

Decision on Application to Amend a Marine Aquaculture Licence and Lease

Application to the Administrator:

On March 10, 2022, the Nova Scotia Department of Fisheries and Aquaculture (the “Department”) received an application to amend Aquaculture Licence and Lease #0602 (AQ#0602), as described below:

Application Summary:

Type: Marine	Size: 20.52 HA
Number: AQ#0602	Cultivation Method: Marine cage
Applicant: Kelly Cove Salmon Ltd.	
Location: Shelburne Harbour, Shelburne County	Species: Atlantic salmon and Rainbow trout
Proposed Amendment: Change the aquaculture site boundaries (no increase in size).	

Site History:

The Licence and Lease for site AQ#0602 were first issued in 1991 to Archer & Maureen Harris for the marine cage cultivation of Atlantic salmon. In March, 2006, the site was assigned to Kelly Cove Salmon Limited. In December, 2008 the Licence and Lease were amended to add the cultivation of Rainbow trout. The Licence and Lease have been continuously renewed throughout the tenure of the site with the current licence valid until December 23, 2026 and the current lease valid until December 23, 2036.

Performance Reviews Conducted by Administrator:

A performance review was conducted on the aquacultural operation of site AQ#0602, pursuant to Sections 71-72 of the *Aquaculture Licence and Lease Regulations* (the “Regulations”). The Department identified one concern following the performance review in respect to the performance of the site, which is summarized in the *factors to be considered* portion of this decision document.

Consultations on Application to Administrator:

The application was sent for consultation to the following departments or agencies of the Government of Nova Scotia, pursuant to Clause 40(1)(a) of the Regulations: Environment and Climate Change, Agriculture, Office of L’nu Affairs (OLA), Communities Culture Tourism and Heritage, Natural Resources and Renewables.

The application was sent for consultation to the following departments or agencies of the Government of Canada, pursuant to Clause 40(1)(b) of the Regulations: Fisheries & Oceans Canada (DFO), Environment & Climate Change Canada (ECCC), Canadian Wildlife Services (CWS) and Transport Canada.

Public Submissions on Application to Administrator:

Pursuant to Section 41 of the Regulations, notice of the application was published on the Department’s website and in the Royal Gazette Part I, inviting the public to submit written comments on the application to the Administrator within the 30 days following the date the notice was published. This notice was published on August 11, 2022.

One submission was received by the Department during the 30-day public comment period, which met the requirements set out in subsection 41(5) of the Regulations and is included with this document.

Factors to be Considered (as set out in Section 3 of the Regulations):

The optimum use of marine resources

This application is to amend the existing Licence and Lease to change the site boundaries. The applicant has proposed to remove approximately 1890m² from the existing site footprint and add an area of approximately 183m x 10m (approximately 1830m²) between the site and the nearby shoreline, resulting in no net increase in the size of the site.

The applicant has proposed to use the area between the site and the nearby shoreline (as identified in the attached proposed Schedule “A”) to install three 400mm HDPE pipes from the shore base to the site. The pipes would be used to house lines for feed, oxygen and electricity which would be sourced from the privately owned land, thereby eliminating the use of generators currently used on the site. The applicant has indicated that this amendment, if approved, would “reduce the noise level significantly.”

The performance review conducted by the Department raised a concern regarding historical utilization of the site. More recently, however, this site has been stocked with Rainbow trout and subsequently Atlantic salmon thereby demonstrating appropriate utilization of the site. The information in support of the amendment application suggests continued production is planned for this site and continued employment. Department staff will continue to monitor that production plans are implemented as submitted and that the site is utilized for Aquaculture.

The contribution of the proposed operation to community and Provincial economic development
The proposed amendment did not involve any change to the operator's services and suppliers and did not involve any change to the operator's employment impact to the community.

Fishery activities in the public waters surrounding the proposed aquacultural operation
The amendment was assessed to consider any potential impact to fishery activities within and surrounding the new proposed boundaries of the site. There was no indication that this amendment would impact any specific fishery activities.

