

This lease made in duplicate this 13<sup>th</sup> day of August, 2018.

**BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture, as appointed under section 54A of the Fisheries and Coastal Resources Act, SNS 1996, c. 25,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

**WAYCOBAH FIRST NATIONS BAND COUNCIL**

P.O. Box 149  
Whycocomagh, Nova Scotia  
BOE 3M0

hereinafter referred to as "**THE LESSEE**"

OF THE OTHER PART

**WHEREAS** the Administrator, under the provisions of the Fisheries and Coastal Resources Act, S.N.S. 1996, Chapter 25 (the "Act") and the Aquaculture Licence and Lease Regulations (the "Regulations"), is authorized to renew aquaculture licences and aquaculture leases;

**AND WHEREAS** pursuant to the Act the Lessee was issued Aquaculture Lease No. 1291 on January 28, 2014 for a term of five years from October 1, 2013 to October 1, 2018;

**AND WHEREAS** the Lessee wishes to renew aquaculture Lease No. 1291;

**NOW THEREFORE** in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. The Administrator hereby grants to the Lessee a lease to use a 2.74 hectare area located in the body of waters known as Whycocomagh Bay, Inverness County, more particularly described in Schedule "A" attached to and forming part of this Agreement (the "site") for the bottom cultivation of American oysters (*Crassostrea virginica*).
2. The term of this lease shall be for twenty years commencing on the ten years commencing on the 1<sup>st</sup> day of October 2018 to the 1<sup>st</sup> day of October 2038, with the right of renewal, in accordance with the terms of the Act and the Regulations.
3. The Lessee shall pay to the Minister of Finance and Treasury Board an annual fee as set out in the Regulations. The annual payment must be received by the anniversary date of the lease. Late payments are subject to a fee as set out in the Regulations.
4. The undertakings set out in Schedule "B" to this lease (the "undertakings"), form part of this Agreement, and the Lessee hereby agrees to comply with any conditions or limitations contained in the undertakings unless compliance for leasing purposes is expressly waived by the Administrator. The Lessee is responsible for confirming any undertakings and ensuring compliance with them.
5. Except to the extent restricted by an enactment or this lease, the Lessee has, for aquacultural purposes, the exclusive right to use the leased sub-aquatic lands and water column.

6. The Lessee shall allow access to the bottom-cultivation portions of the site by the general public for recreational activities. The general public is not permitted to carry out American oyster harvest, enhancement, or husbandry activities at the site.
7. The Lessee agrees to comply with any permits, protocols, approvals, licenses or permissions (the "licensing requirements") which may be required under the laws of the relevant municipality, the Province or Canada. The Lessee is responsible for confirming any licensing requirements and ensuring compliance with them.
8. This lease must not be assigned without the written approval of the Administrator. If the Lessee is a corporation, any change in the right to control the corporation shall be deemed to be an assignment.
9. In the event that the Lessee shall cease conducting an aquaculture business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver of its business assets, or avail itself of any proceeding in bankruptcy under any statute relating to insolvency or the protection of rights of creditors, the Administrator may revoke this lease and this Agreement shall be of no further force and effect subject only to the right of Her Majesty the Queen in right of the Province of Nova Scotia ("Her Majesty") to claim for damages.
10. The Lessee must adhere to the Farm Management Plan, as it is in effect for this lease from time to time, and any failure to adhere to the Farm Management Plan is a breach of this lease.
11. This lease does not include any rights as to minerals in or on the site.
12. The Lessee shall submit to the Minister of the Nova Scotia Department of Fisheries and Aquaculture (the "Minister") an annual report stating such information as the Minister requires concerning the Lessee's use and the productivity of the site.
13. Following the completion of a performance review, in accordance with the Regulations, of the aquaculture operation subject to this lease, the Administrator may vary any terms or conditions of this lease in order to address any concerns raised in the performance review.
14. The Lessee is hereby prohibited from using the site in any way that would interfere with other leased aquaculture operations.
15. The Lessee is hereby aware that the placing of an anchor or driving of stakes, within the bottom-cultivation portions of the site by persons other than the Lessee, provided such are included in legitimate operations incidental to fishing for or catching any kind of fish other than American oyster, and that placing of buoys or stakes by the proper authorities, for navigation purposes, shall not be deemed as interference with the proper cultivation of the site by the Lessee.
16. If the Administrator, in his or her sole discretion, is of the opinion that the aquaculture activities authorized by this lease are detrimental to or interfere with other leased facilities, the Administrator may revoke this lease without compensation.
17. The Administrator may revoke this lease without advance notice or compensation if the Lessee is found by a court of competent jurisdiction to be in violation of any law of the Province or Canada relating to fishery activities.
18. If the Lessee fails to perform any of its obligations under this lease, the Minister may have the obligations performed, with the amount of any costs incurred to be a debt due to Her Majesty, for which Her Majesty shall have a first priority charge on the aquacultural produce within the site.
19. If the Lessee is in breach of any term of this lease and such breach is not corrected within the time period set out in the notice from the Administrator, the Administrator may revoke this lease without further notice or compensation.

