

Findings and Decision - Assignment Application of David MacNeil for AQ#1331

1. Overview:

On August 28, 2018, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) received an assignment application from Michael MacDonald and David MacNeil for Aquaculture Licence and Lease #1331 (AQ#1331), as described below:

Table 1. Description of Aquaculture Licence and Lease #1331

Type: Marine Shellfish	Location: Mabou Harbour, Inverness County
Number: AQ#1331	Size: 4.00 HA
Assignor: Michael MacDonald	Cultivation Method: Bottom and suspended Cultivation
Assignee: David MacNeil	Species: American oyster

2. History

AQ#1331 was first issued on September 19, 2007 for a ten year term (September 1, 2007 to August 31, 2017). AQ#1331 was amended on March 9, 2011 to authorize the suspended cultivation of American oyster on a portion of the site and bottom cultivation of American oyster on a portion of the site. AQ#1331 licence was renewed on August 31, 2017 for a ten year term from August 31, 2017 to August 31, 2027. AQ#1331 lease was renewed on August 31, 2017 for a twenty year term from August 31, 2017 to August 31, 2037.

3. Procedure

3.1 Performance Review

A performance review of the information submitted by the operator in support of their renewal application was completed. This review recommended that the site be renewed based on the technical and biological assessment. This performance review is required pursuant to Subsection 72(b) of the Aquaculture Licence and Lease Regulations, and was completed on March 12, 2019.

3.2 Public Comment Period

Notice of the application for the assignment of AQ#1331 for the 30-day public comment period was published on NSDFA's website (<http://novascotia.ca/fish/aquaculture/public-information/>) for the period of October 18, 2018 to November 16, 2018. Notice of the application was also published in the Royal Gazette Part I on October 23, 2018, October 30, 2018, November 6, 2018 and November 13, 2018.

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 the site has had limited annual production since issuance. The assignment plan indicates increased production is planned for this site and therefore resulting employment. Should the operator not operate the site as indicated, the Department's site utilization review procedures will be triggered.

The performance review and subsequent public comment period did not note the presence of other fishery activities in the area of the site. There were no ecological concerns identified in the past performance of this site with respect to negative impacts on other fisheries. AQ#1331 is licensed to cultivate American oyster, and as such there is no evidence that shellfish aquaculture has impacts on the sustainability of wild salmon.

The successful growth of oysters in Mabou Harbour using both bottom and suspended methods have been proven. The information reviewed during the performance review did not indicate adverse impacts on the surrounding public waters. AQ#1331 is located within waters that are currently classified as *Conditionally Approved* by the Canadian Shellfish Sanitation Program (CSSP); therefore, product can only be harvested pursuant to a Conditional Management Plan (CMP) that is approved by the CSSP Partners (Fisheries and Oceans Canada, Environment and Climate Change Canada, and the Canadian Food Inspection Agency).

AQ#1331 is located in the southern portion of Mabou Harbour, opposite MacPhee's Island and AQ#1331. There are no recorded instances on file of AQ#1331 interfering with other users of the public waters surround the operation. AQ#1331 has certain areas where gear is permitted, and other areas where gear is not permitted, as outlined in Schedule A of the Licence and Lease respectively. The licence and lease documents for AQ#1331 allow for access to the bottom cultivation portion of the site by general public for recreational activities, provided that the public does not harvest the product on site. Section 55 of the *Licence and Lease Regulations* require an aquaculture licence holder to mark each of their sites in a manner determined by the Minister and keep each site marked during the term of their licence. Also, it is a requirement for equipment and aquacultural product to remain within the geographic boundaries of that site. Furthermore, AQ#1331 is required to maintain compliance with Transport Canada as it relates to Navigable Waters.

Sites within Mabou Harbour are located in the near-shore environment providing a main navigation corridor in the harbour. Individual sites within Mabou Harbour are geographically separated, providing corridors through which other users can navigate. There are 8 other oyster aquaculture sites licensed in Mabou Harbour. There is no evidence to suggest that the extent of existing aquaculture in the harbour has exceeded the carrying capacity of the harbour.

5. Decision

Based on the considerations above, Michael MacDonald's right, title, and interest in and to Aquaculture Licence #1331 and Aquaculture Lease #1331 is hereby assigned to David MacNeil. The assignment shall have an effective date of March 27, 2019. The approval documents shall be prepared in accordance with the standard operating documents of NSDFA, and shall be made publically available subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

In addition, the following condition shall apply.

6. Conditions

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 sides of each buoy;
- (d) At 1 corner buoy, display in black, the licence/lease number, licence holder's name and contact phone number.

Brennan Gorham

Brennan Gorham
Aquaculture Administrator
Nova Scotia Department of Fisheries and Aquaculture

March 29, 2019

Date