The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation
The proposed amendment is not anticipated to result in any changes to the benthic environment. The Performance review conducted by the Department mentioned a superchill event that occurred in the 2014-2015 winter season. It was noted that there were no fish on site during the event. The operator has previously indicated their mitigation strategies within their approved Farm Management Plan.

The other users of the public waters surrounding the proposed aquacultural operation
Recommendations were provided by several departments or agencies of the Government of Canada and the Government of Nova Scotia, to mitigate any potential impacts to other users including wildlife. These recommendations were shared with the operator.

A public submission was received which raised the issue of the public's ability to travel between the site and the shore due to the proposed amendment to adjust the site boundaries. The submission describes a risk to the public in the event that they were required to travel around the entirety of the site further away from shore. The public submission has been taken into account prior to issuing this decision and is included with this decision document for reference.

The public right of navigation
The operator shall adhere to the site marking requirements according to their Notice of Works issued by Transport Canada under the *Canadian Navigable Waters Act*, reference number NPP#2021-204161.

The sustainability of wild salmon
There is no indication that the proposed amendment will pose ecological concerns or have an impact on the sustainability of wild salmon.

The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation
AQ#0602 is situated near the shoreline of Sandy Point and is one of three sites within Shelburne Harbour. Site AQ#1192 is approximately 0.8km away and site AQ#0983 is approximately 1.5km away, both of which are also issued to Kelly Cove Salmon Ltd. There is no evidence to

suggest that the extent of the existing aquaculture in the harbour has exceeded the carrying capacity. The operator's Farm Management Plan identifies fallow periods for finfish sites.

Decision:

Based on the factors considered above, AQ#0602 shall be amended with modifications to change the licence and lease boundaries in accordance with the applicant's proposal. Except as expressly amended, AQ#0602 shall remain unchanged in full force and effect, including any terms and conditions. Documents shall be prepared to effect the above-approved amendments respectively to the Licence and Lease, in accordance with the Department's standard operating documents and shall be made publicly available subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

Modifications

A condition shall be added to both the Licence and the Lease, in the form of an undertaking, to confirm that the exclusive right to possession of the water column will not apply to the new portion of the site. Rather, the new portion of the site is being added for the purpose of enabling the applicant to install and operate three 400 mm. HDPE pipes. Accordingly, the Licence and Lease shall henceforth include an undertaking by the applicant not to prevent or hinder other users from accessing the new portion of the site for the purpose of conducting lawful activities so long as that access does not unreasonably interfere with the applicant's HDPE pipes and the applicant's operation of them.



Robert Ceschiutti
Aquaculture Administrator
Nova Scotia Department of Fisheries and Aquaculture

October 19, 2022

Date

From: [Ron N](#)
To: [Aquaculture Administrator](#)
Subject: Comments on the Amendment application for Aquaculture Licence and Lease #0602
Date: September 9, 2022 1:09:45 PM

**** EXTERNAL EMAIL / COURRIEL EXTERNE ****

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My comments relate to section 3(e) of the regulations, I am connected to this matter (section 41) being a resident of NS.

KCS is asking to lease a strip of the ocean approximately 20m wide by 160m long from lease 0602 to shore. If this strip becomes part of site 0602, which is what this application asks for, it would be regulated by the Fisheries and Coastal Resources Act (October 26, 2015) section 44(3), which says:

(3) Unless otherwise restricted by this Part or the terms of the lease, the granting of an aquaculture lease carries with it the exclusive right, for aquacultural purposes, to possession of the water column and sub-aquatic land described in the lease. 1996, c. 25, s. 44; 2015, c. 19, s. 6.

This would give KCS the right to exclude boaters or anybody else from the leased area. So a small boat, kayak, paddle board or whatever travelling along the shore could be told to go around the outside of lease 0602 and be put in a potentially dangerous situation.

Please do not approve this application, this lease amendment does not guarantee that the public will be able to travel between site 0602 and the shore.

Ron Neufeld,

[REDACTED]
Louis Head, NS
[REDACTED]

The attached records were submitted by third parties to the Department of Fisheries and Aquaculture as a part of a public submission process. The Department does not endorse, and is not responsible for, the content of the attached records, including, but not limited to, the accuracy, reliability, or currency of the information contained in the attached records.