20. Should it become necessary for Her Majesty to expropriate the Lessee's rights under this lease, it is hereby agreed that the value of the lease for purposes of expropriation compensation shall not exceed the depreciated value of improvements made by the Lessee that cannot be removed from the site. No compensation may be claimed for the cancellation of this lease where compensation is paid or payable in relation to the expropriation of a lease for the same site.
21. Any notices required to be given under this lease may be sent by regular mail to the parties at their addresses set out in the heading of this Agreement, and notice will be deemed to have been received by the intended recipient thereof five business days from the date on which the notice is post-marked. The parties, by agreement, may effect notice by any other means. The Lessee must notify the Administrator of any change of address within thirty (30) days.
22. Nothing in this Agreement shall be taken as a warranty by the Administrator that the site may be used now or in the future by the Lessee for aquaculture purposes. The Minister assumes no responsibility whatsoever for any private property rights or for the actions of other levels of government which may interfere with the use of the site for aquaculture purposes.
23. This lease shall be subject to the laws of the Province of Nova Scotia and the parties hereby agree to attorn to its courts.
24. This lease shall be subject to any changes made from time to time in the Act, the Regulations or any other relevant legislation.

**SIGNED, SEALED AND DELIVERED**  
in the presence of

SCHEDULE A

**GPS COORDINATE INFORMATION SHEET**

Application #: 1291

Applicant: Waycobah First Nations Band Council

Location: Whycocomagh Bay County: Inverness

Hydrographic Chart: 4279 Orthophoto #:

Dimensions of site: Approx. 48m x 509m x 48m x 620m Size: Approx. 2.74 hectares

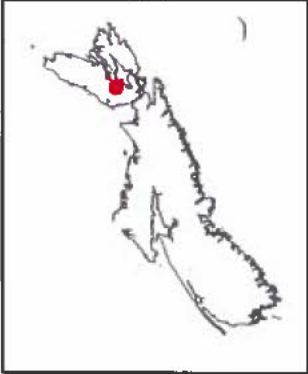
**Approximate Coordinates of Application:**

Datum used: NAD 83

Centre coordinates (approx.) Lat. 45° 56' 17.43"  
Long. -61° 06' 41.25"

|           |                                              |           |                                              |
|-----------|----------------------------------------------|-----------|----------------------------------------------|
| Corner #1 | Lat. 45° 56' 20.01"<br>Long. -61° 06' 47.20" | Corner #2 | Lat. 45° 56' 20.03"<br>Long. -61° 06' 44.94" |
| Corner #3 | Lat. 45° 56' 17.91"<br>Long. -61° 06' 46.91" | Corner #4 | Lat. 45° 56' 22.70"<br>Long. -61° 06' 29.12" |
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***NOTE: THESE COORDINATES ARE NOT FROM A LEGAL SURVEY.***



Aquaculture Site

1291

|          |                                         |
|----------|-----------------------------------------|
| Center   | Lat 45° 56' 17.43" Long -61° 06' 41.25" |
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DATUM NAD 83  
The above coordinates  
are not from a legal survey



Application Information

Proponents : Waycobah First Nations Band Council  
Site Location : Whycomagh Bay  
Dimensions : Approx. 48m x 509m x 48m x 620m  
Area : Approx. 2.74 ha

Chart No.  
4279

Issued Lease  
Proposed Lease  
Low Water Mark  
OMHW Mark



Disclaimer

This map should not be used for navigation or legal purposes. It is intended for general reference use only.

MK-1291-MAY-2018



Aquaculture Site  
**1291**

Center  
Lat 45° 56' 17.43" Long -61° 06' 41.25"  
Corner 1  
Lat 45° 56' 20.01" Long -61° 06' 47.20"  
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Issued Lease  
Proposed Lease  
NS Bathymetry  
Low Water Mark  
OMHW Mark

Chart No.  
**4279**



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MK-1291-MAY-2018

### **Schedule "B"**

This Schedule sets out any undertakings required of the Lessee.

The Lessee undertakes to complete the following report:

The Lessee shall submit an annual report (in addition to Annual Productions Statistics) dealing with the enhancement efforts. The details and format of the report shall be determined by agreement with the Nova Scotia Department of Fisheries and Aquaculture and the Lessee. The report shall include information such as the following:

- Stock assessment
- Broodstock manipulations
- Seed collection activities
- Predator control activities
- Other information may be required

AMENDMENT TO LEASE

THIS INDENTURE made in duplicate the 3<sup>rd</sup> day of JUNE, 2018.

