

## **Findings and Decision- Amendment Application of Bay Enterprises Limited for AQ#0664**

### **1. Overview:**

On March 1, 2019, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an application from Bay Enterprises Limited to amend Aquaculture Licence and Lease #0664 (AQ#0664) to authorize bottom shellfish with gear method cultivation, as described below:

Table 1. Description of Aquaculture Licence and Lease #0664

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| <b>Type:</b> Marine                                  | <b>Current Size:</b> 48.46 HA  |
| <b>Number:</b> AQ#0664                               | <b>Current Cultivation Method:</b> Bottom cultivation without gear                                     |
| <b>Applicant:</b> Bay Enterprises Limited            | <b>Current Species:</b> Blue mussel, American oyster, Bay quahog, Soft shell clam                      |
| <b>Location:</b> Tatamagouche Bay, Cumberland County | <b>Proposed Amendment:</b> Authorize Bottom Shellfish Cultivation with Gear (on a portion of the site) |

### **2. History**

AQ#0664 was issued on July 15, 1993 to Amet Shellfish Co-op Ltd. AQ#0664 was Amended on September 1, 1993 to add an additional species Blue mussel. AQ#0664 was Amended on March 25, 1997 to change the company name from Amet Shellfish Co-Op Ltd. to Bay Enterprises Limited. Lease AQ#0664 was renewed on March 29, 2018 for a 20 year term (April 1, 2018 to April 1, 2038). Licence AQ#0664 was renewed on March 29, 2018 for a 10 year term (April 1, 2018 – April 1, 2028);

### **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#0664 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of April 9, 2020 to May 8, 2020. Notice of the application was also published in the Royal Gazette Part I on April 8, April 15, April 22, and April 29, 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. Information submitted in support of the amendment application indicates continued contributions to the local and provincial economy. AQ#0664 is an integral component of the operator's multi-site integrated farming and packaging operation. 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#0664 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#0664 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#0664.

The Farm Operations section of the Farm Management Plan for AQ#0664 will require the operator to indicate how they will operate AQ#0664 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#0664 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#0664 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#0664, are reviewed by Nova Scotia Environment, with appropriate follow-up and prescribed actions taken if necessary. The operator of AQ#0664 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. The Canadian Shellfish Sanitation Program has the site location classified as “Approved”.

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#0664 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 successful growth of American oysters in Chance Harbour has been proven. The information reviewed during the review of the application did not indicate adverse impacts on the surrounding public waters.

AQ#0664 is located in McNab’s Bay, Colchester County and is located immediately adjacent to the shoreline. The southern boundary of AQ#0664 is near AQ#1035 (Barrie D. and Kimberly A. Ferguson), and AQ#0664 is within 2.0 km of eight additional shellfish aquaculture sites. There is no evidence to suggest that the extent of existing aquaculture sites within the bay has exceeded the carrying capacity of the bay.

## **5. Decision**

Based on the considerations above, Aquaculture Licence #0664 and Aquaculture Lease #0664 shall be amended to authorize bottom shellfish cultivation with gear method on a portion of the site. Except as expressly amended, Licence #0664 and Lease #0664 shall continue in full force and effect.

The Licence and Lease amendment 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*.

**6. 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.



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**Robert Ceschiutti**  
**Aquaculture Administrator**  
**Nova Scotia Department of Fisheries and Aquaculture**

February 26, 2021

**Date**