

AMENDMENT TO LICENCE

THIS INDENTURE made in duplicate the <sup>3<sup>rd</sup></sup> ~~26~~ day of <sup>JUNE</sup> ~~NOV~~, <sup>2019</sup> ~~2018~~ <sub>BM</sub> <sup>BM</sup>

**BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture, as appointed under Section 54A of the *Fisheries and Coastal Resources Act*, SNS 1996, c. 25,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

**ALEX A. DUNPHY**  
RR#2  
Dingwall, NS B0C 1G0

hereinafter referred to as "**THE LICENCEE**"

OF THE OTHER PART

**WHEREAS** the Administrator, under the provisions of the *Fisheries and Coastal Resources Act*, S.N.S. 1996, Chapter 25 (the "Act") and the Aquaculture Licence and Lease Regulations (the "Regulations"), is authorized to amend existing aquaculture licences and aquaculture leases in order to permit certain types of cultivation methods;

**AND WHEREAS** pursuant to the Act the Licencee was issued Aquaculture Licence No. 0328 ("Licence No. 0328") on May 1, 2017 for a term of ten years from April 1, 2017 to April 1, 2027, authorizing the bottom (seeding only) cultivation of American oyster (*Crassostrea virginica*);

**AND WHEREAS** the Licencee is desirous of amending Licence No. 0328 to permit the bottom cultivation with gear and suspended cultivation with gear of American oyster (*Crassostrea virginica*), subject to whatever undertakings are prescribed by the Administrator;

**AND WHEREAS** the Administrator consents to amend Licence No. 0328 to permit the

bottom cultivation with gear and suspended cultivation with gear of American oyster (*Crassostrea virginica*) by the Licencee;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein and the sum of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. Licence No. 0328 is hereby amended by deleting Section 1 and replacing it with the following section:

“1. The Administrator hereby grants to the Licencee a licence to use a 21.34 hectare area located in the body of waters known as Aspy Bay, more particularly described in Schedule “A” attached to and forming part of this Agreement (that area, the “site”) for the cultivation of American oyster (*Crassostrea virginica*) by the following methods: bottom (seeding only) cultivation; bottom cultivation with gear; and suspended cultivation with gear.”

2. Licence No. 0328 is further amended by deleting Section 5 and replacing it with the following section:

“5. The Licencee shall allow access to the bottom-cultivation areas of the site, where gear is not in use, by the general public for recreational activities. The general public is not permitted to carry out American oyster harvest, enhancement, or husbandry activities at the site.”

3. Licence No. 0328 is further amended by adding the following section immediately after Section 1:

4.

“1A. For the bottom cultivation with gear at the site, the Licencee shall be limited to a maximum of two (2) cages. For the suspended cultivation with gear at the site, the Licencee shall be limited to two (2) cages.”



SCHEDULE A  
GPS COORDINATE INFORMATION SHEET

Application #: 0328  
Applicant: Alex Dunphy  
Location: Aspy Bay (South Harbour) County: Victoria  
Hydrographic Chart: 4363 Orthophoto #: 93347-51  
Dimensions of site: Approx. 424m x 502m x 434m Size: Approx. 21.34 ha  
x 492m

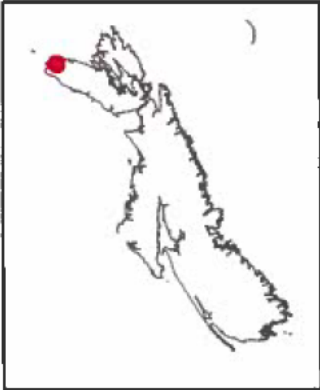
**Approximate Coordinates of Application:**

Datum used: NAD 83

Centre coordinates (approx.) Lat. 46° 52' 28.80"  
Long. -60° 26' 46.20"

Corner #1	Lat. 46° 52' 38.70" Long. -60° 26' 41.46"	Corner #2	Lat. 46° 52' 27.30" Long. -60° 26' 30.30"
Corner #3	Lat. 46° 52' 25.80" Long. -60° 26' 34.38"	Corner #4	Lat. 46° 52' 18.48" Long. -60° 26' 50.16"
Corner #5	Lat. 46° 52' 30.30" Long. -60° 27' 01.14"	Corner #6	Lat. 46° 52' 37.32" Long. -60° 26' 45.66"

