

# Decision on Application to Renew a Marine Aquaculture Licence and Lease

## Application to the Administrator:

On April 26, 2023, the Nova Scotia Department of Fisheries and Aquaculture (the “Department”) received an application to renew Experimental Aquaculture Licence and Lease #5001 (AQ#5001), as described below:

## Application Summary:

<b>Type:</b> Experimental Marine	<b>Size:</b> 14.24 HA
<b>Number:</b> AQ#5001	<b>Cultivation Method:</b> Bottom cultivation with gear
<b>Applicant:</b> Searise Fisheries Limited	
<b>Location:</b> Three Fathom Harbour, Halifax County	<b>Species:</b> Soft-shell clam
<b>Proposed Term:</b> One Year Licence/Lease	

## Site History:

AQ#5001 experimental licence and lease were first issued on July 28, 2021 for a one-year term (August 2, 2021 to August 1, 2022). The licence and lease were renewed on September 8, 2022 for a second one-year term (August 2, 2022 to August 1, 2023).

## Performance Reviews Conducted by Administrator:

A performance review was conducted on the aquacultural operation of site AQ#5001, pursuant to Sections 71-72 of the *Aquaculture Licence and Lease Regulations* (the “Regulations”). There were concerns raised by the Department following the performance review, related to the applicant’s current progress on their experimental plan and meeting the Farm Management Plan requirements. Refer to **Modification #1** for how these concerns shall be mitigated.

## Consultations on Application to Administrator:

The Administrator considered it necessary to consult with the following on this application:  
 Centre for Marine Applied Research (CMAR)  
 Nova Scotia Department of Natural Resources and Renewables (DNRR)

Environment and Climate Change Canada's Canadian Wildlife Service (ECCC-CWS).

As part of the consultation process with respect to the renewal of experimental licenses and leases, the Department's practice is not to seek comments from members of the public. In this instance, however, concerns were raised by the local community, and those concerns were taken into account with respect to this renewal application, as identified below.

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

*The optimum use of marine resources*

AQ#5001 is an experimental aquaculture site located in East Three Fathom Harbour, Halifax County. For the proposed renewed tenure, Searise Fisheries Limited will evaluate the viability of cultivating wild-sourced Soft-shell clam seed through environmental and stock manipulation. As this is an application to renew an existing Aquaculture licence and lease, there are no expected novel impacts to the use of marine resources, for the tenure of the experiment.

*The contribution of the proposed operation to community and Provincial economic development*

The renewal application did not involve any change to Searise Fisheries Limited's services and suppliers and did not involve any change to Searise Fisheries Limited's employment impact to the community. Speaking generally, should the experiment prove successful and identify techniques or approaches that are implemented as part of commercial aquaculture operations, increased Soft-shell clam production should prove beneficial to both the local and Provincial economy and result in increased employment.

Concerns were raised by the local community surrounding the statistical significance of the level of economic impact a full-scale commercial operation at site AQ#5001 would have. Having taken the concern under consideration, it is important to note that the potential for economic development could take more than one form, such as the potential for other aquaculturists to apply what may be learned from the results of this experiment, or the benefits to secondary businesses indirectly associated with an aquaculture operation, experimental or commercial. An experimental aquaculture site is not operated as a commercial operation. Rather, further to Section 46 of the Regulations, an experimental aquaculture site is operated to test or develop new technology or methods, to carry out basic research, or to test the feasibility of an aquaculture site. It would be premature to judge the potential economic impact of an experimental aquaculture site before the experiment conducted at the site has been concluded. Should, however, the experiment prove successful, and should Searise Fisheries Limited seek to convert its experimental aquacultural operation to a commercial one, then further to Section 51 of the Regulations, Searise Fisheries Limited could submit a Proposal for an Option to Lease to the Minister of Fisheries and Aquaculture. At that time, the Minister would be in a position to take the potential benefits to the community and Province into consideration, per Clause 6(3)(a) of the Regulations, as part of the decision-making process in connection with that application.

Concerns were raised by the local community surrounding the potential impact of the current aquaculture site on real property values within the surrounding area. In addition to involving subjective aspects and being speculative in nature, such concerns, it is noted, do not come within the scope of criteria that the Administrator must take into account with respect to this application, further to section 3 of the Regulations. Having said this, of note in this context is Section 57 of the Regulations, which states that “An aquaculture licence holder must conduct their aquacultural operation so as not to deprive any riparian landowner of reasonable access to and from the water adjacent to the land of the riparian land owner.” (Section 57 of the Regulations is also relevant below, in the context of the public right to navigation.) In addition, it is noted that all aquaculture operators are required to have plans in place to mitigate any noise that may occur on site and have strategies for waste management and maintaining the site in good order as part of their Farm Management Plan.

Concerns were raised by the local community surrounding the impacts of the experiment on the levels of hydrogen sulphide. Having consulted with CMAR on this issue, it was concluded that there was no evidence to suggest that Soft-shell clam seeding or harvesting activities in the intertidal zone or adjoining shallow waters augment the release of hydrogen sulphide gas beyond typical naturally occurring coastal processes.

