

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES

Aquaculture Lease Renewal Application
Atlantic salmon using net pen culture and blue
sea mussels using bottom culture techniques
Birch Point, Cobscook Bay, Perry

Cooke Aquaculture USA, Inc.
Lease: COB BP
Docket #2014-26-R
April 3, 2015

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Cooke Aquaculture USA, Inc. applied to the Department on December 15, 2014 to renew the aquaculture lease, COB BP, for a period of ten years to March 23, 2025. The 33-acre lease is issued for net pen culture of Atlantic salmon (*Salmo salar*) and bottom culture of blue sea mussels (*Mytilus edulis*) in Birch Point, Cobscook Bay, in the Town of Perry, Washington County, Maine. This lease was originally issued to Birch Point Fisheries, Inc. under the acronym BPF1 BE and was transferred three times since the original issuance, under the same terms and conditions as the original lease. The lease was transferred from Birch Point Fisheries, Inc. to Heritage Salmon, Inc., to SITECO, LLC, and ultimately to Phoenix Salmon US, Inc. on November 14, 2005. Phoenix changed its corporate name to Cooke Aquaculture USA, Inc. in late 2011. In 2005, the department began assigning acronym names based solely on the location of the lease, to avoid confusion when leases are transferred. Accordingly, this lease was assigned the acronym COB BP. On April 6, 2007, a species amendment to add blue sea mussels (*Mytilus edulis*) was approved.

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 February 2015 issue of the *Commercial Fisheries News* and in *The Quoddy Tides* on January 9, 2015. 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

DMR records show that this applicant holds an aggregate of 609.69 acres of aquaculture leases comprised of the following leases: COB BC (45), COB BP (33), COB CC (15), COB DC (25), COB HP (10), COB JK (22), COB LU2 (32.14), COB MI2 (30), COB PC (26.5), COB RN2 (32.14), COB SB (31.88), COB TE (15), COB TW (15), EASTW SCN (10), EASTW SI (10), MACH CI2 (44.7), MACH CIN (35), MACH CW2 (35), MACH II (40), MACH LI (20), MACH ST (10), SWAN BI (15), SWAN BIS (38.5), SWAN HS (18.83).

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:

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

4. DECISION

The Commissioner of Marine Resources grants the application of Cooke Aquaculture USA, Inc. to renew its aquaculture lease COB BP for a period of ten years, to March 23, 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. 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.

Dated: 4/13/15


Patrick C. Keliher, Commissioner
Department of Marine Resources