

SUPREME JUDICIAL COURT OF MAINE

Maquoit Bay LLC v. Department of Marine Resources

Maquoit Bay, 2022 ME 19 (Supreme Judicial Court of Maine 2022) · No. Cum-21-113 · Decided March 31, 2022

SUMMARY

The Maine Supreme Judicial Court affirmed a Superior Court judgment upholding the Department of Marine Resources’ approval of an aquaculture lease in Maquoit Bay. The court addressed the meaning of “riparian owner,” practicable alternatives, the public trust doctrine, burden shifting, the lease’s non-discharge designation, notice to the Department of Environmental Protection, and an alleged conflict of interest. The court concluded that DMR’s decision complied with the governing statutory requirements and was supported by the record.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Stanfill, C.J.; Mead, J.; Jabar, J.; Humphrey, J.; Horton, J.; Connors, J.
JURISDICTION	Maine
DECIDED	March 31, 2022
DOCKET	Cum-21-113
DISPOSITION	affirmed
PROCEDURAL POSTURE	The appellants sought review under Maine Rule of Civil Procedure 80C of the Department of Marine Resources' decision granting Mere Point Oyster Company a standard aquaculture lease. The Cumberland County Superior Court affirmed the agency decision and entered a certified partial final judgment. The appellants appealed.
STANDARD OF REVIEW	The court reviewed the underlying agency decision directly for abuse of discretion, errors of law, and findings unsupported by substantial evidence in the record. The party challenging the agency decision bears the burden of persuasion. The court also applied de novo review to whether the governing statute was ambiguous and deferred to DMR's reasonable mixed question of fact and law concerning the non-discharge designation.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Judicial Court of Maine

PARTIES

Maquoit Bay, LLC, Paul Dioli, Kathleen Dioli v. Department of Marine Resources, Mere Point Oyster Company, LLC, Daniel R. Devereaux

TOPICS

judicial review of agency action

administrative law

agency adjudication

statutory interpretation

plain meaning rule

PRACTICE AREAS

administrative law

environmental law

aquaculture and marine resources

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether DMR's regulatory definition of riparian owner, limiting the term to shorefront property owners whose property boundaries were within 1,000 feet of the proposed lease boundaries, conflicted with 12 M.R.S. § 6072(7-A)(A).
2. Whether DMR was required by 12 M.R.S. § 6072 or the governing regulations to require the lease applicant to analyze practicable alternative locations with lesser impacts.
3. Whether the public trust doctrine imposed additional obligations on DMR beyond the express requirements of 12 M.R.S. § 6072.
4. Whether DMR improperly shifted the burden to limited intervenors to establish that the proposed lease would not unreasonably interfere with commercial fishing.
5. Whether DMR reasonably classified MPOC's proposal as a non-discharge application.
6. Whether DMR properly notified the Department of Environmental Protection of MPOC's completed lease application.
7. Whether Daniel Devereaux's dual roles as MPOC owner and Brunswick Harbormaster created a conflict of interest that compromised the fairness of the proceedings.

HOLDINGS

1. DMR's rule limiting riparian owners to those within 1,000 feet of the proposed lease site was inconsistent with the plain language of section 6072(7-A)(A), which requires DMR to consider whether a lease would unreasonably interfere with the ingress and egress of any riparian owner. Nevertheless, the agency's decision complied substantively with the statute because DMR considered the Diolis' access concerns while analyzing navigation.
2. Neither 12 M.R.S. § 6072 nor the aquaculture-lease regulations required MPOC to analyze practicable alternative lease locations, and DMR did not err by approving the application without requiring such an analysis.

3. The public trust doctrine did not impose an additional obligation on DMR to balance public and private interests beyond the requirements expressly established in section 6072.
4. DMR did not improperly shift the burden to the limited intervenors. The agency relied on information from multiple sources in finding that the lease would not unreasonably interfere with commercial fishing, and the appellants failed to show unlawful procedure.
5. DMR reasonably classified MPOC's lease proposal as a non-discharge application, and the court deferred to that determination.
6. DMR properly notified DEP of MPOC's completed application on February 15, 2018, defeating the appellants' notice argument and related contention concerning DEP's ability to consider the Natural Resources Protection Act.
7. Devereaux's dual roles as an MPOC owner and Brunswick Harbormaster did not create a conflict of interest that compromised the fairness of the proceedings because he recused himself as harbormaster at DMR's insistence shortly after the pre-application meeting.

KEY QUOTATIONS

“DMR cannot approve a lease that will unreasonably interfere with the ingress and egress of any riparian owner.” (¶ 7)

“The Legislature did not say that DMR must consider whether the lease will unreasonably interfere with the ingress and egress of only some riparian owners, and DMR cannot do so by rule.” (¶ 11)

“The public trust doctrine does not impose any additional burden on DMR to protect the public’s interest in submerged lands, and DMR did not err by balancing the interests of MPOC and the public pursuant to section 6072’s express requirements.” (¶ 18)

FACTUAL BACKGROUND

Mere Point Oyster Company applied in February 2018 for a ten-year standard aquaculture lease in Maquoit Bay, approximately 1,250 feet from the Diolis' shorefront property. The Diolis participated as limited intervenors and objected that the proposed lease would interfere with access to their property, navigation, fishing, and other existing uses. After a public hearing, DMR approved the lease, moved the site 100 feet westward, and included a 400-foot gear-free navigational corridor. DMR also treated the proposal as a non-discharge application and received notice regarding the completed application from the Department of Environmental Protection.

PROCEDURAL HISTORY

DMR approved MPOC's ten-year aquaculture lease application after a public hearing. The Superior Court affirmed the approval, dismissed the independent claims joined with the Rule 80C petition, certified the resulting partial judgment as final under Maine Rule of Civil Procedure 54(b)(1), and stayed the remaining claim against Daniel Devereaux. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Guidi v. Town of Turner, 2004 ME 42, ¶¶ 8-10, 845 A.2d 1189
- Somerset County v. Department of Corrections, 2016 ME 33, ¶ 14, 133 A.3d 1006
- NextEra Energy Resources, LLC v. Maine Public Utilities Commission, 2020 ME 34, ¶ 22, 227 A.3d 1117
- Central Maine Power Co. v. Public Utilities Commission, 458 A.2d 739, 741 (Me. 1983)
- Kurzon v. U.S. Postal Service, 539 F.2d 788, 796 (1st Cir. 1976)
- Maine Motor Rate Bureau, 357 A.2d 518, 527 (Me. 1976)
- Uliano v. Board of Environmental Protection (Uliano I), 2005 ME 88, 876 A.2d 16
- Forest Ecology Network v. Land Use Regulation Commission, 2012 ME 36, ¶ 46, 39 A.3d 74
- Norton v. Town of Long Island, 2005 ME 109, ¶ 32, 883 A.2d 889
- Central Maine Power Co. v. Public Utilities Commission, 2014 ME 56, ¶ 19, 90 A.3d 451
- LaMarre v. Town of China, 2021 ME 45, ¶ 16 n.6, 259 A.3d 764
- Cyr v. Cyr, 432 A.2d 793, 797 (Me. 1981)
- Tuscan v. Smith, 130 Me. 36, 46, 153 A. 289 (1931)