

Findings and Decision – New Application of Town Point Consulting Inc. for AQ#1422

1. Overview:

On December 4, 2018, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an application from Town Point Consulting Inc. for a new Aquaculture Licence #1422 (AQ#1422), as described below:

Table 1. Description of Aquaculture Licence #1422

Type: Landbased	Location: Harbour Centre, Antigonish County
Number: AQ#1422	Species: American oyster
Applicant: Town Point Consulting Inc.	Proposed Term: 10 year Licence

2. History

AQ#1422 is a new licence. The operator, Town Point Consulting Inc. has never held an aquaculture licence with NSDFA,

3. Procedure

3.1 Performance Review

A performance review of the information submitted by the operator in support of their application was completed. This review recommended that the site be issued 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 February 28, 2020.

3.2 Network Review

AQ#1422 was sent for review on March 26, 2019 to the following agencies: Nova Scotia Department of Agriculture, Nova Scotia Environment, Nova Scotia Department of Communities, Culture and Heritage, Department of Fisheries and Ocean Canada, Environment and Climate Change Canada and Canadian Food Inspection Agency.

3.3 Public Comment Period

Notice of the application for AQ#1422 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of June 20, 2019 to July 19, 2019. Notice of the application was also published in the Royal Gazette Part I on June 26, 2019, July 3, July 10, and July 17, 2019.

3.4 Submissions

One hundred and four submissions were received by NSDFA during the 30-day public comment period. Several items of note were raised that will be further discussed in the *Factors to be Considered* section of the decision.

4. Factors to be considered

AQ#1422 is intended to form the shore-based component of an integrated shellfish farming operation. The applicant, Town Point Consulting Inc., currently has applications under review for marine shellfish sites. At the time of AQ#1422 having been posted for public submissions, Town Point Consulting Inc. also held an Option to Lease for the purpose of exploring the surrounding marine area for marine shellfish aquaculture. The land-based aquaculture application is considered a separate application, and particulars that solely pertain to marine shellfish applications are not within scope of the land-based application decision-making process. Many public submissions received related to aspects of a potential marine shellfish operation in Antigonish Harbour and as such are not within scope for the land-based aquaculture application decision for AQ#1422. The issuance of AQ#1422 is thereby considered on its own merits, and does not consider the potential issuance of marine aquaculture sites to Town Point Consulting Inc. Although the application and information reviewed indicates that production and thus resultant employment is expected, should Town Point Consulting Inc. not be successful in being granted licences or leases for marine shellfish aquaculture, the company will need to adjust their planned operations.

Submissions received during the public comment period raised questions with respect to the decision-making process regarding AQ#1422. Land-based aquaculture applications are made through a separate decision-making process than marine licence or lease applications. As per the *Fisheries and Coastal Resources Act* and the *Aquaculture Licence and Lease Regulations*, decisions with respect to new land-based aquaculture operations are within the purview of the Administrator (“administrative process”). As such, new land-based aquaculture applications are not required to be submitted to the Aquaculture Review Board for decision. There are no provisions whereby a land-based aquaculture application can be considered through the adjudicative process. Furthermore, as per the *Aquaculture Licence and Lease Regulations*, scoping requirements that are applicable to marine shellfish aquaculture operations are not applicable to land-based aquaculture applications.

The *Fisheries and Coastal Resources Act* defines aquaculture as:

‘the farming for commercial purposes of aquatic plants and animals over which the Minister exercises control but does not include raising or breeding in tanks, nets, pens or cages of aquatic plants and animals as aquarium species, in laboratory experiments or by individuals on their own property as food for their own use’.

As such, an aquaculture licence for landbased shellfish aquaculture issued pursuant to the *Fisheries and Coastal Resources Act* only grants an approval to conduct commercial farming of the identified shellfish species. The operators of AQ#1422, by condition of licence, will be required to comply with any permits, protocols, approvals, licenses or permissions which may be required under the laws of the relevant Municipality, the Province, or Canada. Town Point Consulting Inc. will be responsible for confirming any of the before-mentioned requirements and ensuring compliance with them. Such requirements may include, but not be limited to, an

Introductions and Transfers permit from Fisheries and Oceans Canada for the movement of shellfish, Nova Scotia Department of Lands & Forestry and Transport Canada for the placement of pipelines or associated structures, and the Municipality of the County of Antigonish for permitting of new constructions.

Concerns were expressed with respect to the environmental impacts of shellfish aquaculture in Antigonish Harbour. Many of these concerns related to the extent of potential marine shellfish aquaculture and as such are not considered as part the decision-making process for AQ#1422. Some concerns were related to the specific land-based operation under consideration. Land-based shellfish operations require extensive infrastructure and technology to ensure both economically and environmentally appropriate outcomes. Furthermore, oysters are filter feeders and do not require feed or medicated inputs for their cultivation. Oysters are filter feeders and rely on nutrients from the natural environmental for their energy production. As such, oysters farmed in land-based operations would be reliant on the intake of water into the facility from the adjacent ocean. This water would then be discharged back into the natural environment. The water intake and outfall systems must be in compliance with all appropriate environmental legislation.

Additional concerns were related to the level of detail provided for public review as part of the application process. The Department of Fisheries and Aquaculture does not post application details, with the exception of site location, applicant, species and cultivation information, as part of the public submission process for land-based aquaculture operations which occur on private property and therefore subject to Municipal requirements and other Provincial legislation.

Town Point Consulting Inc. will be required to develop and implement an approved Farm Management Plan (FMP), in accordance with the *Aquaculture Management Regulations*, prior to becoming operational. The Farm Management Plan for land-based shellfish aquaculture operations include minimum compliance requirements related to production planning, inventory control, facility design specifications, storage of supplies and refuse, maintaining the site in good order, noise, and record-keeping. This Farm Management Plan will be reviewed by Department staff for approval. Additional information on the Minimum Compliance Points for Farm Management Plans can be found at: <https://novascotia.ca/fish/documents/compliance-documents/Minimum-compliance-requirements-Landbased.pdf>.

Consideration of all information submitted by the applicant, feedback from other government Departments and Agencies, and submissions from the public, the proposed operation of AQ#1422 demonstrates both financial and technical viability. Furthermore, the information reviewed suggests that the proposed operation will be in compliance with the Act, relevant regulations, policies and guidelines of the Department. The *Aquaculture Licence and Lease Regulations* allow for the Administrator to consider any other factor the Administrator considers relevant to the application. The requirement for Town Point Consulting Inc. to implement an approved Farm Management, the subsequent separate approval process for any potential marine shellfish aquaculture sites by Town Point Consulting Inc., and the roles of other Government Departments and Agencies in issuing approvals for non-aquaculture elements of the operation were also considered. As such, based on these considerations, an aquaculture licence

shall be issued to Town Point Consulting Inc. for AQ#1422.

5. Decision

Based on the considerations above, Aquaculture Licence #1422 shall be issued to Town Point Consulting Inc. for a period of 10 years (May 1, 2020 to May 1, 2030).

The Licence 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*.



March 27, 2020

Brennan Goreham
Aquaculture Administrator
Nova Scotia Department of Fisheries and Aquaculture

Date