

**STATE OF MAINE**  
**DEPARTMENT OF MARINE RESOURCES**  
Aquaculture Lease Renewal Application  
Bottom culture of oysters  
Damariscotta River, Bristol & Damariscotta

**Jonathan Dickinson**  
**Lease DAM SL**  
Docket #2015-19-R  
  
February 5, 2016

**FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION**

Jonathan Dickinson applied to the Department to renew the aquaculture lease DAM SL for a period of ten years to January 29, 2026. The 0.94-acre lease is issued for bottom culture of American oysters (*Crassostrea virginica*), and is located in the Damariscotta River, in the towns of Bristol and Damariscotta, Lincoln County, Maine. This lease was initially issued on January 30, 2006. Upon renewal of the lease, the lessee plans to apply to transfer ownership of the lease to his brother, Christopher Dickinson.

**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 22, 2015 and in the November edition of the *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 only lease DAM SL (0.94 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 2.60 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 transfer is not for speculative purposes.

**3. LEASE CONDITIONS**

The following conditions were applied to the original lease by the decision that granted the lease:

- (1) The lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80.
- (2) Navigation, lobster fishing and recreational boating and fishing shall be allowed on the open areas of the lease.

Lease conditions are normally carried over to the renewed lease. Because the Department is no longer placing permissive conditions on leases, condition (2) will be replaced with language providing that other public uses that are not inconsistent with the lease purposes are permitted, as provided in DMR Rules Chapter 2.37 (1) (B). In making this revision, the Department intends to make no substantive change in the public uses of the waters that are permitted to continue within the lease boundaries.

Therefore, the conditions that apply to the new lease are:

- 1. The lease area shall be marked in accordance with U.S. Coast Guard requirements and the Department of Marine Resources regulations Chapter 2.80.

2. 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 Jonathan Dickinson to renew aquaculture lease DAM SL for a period of ten years, to January 29, 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.

**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: \_\_\_\_\_

2/5/16



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

STATE OF MAINE  
DEPARTMENT OF MARINE RESOURCES  
Jonathan Dickinson, Transferor  
Aquaculture Lease Transfer Application

Lease DAM SL  
Docket # 2016-05-T  
Christopher Dickinson, Transferee  
September 21, 2016

## FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

### 1. THE PROCEEDINGS

Jonathan Dickinson applied to the Department of Marine Resources (“DMR”) to transfer to Christopher Dickinson his 0.94 - acre aquaculture lease known as lease DAM SL, located in the coastal waters of the State of Maine in the Damariscotta River, in the Towns of Bristol and Damariscotta, Lincoln County, for bottom culture of American/Eastern oysters (*Crassostrea virginica*). This lease was initially issued on January 30, 2006 and has been renewed for a 10-year term beginning January 30, 2016 and continuing to January 29, 2026. Execution of the renewal lease has been postponed pending a decision on this transfer application.

The transfer application was accepted as complete on April 8, 2016. The Department provided a notice of the application and 14-day comment period to all riparian owners, the Towns of Bristol and Damariscotta, the general mailing list of interested persons, and case specific mailing list. A notice of the application and comment period was published in the *Lincoln County News* on April 28, 2016 and in the May issue of the *Commercial Fisheries News*. No comments were received.

### 2. STATUTORY CRITERIA & FINDINGS OF FACT

Lease transfer requests are governed by 12 M.R.S. §6072 (12-A) and DMR Rule 2.60. They provide that the Commissioner of DMR may grant a transfer upon determining that:

- a. the change in the lessee’s identity does not cause any of the original criteria for issuing a lease to be violated;
- b. the transfer is not intended to circumvent the preference guidelines for treatment of competing applications;
- c. the transfer is not for speculative purposes; and
- d. the transfer will not cause the transferee to be a tenant in more than 1,000 acres of aquaculture leases in Maine.

#### A. Effect of Lessee Change on Lease Criteria

The transferee has met the same requirements for providing information about financial and technical capacity as is required for an applicant for a standard lease. The transferee has extensive experience in shellfish aquaculture and is acquainted with Maine’s aquaculture laws and rules. The transferee has been working on the lease site for at least the last 10 years.

According to the transfer application, the transferee plans no changes in the aquaculture activities taking place on the lease site.

No comments on this transfer application were received by the Department. There is no evidence that the change in the identity of the lessee will affect any of the statutory criteria for issuing an aquaculture lease.

**THEREFORE, I FIND** that the change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S. §6072 (7-A).

**B. Effect on Preference Guidelines**

There are no competing applications for this lease site, so the preference guidelines are not relevant to this application.

**THEREFORE, I FIND** that the lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S. §6072 (8).

**C. 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 Transferor that aquaculture has been conducted on this lease site.

**THEREFORE, I FIND** that the lease transfer is not for speculative purposes.

**D. Acres Leased by Transferee**

The statute and rule require that in order to grant the lease transfer, the Commissioner must find that “the transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.” According to DMR records, the transferee holds no other aquaculture leases in the State of Maine.

**THEREFORE, I FIND** that the lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

**3. CONCLUSIONS OF LAW**

Based on the above findings, I conclude that:

- a. The change in the identity of the lessee does not violate any of the lease issuance criteria set forth in 12 M.R.S. §6072 (7-A);
- b. The lease transfer is not intended to circumvent the preference guidelines for treatment of competing applications as set forth in 12 M.R.S. §6072 (8);
- c. The lease transfer is not for speculative purposes; and

- d. The lease transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than 1,000 acres.

These findings of fact and conclusions of law having been made as required by 12 M.R.S. §6072 (12-A) and by DMR rule 2.60, this lease transfer may be granted.

#### 4. DECISION

Based on the foregoing, I grant the requested transfer of the aquaculture lease DAM SL from Jonathan Dickinson to Christopher Dickinson. The term of the lease is not affected by the transfer, so the new lease will expire on the same date as the current lease, January 29, 2026.

All provisions of the existing lease shall continue in full force and effect, including all conditions on the lease, as noted below. The lessee shall pay the State of Maine rent in the amount of \$100.00 per acre per year. The lessee shall post a bond or establish an escrow account in the amount of \$500.00 pursuant to DMR Rule 2.40 (2) (A), conditioned upon its performance of the obligations contained in the aquaculture lease documents and all applicable statutes and regulations.

#### 5. 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 that apply to this lease are:

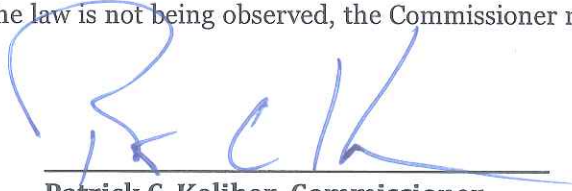
- a. The lease shall be marked in accordance with the requirements of the U. S. Coast Guard and the Department of Marine Resources; and
- b. Other public uses that are not inconsistent with the purposes of the lease are permitted within the lease boundaries.

**THIS AREA INTENTIONALLY BLANK**

**6. REVOCATION OF LEASE**

The Commissioner may commence revocation procedures if it is determined that substantial aquaculture has not been conducted within the preceding year or that the lease activities are substantially injurious to marine organisms. If any of the conditions or requirements imposed in this decision, in the lease, or in the law is not being observed, the Commissioner may revoke the aquaculture lease.

Dated: 9/24/16



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