***NOTE: THESE COORDINATES ARE NOT FROM A LEGAL SURVEY.***

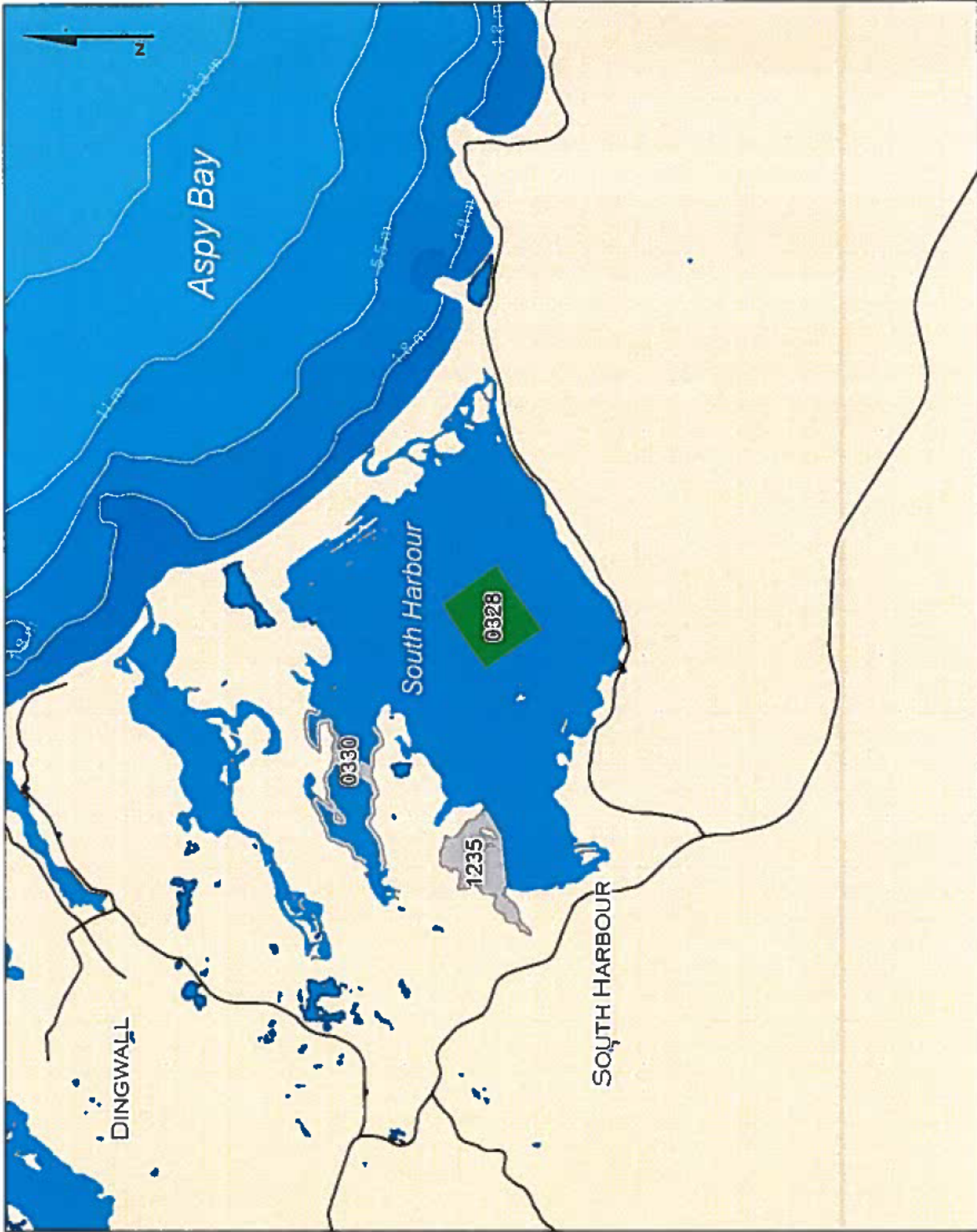


**Aquaculture Site**  
**0328**

Centre  
 Lat 46° 52' 28.80" Long -60° 26' 46.20"  
 Corner 1  
 Lat 46° 52' 38.70" Long -60° 26' 41.46"  
 Corner 2  
 Lat 46° 52' 27.30" Long -60° 26' 30.30"  
 Corner 3  
 Lat 46° 52' 25.80" Long -60° 26' 34.38"  
 Corner 4  
 Lat 46° 52' 18.48" Long -60° 26' 50.16"  
 Corner 5  
 Lat 46° 52' 30.30" Long -60° 27' 01.14"  
 Corner 6  
 Lat 46° 52' 37.32" Long -60° 26' 45.66"

