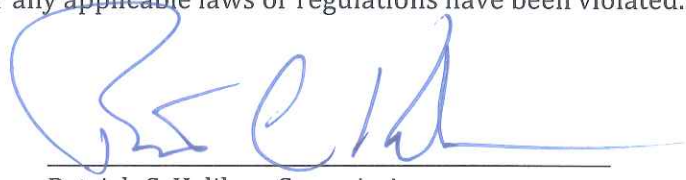
4. DECISION

The Commissioner of Marine Resources grants the application of Acadia Aqua Farms, LLC to renew its aquaculture lease PEN SN3 for a period of ten years, to May 29, 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. REVOCACTION 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.

Dated: 5/28/15



Patrick C. Keliher, Commissioner
Department of Marine Resources