

Findings and Decision – Amendment Application of Samuel McKinlay for AQ#1332

1. Overview:

On February 19, 2019, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an application from Samuel McKinlay to amend Aquaculture Licence and Lease #1332 (AQ#1332) to authorize bottom shellfish with gear method, as described below:

Table 1. Description of Aquaculture Licence and Lease #1332

Type: Marine Shellfish	Size: 2.72 HA
Number: AQ#1332	Cultivation Method: Bottom cultivation without gear
Applicant: Samuel J McKinlay	Species: American oyster, Bay quahog
Location: Merigomish Harbour, Pictou County	Proposed Amendment: Authorize Bottom Shellfish cultivation with gear (on a portion of the site)

2. History

AQ#1332 was first issued to Samuel McKinlay and Jamie Davidson on September 12, 2007 for a ten year term (August 24, 2007 to August 24, 2017). AQ#1332 was assigned on July 14, 2015, whereby Jamie Davidson assigned his right and title to and in AQ#1332 to Samuel McKinlay. AQ#1332 licence was renewed on September 6, 2017 for a ten year term (August 23, 2017 to August 23, 2027). AQ#1332 lease was renewed on September 6, 2017 for a twenty year term (August 23, 2017 to August 23, 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 amended 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 September 1, 2020.

3.2 Public Comment Period

Notice of the application for the renewal of AQ#1332 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of July 9, 2020 to August 7, 2020. Notice of the application was also published in the Royal Gazette Part I on July 15, July 22, July 29 and August 5, 2020.

3.3 Submissions

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

4. Factors to be considered

Review of the file indicates that the site has had consistent production and employment over the duration of the current tenure of the licence and lease. Information submitted in support of the amendment application indicates continued contributions to the local and provincial economy. The information in support of the amendment suggests continued production is planned for this site and continued employment. Department staff will continue to monitor that production plans are implemented as submitted.

The Farm Management Plan for AQ#1332 had previously been conditionally approved. The conditional approval was predicated on the operator submitting an amendment application to address historical use of gear on site. As such, the amendment does not propose a new activity but rather properly authorized an existing activity. The use of gear on the bottom can allow for the operator to hold product to meet operational needs. The operator of AQ#1332 will be required to adhere to the navigation requirements of the *Canadian Navigable Waters Act*, including necessary site marking requirements. The Licence and Lease documents will allow for continued access through the leased area for the purposes of recreational activities; however, others will not be permitted to carry out the harvest of species authorized on AQ#1332.

The Farm Operations section of the Farm Management Plan for AQ#1332 will require the operator to indicate how they will operate AQ#1332 in accordance with industry best practices with respect to maintaining the site in good order, the removal of decommissioned farm supplies and equipment, and the retrieval of gear or debris that has broken loose. Also, the Farm Management Plan for AQ#1332 must include wildlife interaction strategies to mitigate impacts on, and from, wildlife in the area of the site. The operator will be required to adhere to the *Migratory Birds Convention Act* and associated regulations, and ensure that activities comply with the Act and Regulations. The prohibitions under *Species at Risk Act* (SARA) are currently in effect, and the operator is required to maintain compliance with the Act. The Endangered Piping Plover may use local beaches for nesting. The proponent should learn to identify Piping Plover and immediately report any observations of the species using any part of the shoreline that falls landward of the proposed aquaculture operation to the Lands and Forestry regional biologist.

There are no recorded instances on file of AQ#1332 interfering with other users of the public waters surrounding the operation. Any complaints received by the Province of Nova Scotia specific to a particular aquaculture site, such as AQ#1332, are reviewed by Nova Scotia Environment, with appropriate follow-up and prescribed actions taken if necessary. The operator of AQ#1332 is also required to adhere to all necessary and relevant Provincial and Federal legislation and regulations that may be applicable to the marine cultivation of shellfish. In particular, the operator must adhere to the *Canadian Shellfish Sanitation Program* as it relates to the harvest of shellfish from restricted waters.

The review of the application noted that there are no expected impacts on fisheries activities as a result of the amendment of this lease and licence. There were no ecological concerns identified in the past performance of this site with respect to negative impacts on other fisheries. In the event that an archaeology artifact is found during operation, the operator is required to contact the Coordinator for the Special Places Program at the Nova Scotia Department of Communities, Culture and Heritage. AQ#1332 is licensed to cultivate shellfish species, and as such there is no evidence that shellfish aquaculture will have impacts on the sustainability of wild salmon. The information reviewed during the review of the application did not indicate adverse impacts on the surrounding public waters.

AQ#1332 is located in the near-shore, adjacent to the northeast portion of Burnt Island. AQ#1355 is located approximately 100 metres to the north of AQ#1332 and AQ#1320 is located approximately 100 meters to the west of AQ#1332. There is no evidence to suggest that the extent of existing aquaculture in the harbour has exceeded the carrying capacity of the harbour.

Decision

Based on the considerations above, Aquaculture Licence #1332 and Aquaculture Lease #1332 shall be amended to authorize bottom shellfish cultivation with gear on a portion. Except as expressly amended, Licence #1332 and Lease #1332 shall continue in full force and effect.

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

5. Conditions

In addition, the following condition shall apply:

The operator shall adhere to the following site marking requirements:

- a) Mark each corner and angle of the lease from May 1 to November 30, annually;
- b) Mark each corner and angle of the lease with a cautionary yellow buoy of a minimum 16 inches in diameter;
- c) Display "PRIV" in black, on opposite side of each buoy;
- d) At 1 corner buoy, display in black, the licence/lease number, licence holder's name and contact phone number.



Robert Ceschiutti
Aquaculture Administrator
Nova Scotia Department of Fisheries and Aquaculture

November 2, 2020

Date