DATUM NAD 83

The above coordinates  
are not from a legal survey



**Application Information**

Proponent : Alex A. Dunphy  
 Site Location : South Harbour  
 Dimensions : Approx. 424m x 502m x 434m x 492m  
 Area : Approx. 21.34 ha

- Amendment Application
- Other Issued Leases
- Local Road
- Low Water Mark
- OMHW Mark
- NS Bathymetry

Chart No.  
**4363**



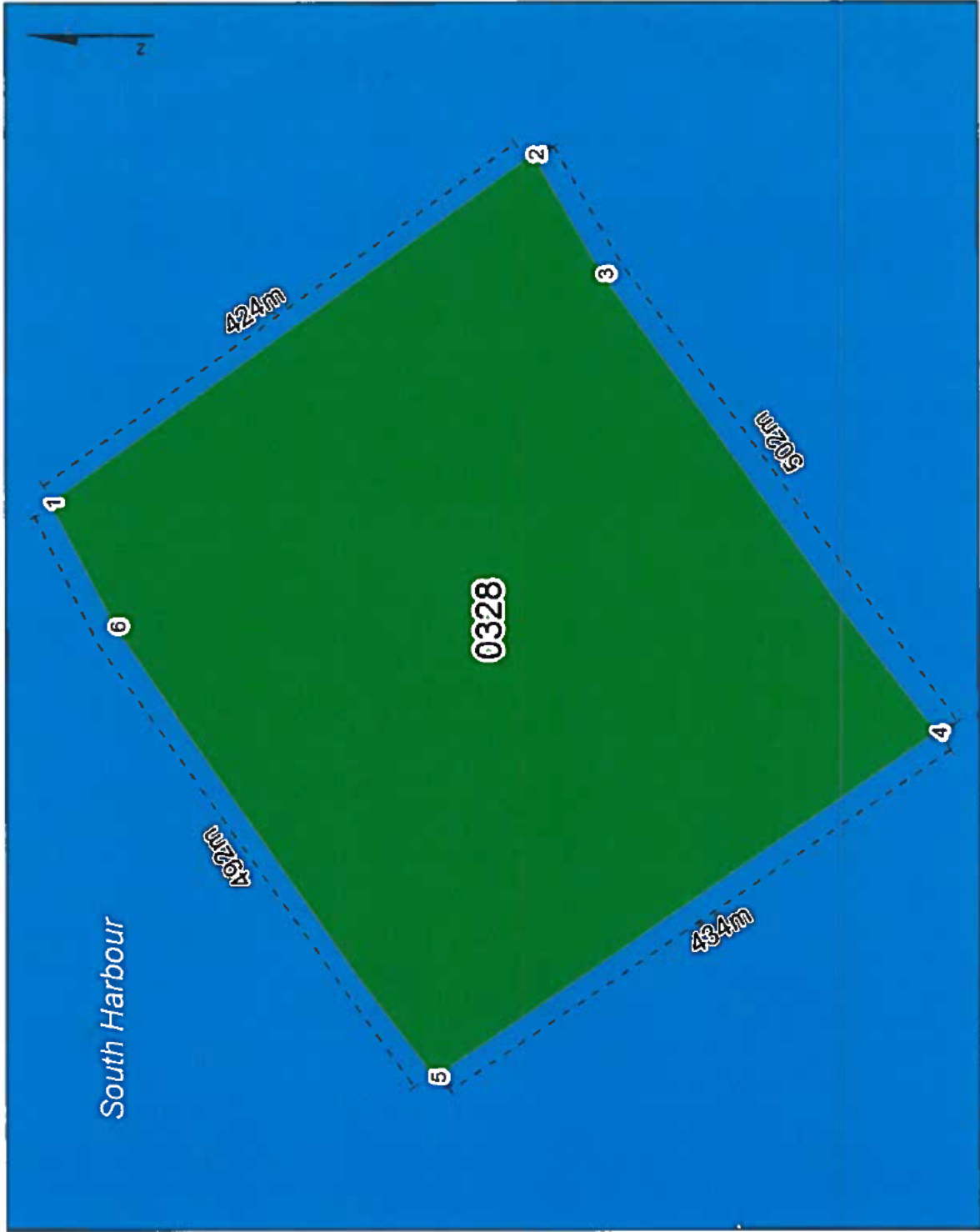
**Disclaimer**

This map should not be used for navigation or legal purposes. It is intended for general reference use only.

MK-0328-JUN-2018



<b>Aquaculture Site</b> <b>0328</b>	<p>Centre            Lat 46° 52' 28.80" Long -60° 26' 46.20"            Corner 1            Lat 46° 52' 38.70" Long -60° 26' 41.46"            Corner 2            Lat 46° 52' 27.30" Long -60° 26' 30.30"            Corner 3            Lat 46° 52' 25.80" Long -60° 26' 34.38"            Corner 4            Lat 46° 52' 18.48" Long -60° 26' 50.16"            Corner 5            Lat 46° 52' 30.30" Long -60° 27' 01.14"            Corner 6            Lat 46° 52' 37.32" Long -60° 26' 45.66"</p> <p style="text-align: center;">DATUM NAD 83            The above coordinates            are not from a legal survey</p>
--	--



<b>Application Information</b>		<b>Chart No.</b>		<b>Disclaimer</b>	
Proponent : Alex A. Dunphy Site Location : South Harbour Dimensions : Approx. 424m x 502m x 434m x 492m Area : Approx. 21.34 ha		<b>4363</b> 		This map should not be used for navigation or legal purposes. It is intended for general reference use only.  MK-0328-JUN-2018	
Amendment Application					

This licence made in duplicate this 157 day of May, 2017.

**BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture, as appointed under section 54A of the Fisheries and Coastal Resources Act, SNS 1996, c. 25,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

**ALEX A. DUNPHY**  
RR#2  
DINGWALL, NS B0C 1G0

hereinafter referred to as "**THE LICENCEE**"

OF THE OTHER PART

