

Findings and Decision – Amendment Application of Samuel McKinlay for AQ#1385

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 #1385 (AQ#1385) to authorize bottom shellfish with gear method, as described below:

Table 1. Description of Aquaculture Licence and Lease #1385

Type: Marine	Size: 10.27 HA
Number: AQ#1385	Current Cultivation Method: Bottom cultivation without gear
Applicant: Samuel J McKinlay	Current Species: American oyster
Location: Antigonish Harbour, Antigonish County	Proposed Amendment: Authorize Bottom Shellfish Cultivation with gear (on a portion of the site)

2. History

AQ#1385 was first issued on March 5, 2015 for a term of ten years (November 1, 2014 to November 1, 2024).

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 November 3, 2020.

3.2 Public Comment Period

Notice of the application for the renewal of AQ#1385 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#1385 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#1385 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#1385.

The Farm Operations section of the Farm Management Plan for AQ#1385 will require the operator to indicate how they will operate AQ#1385 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#1385 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. The Aquaculture Activity Regulations (AAR) under the Federal *Fisheries Act*, apply to the operation of a licenced aquaculture lease and constitute the authorization and set the conditions for compliance with Sections 35 and 36 of the Federal *Fisheries Act*.

There are no recorded instances on file of AQ#1385 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#1385, are reviewed by Nova Scotia Environment, with appropriate follow-up and prescribed actions taken if necessary. The operator of AQ#1385 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#1385 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#1385 is located approximately 100 metres to the south of AQ#1355 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 #1385 and Aquaculture Lease #1385 shall be amended to authorize bottom shellfish cultivation with gear on a portion of the site. Except as expressly amended, Licence #1385 and Lease #1385 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 20, 2020

Date