



**DEPARTMENT OF
NATURAL RESOURCES**

**OFFICE OF THE COMMISSIONER
OF PUBLIC LANDS**

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February 2, 2018

Innes Weir, General Manager
Cooke Aquaculture Pacific, LLC
4019 21st Ave W
Seattle, WA 98199

Dear Mr. Weir:

This letter provides you with formal notice that the Department of Natural Resources (DNR) has found that Cooke Aquaculture Pacific, LLC (Cooke) was in default of its obligations under Aquatic Lands Lease No. 20-B12517 (Lease) when Site 2 of the leasehold suffered catastrophic damage on August 19, 2017, and has elected to terminate the Lease. Specifically, DNR has confirmed that on August 19, 2017, Cooke, at a minimum, was not in compliance with Sections 1.1, 7.2, and 11.2(a) of the Lease. DNR is exercising its right to terminate under Section 12(e) of the Lease. Termination is effective as of the date of this notice.

Section 1.1 of the Lease defines the property leased to Cooke by the State of Washington (State), and identifies the leasehold boundaries. In violation of this provision, the anchors securing Site 1 were outside the leasehold boundaries on August 19, 2017, and continue to be outside the leasehold boundaries as of the date of this notice.

Section 7.2 of the Lease states that “no new improvements shall be placed on the [leasehold] without (a) State’s prior written consent, which shall not be unreasonably withheld, and (b) Tenant’s acquisition of a performance and payment bond, in an amount equal to 150% of the estimated cost of constructing and installing the new improvements.” In violation of this provision, Cooke installed two new improvements, a feed barge facility and an office platform, on the leasehold without DNR’s prior written consent and without the required bond. These unauthorized improvements occupied the leasehold on August 19, 2017, and continue to occupy the leasehold as of the date of this notice.

Section 11.2(a) of the Lease requires Cooke to “keep and maintain the [leasehold] and all improvements . . . in good order and repair, in a clean, attractive, and safe condition.” In violation of this provision:

- (1) Cooke failed to adequately clean the nets on Site 2 of the leasehold prior to August 19, 2017. During the State’s four-month investigation and review of the August 19, 2017, Site 2 failure, DNR discovered extensive biofouling of the nets at Site 2, which directly contributed to the catastrophic damage of Site 2 on August 19, 2017.

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(2) Cooke failed to adequately maintain Site 1 of the leasehold. DNR's inspection of Site 1 from January 10-14, 2018, revealed that the facility is in poor condition, likely past the end of its service life, and in danger of a catastrophic failure even under less-than critical loading scenarios. These conditions existed at Site 1 on August 19, 2017, as well as the date of this notice.

On August 19, 2017, several moorings failed at Site 2 of the Cooke net pen leasehold located off Cypress Island in Skagit County, WA, resulting in significant structural damage to the Site 2 net pen and in fish escapement. Section 12(e) of the Lease provides, "In the event Tenant is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease[.]" As, at a minimum, Cooke was in default of the obligations listed above on August 19, 2017, when Site 2 was damaged, DNR is exercising its right to terminate under this provision.

The above list of defaults is not intended to be exclusive. Other defaults may have existed on the leasehold on August 19, 2017. In particular, DNR has concerns about Cooke's failure to maintain the facility that may have contributed to an incident on July 24-25, 2017, in which mooring connections on Site 2 of the leasehold twice failed, causing the net pen to drag its anchors and move hundreds of feet.

Please contact me to discuss a wind-up period for your operations and your plans to peaceably vacate the site.

Sincerely,



Kristin Swenddal
Acting Deputy Supervisor for Aquatics, Geology & IT

c: District File; TRO File; 20-B12517
Kevin Bright, Permit Coordinator, Cooke Aquaculture Pacific, LLC
Philip Kurpiewski, DNB Bank, ASA New York Branch
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