**WHEREAS** the Administrator, under the provisions of the Fisheries and Coastal Resources Act, S.N.S. 1996, Chapter 25 (the "Act") and the Aquaculture Licence and Lease Regulations (the "Regulations"), is authorized to renew aquaculture licences and aquaculture leases;

**AND WHEREAS** pursuant to the Act the Licencee was issued Aquaculture Licence No. 0328 on August 1, 2007, for a term of ten years from April 1, 2007 to March 31, 2017;

**AND WHEREAS** the Licencee wishes to renew aquaculture Licence No. 0328;

**NOW THEREFORE** in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. The Administrator hereby grants to the Licencee a licence to use a 21.34 hectare area located in the body of waters known as Aspy Bay, more particularly described in Schedule "A" attached to and forming part of this Agreement (the "site") for the bottom (seeding only) cultivation of **American oyster** (*Crassostrea virginica*).
2. The term of this licence shall be for ten years commencing on the April 1, 2017 to April 1, 2027 with the right of renewal, in accordance with the terms of the Act and the Regulations.
3. The Licencee shall pay to the Minister of Finance and Treasury Board an annual fee as set out in the Regulations. The annual payment must be received by the anniversary date of the licence. Late payments are subject to a fee as set out in the Regulations.
4. The undertakings set out in Schedule "B" to this licence (the "undertakings"), form part of this Agreement, and the Licencee hereby agrees to comply with any conditions or limitations contained in the undertakings unless compliance for licensing purposes is expressly waived by the Administrator. The Licencee is responsible for confirming any undertakings and ensuring compliance with them.
5. The Licencee shall allow access to the site by the general public for recreational activities. The general public is not permitted to carry out American oyster (*Crassostrea virginica*) harvest, enhancement, or husbandry activities at the site.
6. The Licencee agrees to comply with any permits, protocols, approvals, licenses or permissions (the "licensing requirements") which may be required under the laws of the

relevant municipality, the Province or Canada. The Licencee is responsible for confirming any licensing requirements and ensuring compliance with them.