**BETWEEN:**

**HER MAJESTY THE QUEEN**, in right of the Province of Nova Scotia, as represented by the Administrator, Nova Scotia Department of Fisheries and Aquaculture, as appointed under Section 54A of the *Fisheries and Coastal Resources Act*, SNS 1996, c. 25,

hereinafter referred to as "**THE ADMINISTRATOR**"

OF THE ONE PART

- and -

**WAYCOBAH FIRST NATIONS BAND COUNCIL**  
PO Box 149  
Whycocomagh, Nova Scotia  
B0E 3M0

hereinafter referred to as "**THE LESSEE**"

OF THE OTHER PART

**WHEREAS** the Administrator, under the provisions of the *Fisheries and Coastal Resources Act*, S.N.S. 1996, Chapter 25 (the "Act") and the Aquaculture Licence and Lease Regulations (the "Regulations"), is authorized to amend existing aquaculture licences and aquaculture leases in order to permit certain types of cultivation methods;

**AND WHEREAS** pursuant to the Act the Lessee was issued Aquaculture Lease No. 1291 ("Lease No. 1291") on August 13, 2018 for a term of twenty years from October 1, 2018 to October 1, 2028, authorizing the bottom (seeding only) cultivation of American oyster (*Crassostrea virginica*);

**AND WHEREAS** the Lessee is desirous of amending Lease No. 1291 to permit the bottom cultivation with gear and suspended cultivation with gear of American oyster (*Crassostrea virginica*), subject to whatever undertakings are prescribed by the Administrator;

**AND WHEREAS** the Administrator consents to amend Lease No. 1291 to permit the bottom cultivation with gear and suspended cultivation with gear of American oyster (*Crassostrea virginica*) by the Lessee;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein and the sum of \$1.00 and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

1. Lease No. 1291 is hereby amended by deleting Section 1 and replacing it with the following Section:

“1. The Administrator hereby grants to the Lessee a lease to use a 2.74 hectare area located in the body of waters known as Whycocomagh Bay, more particularly described in Schedule “A” attached to and forming part of this Agreement (that area, the “site”) for the cultivation of American oyster (*Crassostrea virginica*) by the following methods: bottom (seeding only) cultivation; bottom cultivation with gear; and suspended cultivation with gear.”

2. Lease No. 1291 is further amended by deleting Section 6 and replacing it with the following Section:

“6. The Lessee shall allow access to the bottom-cultivation areas of the site, where gear is not in use, by the general public for recreational activities. The general public is not permitted to carry out American oyster harvest, enhancement, or husbandry activities at the site.”

3. Lease No. 1291 is further amended by adding the following section immediately after Section 1:

“1A. For the bottom cultivation with gear at the site, the Lessee shall be limited to a maximum of two (2) cages. For the suspended cultivation with gear at the site, the Lessee shall be limited to two (2) cages.”

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be duly executed.

**HER MAJESTY THE QUEEN**  
in right of the Province of Nova Scotia, as  
represented by the Administrator, Nova Scotia  
Department of Fisheries and Aquaculture

Administrator, Nova Scotia Department  
of Fisheries and Aquaculture

Waycobah First Nations Band Council  
Per:

## Witness

SCHEDULE A

**GPS COORDINATE INFORMATION SHEET**

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Applicant: Waycobah First Nations Band Council

Location: Whycocomagh Bay County: Inverness

Hydrographic Chart: 4279 Orthophoto #:

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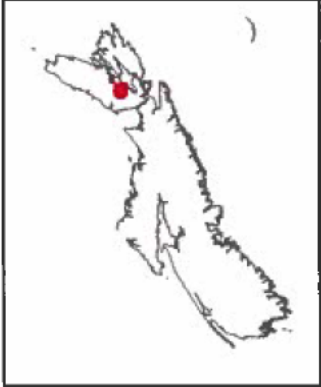
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Site Location : Whycomagh Bay  
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Chart No.  
4279



Amendment Application  
Other Issued Lease  
Low Water Mark  
OMHW Mark

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MK-1291-JUN-2018



Aquaculture Site  
**1291**

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| Application Information |                                     | Amendment Application                                                                 |                | Chart No.                                                                           | Disclaimer                                                                                                   |
|-------------------------|-------------------------------------|---------------------------------------------------------------------------------------|----------------|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Proponents :            | Waycobah First Nations Band Council |  | NS Bathymetry  | 4279                                                                                |                                                                                                              |
| Site Location :         | Whycocomagh Bay                     |    | Low Water Mark |                                                                                     |                                                                                                              |
| Dimensions :            | Approx. 48m x 509m x 48m x 620m     |                                                                                       |                |  | This map should not be used for navigation or legal purposes. It is intended for general reference use only. |
| Area :                  | Approx. 2.74 ha                     |                                                                                       |                |                                                                                     |                                                                                                              |
|                         |                                     |                                                                                       |                |                                                                                     | M/K-1291-JUN-2018                                                                                            |