*Fishery activities in the public waters surrounding the proposed aquacultural operation*

As this is an application to renew an existing Aquaculture licence and lease, there are no expected novel impacts to the fishery activities in the public waters near the existing site. AQ#5001 is located in waters which currently remain classified as *Restricted* by the *Canadian Shellfish Sanitation Program (CSSP)*. The *Restricted* classification requires the operator to harvest product under strict protocols. Soft-shell clams cannot be harvested and sold for human consumption for the duration of the experimental licence and lease unless all Provincial, Federal, and Municipal permits are in place. An example of this would be a Canadian Food Inspection Agency approved depuration plan that utilizes an approved depuration facility. The nature of AQ#5001 being located in *Restricted* waters continues to limit the impact of AQ#5001 to commercial and recreational harvesters, as such harvesters would not currently be able to access product from this area.

*The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation*

There are no anticipated changes identified in the renewal application and supporting documentation which reflect the oceanographic and biophysical characteristics of the public waters surrounding the existing site.

Concerns were raised by the local community regarding the impact of the experiment on native Eelgrass populations. During the original application for a new experimental aquaculture licence and lease, the Department of Fisheries and Oceans Canada (DFO) indicated that, provided the plans provided in the initial application are implemented in the manner and during the timeframe described, DFO determined that the proposal will not result in impacts to fish and fish habitat

beyond those regulated by the *Aquaculture Activities Regulations* or prohibited effects on listed aquatic species at risk. It is standard practice to require the licence / lease holder to incorporate procedures for the avoidance of Eelgrass within an approved Farm Management Plan, which will be applied to this experiment as well. Refer to **Modification #2** for how this concern will be mitigated.

*The other users of the public waters surrounding the proposed aquacultural operation*

As this is an application to renew an existing Aquaculture licence and lease, there are no expected novel impacts to the other users of the public waters near the existing site.

Concerns were raised by the local community, DNRR and ECCC-CWS regarding the potential impact of the experiment on migrating shorebirds. Refer to **Modification #3** for how these concerns shall be mitigated.

Recommendations were made by DNRR to include an evaluation of any interactions of the aquacultural operation with local wildlife and the environment. Refer to **Modification #4** for how this recommendation shall be addressed.

*The public right of navigation*

Searise Fisheries Limited 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#2019-200074.

Concerns were raised by the local community regarding access to the waters for recreational use, as well as accessing private property. Refer to **Modification #5** for how these concerns shall be mitigated.

*The sustainability of wild salmon*

The continued operation of this site is not expected to encumber salmon restoration or recovery efforts within the surrounding area.

*The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation*

AQ#5001 is located in East Three Fathom Harbour, Halifax County. The nearest aquaculture sites to AQ#5001 are located over thirty kilometers away near Sober Island, Halifax County. AQ#5001 is located in the nearshore environment, immediately adjacent to the shoreline. There was no indication that the continued operation of this experimental site would have an impact on the productivity of other aquaculture sites.

**Decision:**

Based on the factors considered above, Experimental Aquaculture Licence and Lease #5001 shall be renewed **with modifications** for a third one-year term (August 2, 2023 to August 1, 2024).

**Modification #1: Farm Management Plan**

To address the above concerns raised regarding Searise Fisheries Limited's current progress on their experimental plan and meeting the Farm Management Plan requirements, both the licence and the lease shall include additional undertakings and reporting requirements which must be met by Searise Fisheries Limited.

Searise Fisheries Limited will be required to incorporate these undertakings and reporting requirements into their Farm Management Plan, which must be completed and made available to the Department for review within **60 days** following issuance of both the licence and the lease. Searise Fisheries Limited cannot conduct any aquaculture activities on the site until such Farm Management Plan is approved by the Department.

**Modification #2: Avoidance of Eel grass**

To mitigate the above concerns raised regarding the potential impact of the experiment on existing populations of Eelgrass, both the licence and the lease shall specify that the research activities are not conducted in areas with a population of Eelgrass.

**Modification #3: Wildlife Monitoring Plan**

To mitigate the above concerns raised regarding the potential impact of the experiment on migrating shorebirds, a condition shall be added to both the licence and the lease, in the form of an undertaking, to require the development and Departmental approval of a Wildlife Monitoring Plan to avoid and monitor the potential negative effects of the aquacultural operation on migratory birds, prior to conducting any aquaculture activities. This Wildlife Monitoring Plan, following Departmental approval, must be incorporated into Searise Fisheries Limited's Farm Management Plan.

**Modification #4: Wildlife and Environmental Interaction Evaluation Report**

To address the above recommendation made by DNRR, both the licence and the lease shall include the requirement for Searise Fisheries Limited to evaluate any interactions of the aquacultural operation with local wildlife, including shorebirds, birds of prey, and nuisance animals, as well as the tolerance of any gear to tidal action, ice scour and major storms, if applicable.

### **Modification #5: Public Access**

To mitigate the above concerns raised regarding public access to site AQ #5001 for recreational use, both the licence and the lease shall include the requirement for Searise Fisheries Limited to allow access to the site by the general public for recreational activities. The general public is not permitted to carry out Soft-shell clam (*Mya arenaria*) harvest, enhancement or husbandry activities at the site.

In addition, to mitigate the above concerns raised regarding accessing private property, a condition shall be added to both the licence and the lease, in the form of an undertaking, such that Searise Fisheries Limited will be reminded that they are not authorized to use any other person's private property as a means to access site AQ #5001, without the written expressed permission of the property owner.

The licence and lease documents shall be prepared 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*.



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Robert Ceschiutti  
Aquaculture Administrator  
Nova Scotia Department of Fisheries and Aquaculture

August 3, 2023

Date