7. This licence must not be assigned without the written approval of the Administrator. If the Licencee is a corporation, any change in the right to control the corporation shall be deemed to be an assignment.
8. In the event that the Licencee shall cease conducting an aquaculture business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver of its business assets, or avail itself of any proceeding in bankruptcy under any statute relating to insolvency or the protection of rights of creditors, the Administrator may revoke this licence and this Agreement shall be of no further force and effect subject only to the right of Her Majesty the Queen in right of the Province of Nova Scotia ("Her Majesty") to claim for damages.
9. The Licencee must adhere to the Farm Management Plan, as it is in effect for this licence from time to time, and any failure to adhere to the Farm Management Plan is a breach of this licence.
10. This licence does not include any rights as to minerals in or on the site.
11. The Licencee shall submit to the Minister of the Nova Scotia Department of Fisheries and Aquaculture (the "Minister") an annual report stating such information as the Minister requires concerning the Licencee's use and the productivity of the site.
12. Following the completion of a performance review, in accordance with the Regulations, of the aquaculture operation subject to this licence, the Administrator may vary any terms or conditions of this licence in order to address any concerns raised in the performance review.
13. The Licencee is hereby prohibited from using the site in any way that would interfere with other licenced aquaculture operations.
14. If the Administrator, in his or her sole discretion, is of the opinion that the aquaculture activities authorized by this licence are detrimental to or interfere with other licenced facilities, the Administrator may revoke this licence without compensation.
15. The Administrator may revoke this licence without advance notice or compensation if the Licencee is found by a court of competent jurisdiction to be in violation of any law of the Province or Canada relating to fishery activities.
16. If the Licencee fails to perform any of its obligations under this licence, the Minister may have the obligations performed, with the amount of any costs incurred to be a debt due to Her Majesty, for which Her Majesty shall have a first priority charge on the aquacultural produce within the site.
17. If the Licencee is in breach of any term of this licence and such breach is not corrected within the time period set out in the notice from the Administrator, the Administrator may revoke this licence without further notice or compensation.
18. Should it become necessary for Her Majesty to expropriate the Licencee's rights under this licence, it is hereby agreed that the value of the licence for purposes of expropriation compensation shall not exceed the depreciated value of improvements made by the Licencee that cannot be removed from the site. No compensation may be claimed for the cancellation of this licence where compensation is paid or payable in relation to the expropriation of a licence for the same site.
19. Any notices required to be given under this licence may be sent by regular mail to the parties at their addresses set out in the heading of this Agreement, and notice will be deemed to have been received by the intended recipient thereof five business days from the date on which the notice is post-marked. The parties, by agreement, may effect notice



by any other means. The Licencee must notify the Administrator of any change of address within thirty (30) days.

- 20. Nothing in this Agreement shall be taken as a warranty by the Administrator that the site may be used now or in the future by the Licencee for aquaculture purposes. The Minister assumes no responsibility whatsoever for any private property rights or for the actions of other levels of government which may interfere with the use of the site for aquaculture purposes.
- 21. This licence shall be subject to the laws of the Province of Nova Scotia and the parties hereby agree to attorn to its courts.
- 22. This licence shall be subject to any changes made from time to time in the Act, the Regulations or any other relevant legislation.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be duly executed.

**SIGNED, SEALED AND DELIVERED**  
in the presence of

) **HER MAJESTY THE QUEEN**  
) in right of the Province of Nova Scotia, as  
) represented by the Administrator, Nova Scotia  
) Department of Fisheries and Aquaculture

[Redacted signature block]

witness

[Redacted signature block]

Administrator, Nova Scotia Department  
of Fisheries and Aquaculture



[Redacted signature block]

witness

[Redacted signature block]

ALEX A. DONPHY



SCHEDULE A  
GPS COORDINATE INFORMATION SHEET

Application #: 0328  
Applicant: Alex Dunphy  
Location: Aspy Bay (South Harbour) County: Victoria  
Hydrographic Chart: 4363 Orthophoto #: 93347-51  
Dimensions of site: Approx. 424m x 502m x 434m Size: Approx. 21.34 ha  
x 492m

