

**STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES**

**Cooke Aquaculture USA, Inc.
SWAN HS**

Aquaculture Lease Renewal Application
Pen net culture of finfish, Scrag Island,
Swans Island, Hancock County

Docket Number 2014-06-R

October 31, 2014

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

Cooke Aquaculture USA, Inc. applied to the Department on March 21, 2014 to renew the aquaculture lease, SWAN HS, for a period of ten years to June 14, 2024. The 18.83 acre lease is issued for pen net culture of Atlantic salmon (*Salmo salar*) and is located off Scrag Island, south of Harbor Island in Toothacher Bay, in the town of Swans Island, Hancock County, Maine. The lease was originally granted on June 15, 2004. On May 3, 2011, a transfer of the lease from Island Aquaculture Corp. to Phoenix Salmon US Inc. was approved for the remainder of the current lease term. The subsequent name change of Phoenix Salmon US Inc. to Cooke Aquaculture USA, Inc. was also 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 *Ellsworth American*, on August 21, 2014. Notice was also published in the September 2014 *Commercial Fisheries News*. Personal notice was given to the municipality and to riparian landowners within 1,000 feet of the lease site. One comment was received from Ted Turner, a riparian owner, who voiced his support for the lease renewal and wrote that he thinks the fish farm is a good thing. The lessee's agents responded by letter thanking Mr. Turner for his comments and telling him that his letter would become part of the administrative record. No other 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 total lease acreage held by lessee, including this lease, SWAN HS, consisting of 18.83 acres, will not exceed 1,000 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 for speculative purposes.

3. LEASE CONDITIONS

The following conditions are carried over from the original lease and will apply to the renewed lease:

- The lease area must be marked in accordance with the U.S. Coast Guard requirements and Department of Marine Resources Chapter 2.80;
- The leaseholder shall take all reasonable measures to submerge float rope used on the lease site;
- The leaseholder shall provide, at least, two weeks notice to the local fishermen prior to moving aquaculture gear to or from the lease site. Notice may be given directly to the fishermen or by posting a public notice on Swan’s Island. The notice shall include the date of the gear movement and the course through which it is to be moved; and
- Prior to conducting any activity on the lease site, the leaseholder shall obtain a Maine Pollutant Discharge Elimination Permit from the Maine Department of Environmental Protection.


4. DECISION

The Commissioner of Marine Resources grants the application of Cooke Aquaculture USA, Inc. to renew his aquaculture lease, SWAN HS, for a period of ten years to June 14, 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. 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: 10/31/14 
Patrick C. Keliher, Commissioner
Department of Marine Resources