

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
Aquaculture Lease Renewal Application
bottom and suspended culture of
American and European oysters,
north of Hall Point, Damariscotta River,
Damariscotta

Lessee: Eric Peters
Lease: DAM NP
Docket # 2015-04-R
May 28, 2015

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Eric Peters applied to the Department to renew aquaculture lease DAM NP for a period of ten years to July 4, 2025. The 2.55-acre lease is issued for bottom and suspended culture of American and European oysters on a site located north of Hall Point, Damariscotta River, Damariscotta, Lincoln County, Maine. This lease was initially issued on July 5, 2005 and there have been no transfers or amendments to the lease since it was issued.

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 March 26, 2015 and the April 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. §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 the following leases: DAM HI4 (1.99 acres) and DAM PPN (1.89 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: The following conditions are carried over from the original lease and will apply to the renewed lease:

- A. navigation, lobster fishing and recreational boating and fishing shall be allowed on the open areas of the lease;
- B. harvest of oysters shall be by SCUBA diver only;
- C. the lease area shall be marked in accordance with U.S. Coast Guard and Department of Marine Resources regulations Chapter 2.80;
- D. the leaseholder shall perform all gear work off-bottom, except for the initial set-up and maintenance of mooring systems; and
- E. no more than 500,000 oysters shall be planted on the bottom of the lease site per year.

F. 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 Eric Peters to renew his aquaculture lease DAM NP for a period of ten years, to July 4, 2025. 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. §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: 5/28/18



Patrick C. Keliher, Commissioner
Department of Marine Resources