**Approximate Coordinates of Application:**

Datum used: NAD 83

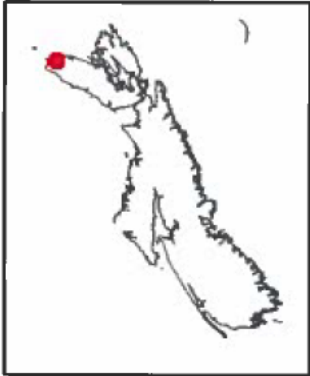
Centre coordinates (approx.) Lat. 46° 52' 28.80"  
Long. -60° 26' 46.20"

Corner #1	Lat. 46° 52' 38.70" Long. -60° 26' 41.46"	Corner #2	Lat. 46° 52' 27.30" Long. -60° 26' 30.30"
-----------	--	-----------	--

Corner #3	Lat. 46° 52' 25.80" Long. -60° 26' 34.38"	Corner #4	Lat. 46° 52' 18.48" Long. -60° 26' 50.16"
-----------	--	-----------	--

Corner #5	Lat. 46° 52' 30.30" Long. -60° 27' 01.14"	Corner #6	Lat. 46° 52' 37.32" Long. -60° 26' 45.66"
-----------	--	-----------	--

***NOTE: THESE COORDINATES ARE NOT FROM A LEGAL SURVEY.***

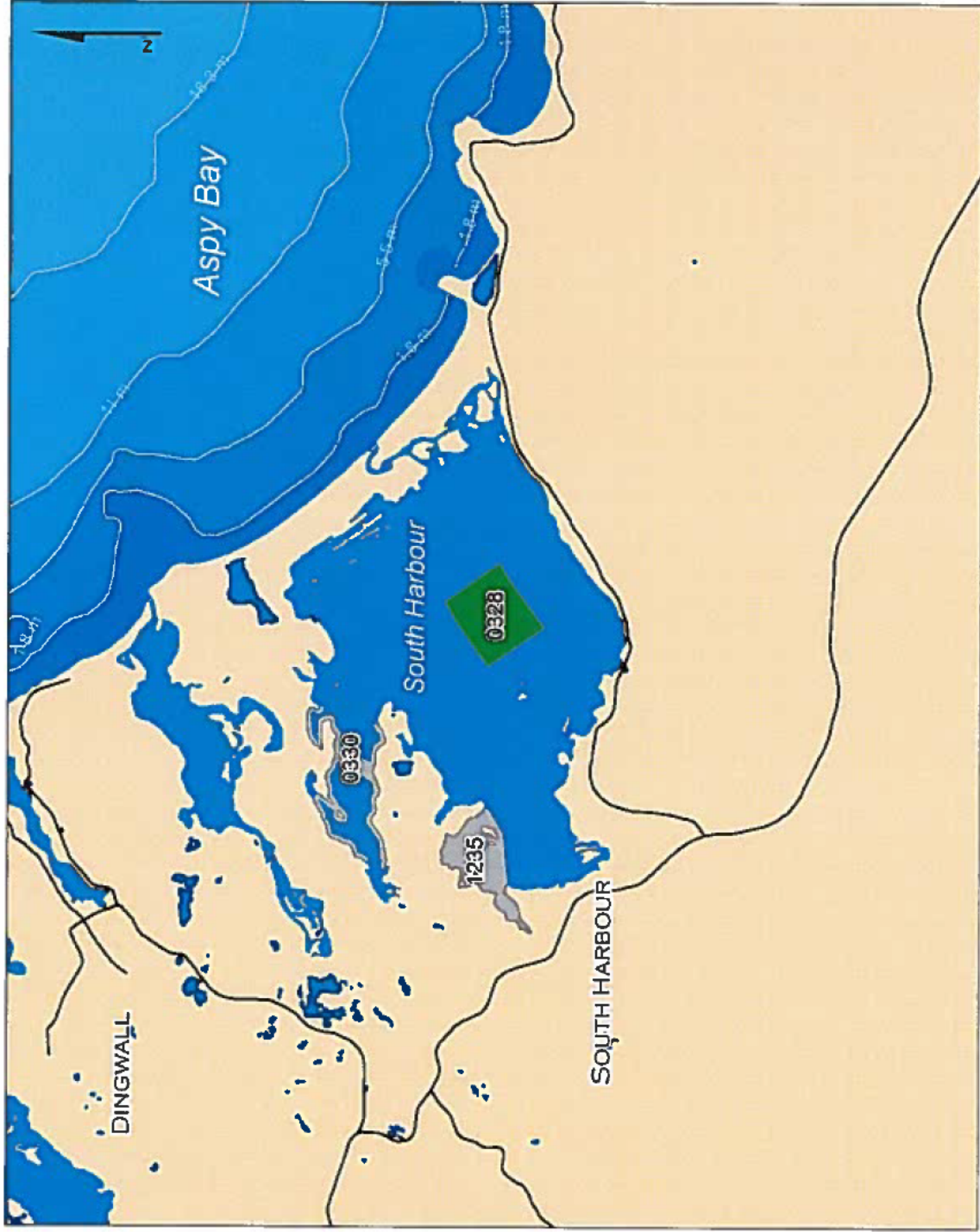


**Aquaculture Site**

**0328**

Centre  
 Lat 46° 52' 28.80" Long -60° 26' 46.20"  
 Corner 1  
 Lat 46° 52' 38.70" Long -60° 26' 41.46"  
 Corner 2  
 Lat 46° 52' 27.30" Long -60° 26' 30.30"  
 Corner 3  
 Lat 46° 52' 25.80" Long -60° 26' 34.38"  
 Corner 4  
 Lat 46° 52' 18.48" Long -60° 26' 50.16"  
 Corner 5  
 Lat 46° 52' 30.30" Long -60° 27' 01.14"  
 Corner 6  
 Lat 46° 52' 37.32" Long -60° 26' 45.66"

DATUM NAD 83  
 The above coordinates  
 are not from a legal survey



**Application Information**

Proponent : Alex A. Dunphy  
 Site Location : South Harbour  
 Dimensions : Approx. 424m x 502m x 434m x 492m  
 Area : Approx. 21.34 ha

	Renewal Application		Local Road
	Other Issued Leases		Low Water Mark
			OMHW Mark
			NS Bathymetry

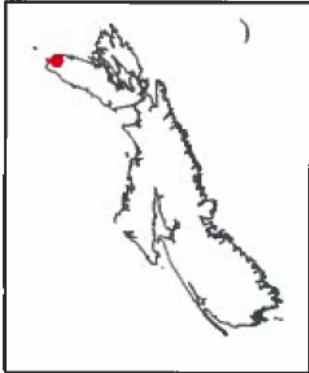
Chart No.  
