

Findings and Decision - Amendment Application of Alex A. Dunphy for AQ#0328

1. Overview:

On May 16, 2018 the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an application from Alex A. Dunphy to amend Aquaculture Licence and Lease #0328 (AQ#0328) to authorize the suspended cultivation with gear (two cages) and the bottom culture with gear (two cages), as described below:

Table 1. Description of Aquaculture Licence and Lease #0328

Type: Marine Shellfish	Current Size: 21.34 HA
Number: AQ#0328	Current Cultivation Method: Bottom shellfish without gear
Applicant: Alex A. Dunphy	Current Species: American oyster
Location: Aspy Bay (South Harbour), Victoria County	Proposed Amendment: Change cultivation method to authorize the suspended cultivation with gear (two cages) and the bottom culture with gear (two cages)

2. History

AQ#0328 was first issued on June 9, 1987 for a twenty year term (April 1, 1987 to April 1, 2007). AQ#0328 was renewed on August 1, 2007 for a ten year term (April 1, 2007 to March 31, 2017). AQ#0328 Licence was renewed on May 1, 2017 for a ten year term (April 1, 2017 to April 1, 2027) and AQ#0328 Lease was renewed on May 1, 2017 for a twenty year term (April 1, 2017 to April 1, 2037).

3. Procedure

3.1 Performance Review

A performance review of the information submitted by the operator in support of their amendment application was completed. This review recommended that the site be renewed based on the technical and biological assessment. This performance review is required pursuant to Subsection 72(d) of the Aquaculture Licence and Lease Regulations, and was completed on July 5, 2018.

3.2 Public Comment Period

Notice of the application for the renewal of AQ#0328 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of September 20, 2018 to October 19, 2018. Notice of the application was also published in the Royal Gazette Part I on September 19, September 26, October 3, and October 10, 2018.

3.3 Submissions

Zero submissions were received by NSDFA during the 30-day public comment period.

4. Factors to be considered

AQ#0328 is located in waters which are currently MSX positive, and thus there has been no production in recent years. The amendment of AQ#0328 is part of a Research and Development project, seeking to determine whether cultivating oysters in the water column allows the oysters to reach market size prior to succumbing to MSX. AQ#0328 is one of seven shellfish aquaculture sites in the Bras d'Or Lake involved in this project. Should the project demonstrate that oysters can survive to market size in the water column in significant numbers, AQ#0328 can be part of a successful shellfish aquaculture industry.

The performance review and subsequent public comment period did not note the presence of other fishery activities in the area of the site. There were no ecological concerns identified in the past performance of this site with respect to negative impacts on other fisheries. Until the negative impacts of MSX were fully realized, the area was considered conducive for shellfish aquaculture. The amendment documents for AQ#0328 will allow for access to the bottom-culture portion of the site by the general public for recreational activities, provided that the public does not harvest the product on site. This clause serves to reduce potential interference with other users.

Section 55 of the *Licence and Lease Regulations* requires an aquaculture licence holder to mark each of their sites in a manner determined by the Minister (see below) and to keep each site marked during the term of their licence. Furthermore, due to the presence of gear, the operator will be required to adhere to the Navigable Waters provisions of Transport Canada. All aquacultural produce and equipment must remain within the boundaries of the site.

AQ#0328 is located in South Harbour, approximately 400 metres from the shoreline at its nearest point. AQ#0330 (Dunphy's Oysters) and AQ#1235 (Alex A. Dunphy) are both located in South Harbour within 1.0 km of AQ#0328. There is no evidence to suggest that the extent of existing aquaculture sites within the bay has exceeded the carrying capacity of the bay. AQ#0328 is licensed to cultivate shellfish species, and as such there is no evidence that shellfish aquaculture has impacts on the sustainability of wild salmon.

5. Decision

Based on the considerations above, Aquaculture Licence #0328 and Lease #0328 shall be amended to authorize the suspended cultivation with gear (two cages) and the bottom culture with gear (two cages). Except as expressly amended, Licence #0328 and Lease #0328 shall continue in full force and effect.

The Licence and Lease amendment documents shall be prepared in accordance with the standard operating documents of NSDFA, and shall be made publically available subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.



Brennan Goreham

Aquaculture Administrator

Nova Scotia Department of Fisheries and Aquaculture

11/2/18
Date