

Findings and Decision- Renewal Application of Susan Dunphy carrying on business under the name of Dunphy's Oysters for AQ#0330

1. Overview

On November 8, 2017, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an application from Susan Dunphy, carrying on business under the name of Dunphy's Oysters, to renew Aquaculture Licence and Lease #0330 (AQ#0330), as described below:

Table 1. Description of Aquaculture Licence and Lease #0330

Type: Marine Shellfish	Size: 11.54 HA
Number: AQ#0330	Cultivation Method: Bottom cultivation without gear (portion); Suspended cultivation (portion)
Applicant: Susan Dunphy, carrying on business under the name of Dunphy's Oysters	Species: American oyster
Location: Aspy Bay, Victoria County	Proposed Term: 10 year Licence/20 year Lease

2. History

The site currently issued as AQ#0330 was first issued, to Alex A. Dunphy, as a federal oyster lease on January 22, 1988 for a twenty year term (April 1, 1988 to April 1, 2008). AQ#0330 was issued, to Dunphy's Oysters, as a provincially licensed and leased aquaculture site on June 29, 1998 for a ten year term (June 29, 1998 to June 29, 2008). AQ#0330 was renewed on November 6, 2008 for a five year term (June 29, 2008 to June 28, 2013). AQ#0330 was amended on February 10, 2011 to authorize suspended cultivation on a portion of the lease, including additional clauses related to this activity. AQ#0330 was renewed on May 21, 2014 for a five year term (June 28, 2013 to June 28, 2018).

3. Procedure

3.1 Performance Review

A performance review of the information submitted by the operator in support of their renewal 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(c) of the Aquaculture Licence and Lease Regulations, and was completed on February 5, 2018.

3.2 Public Comment Period

Notice of the application for the renewal of AQ0330 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of February 8, 2018 to March 9, 2018. Notice of the application was also published in the Royal Gazette Part I on February 7, February 14, February 21 and February 28, 2018.

3.3 Submissions

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

4. Factors to be considered

AQ#0330 is located in waters which are MSX positive; as such, there has been no production on this site in several years. On-going efforts by the operator to address the issue of MSX through hatchery technology, as indicated in their submitted development plan, could lead to AQ#0330 coming into full production. Oyster aquaculture is an important sector of the Nova Scotia aquaculture industry, and AQ#0330 coming into increased production would have a positive impact on the local and provincial economy.

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. AQ#0330 is authorized for both the bottom cultivation of shellfish without gear, and the suspended cultivation of shellfish, each on distinct portions of the site. Gear must remain within the geographic boundaries of the authorized portion of the site. AQ#0330 must also continue to hold approval from Transport Canada as it relates to navigable waters. 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.

AQ#0330 is located in the Duncan's Cove portion of South Harbour. Much of the site is located adjacent to the shoreline, with an approximately 100 metre by 250 metre section spanning across Duncan's Cove. The licence and lease documents for AQ#0330 will allow for access to the bottom cultivation without gear 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. AQ#0330 is licensed to cultivate shellfish, and as such there is no evidence that shellfish aquaculture has impacts on the sustainability of wild salmon. AQ#0328 and AQ#1235 (Alex A. Dunphy) are both located in South Harbour within 1.0 km of AQ#0330. There is no evidence to suggest that the extent of existing aquaculture in the harbour has exceeded the carrying capacity of the harbour.

5. Decision

Based on the considerations above, Aquaculture Licence #0330 shall be renewed for a period of 10 years (June 28, 2018 to June 28, 2028) and Aquaculture Lease #0330 shall be renewed for a period of 20 years (June 28, 2018 to June 28, 2038).

The Licence and Lease 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*.

6. Conditions

In addition, the following condition shall apply:

The operator shall adhere to the following site marking requirements:

- a) mark all corners of the leased site with cautionary yellow buoys of a minimum of 60 cm in diameter;
- b) mark all corners of the leased bottom with a cement block or similar device of a weight sufficient to ensure the cement block or device remains in place at all times; and
- c) display the licence or lease number at 1 corner of the licensed or leased area.

Brennan Goreham

Brennan Goreham
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April 18, 2018

Date