**4363**



**Disclaimer**

This map should not be used for navigation or legal purposes. It is intended for general reference use only.

MK-0328-JAN-2017



**Aquaculture Site**

**0328**

Centre  
 Lat 46° 52' 28.80" Long -60° 26' 46.20"  
 Corner 1  
 Lat 46° 52' 38.70" Long -60° 26' 41.46"  
 Corner 2  
 Lat 46° 52' 27.30" Long -60° 26' 30.30"  
 Corner 3  
 Lat 46° 52' 25.80" Long -60° 26' 34.38"  
 Corner 4  
 Lat 46° 52' 18.48" Long -60° 26' 50.16"  
 Corner 5  
 Lat 46° 52' 30.30" Long -60° 27' 01.14"  
 Corner 6  
 Lat 46° 52' 37.32" Long -60° 26' 45.66"

DATUM NAD 83  
 The above coordinates  
 are not from a legal survey



**Application Information**

Proponent : Alex A. Dunphy  
 Site Location : South Harbour  
 Dimensions : Approx. 424m x 502m x 434m x 492m  
 Area : Approx. 21.34 ha

Chart No.

**4363**



**Renewal Application**

**Disclaimer**

This map should not be used for navigation or legal purposes. It is intended for general reference use only.

MK-0328-JAN-2017

## **Schedule "B"**

This Schedule sets out any undertakings required of the Licencee.

The Licencee undertakes to complete the following report:

The Licencee shall submit an annual report (in addition to Annual Production Statistics) dealing with enhancement efforts. The details and format of the report shall be determined by agreement with the Nova Scotia Department of Fisheries and Aquaculture and the Licencee. The report shall include information such as the following:

- Stock assessment
- Broodstock manipulations
- Seed collection activities
- Predator control activities
- Other information may be required