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**DECISION and ORDER**

**NSARB 2024-001**

**NOVA SCOTIA AQUACULTURE REVIEW BOARD**

**IN THE MATTER OF:** applications made by **C&G AQUACULTURE** for a **NEW MARINE AQUACULTURE LICENCE and LEASE** for **SUSPENDED, BOTTOM CULTURE WITH GEAR, and BOTTOM CULTURE WITHOUT GEAR** of **AMERICAN OYSTER (*Crassostrea virginica*), BAY SCALLOP (*Argopecten irradians*), QUAHOG (*Mercenaria mercenaria*), and RAZOR CLAM (*Ensis directus*) - AQ#1448** in **MERIGOMISH HARBOUR, PICTOU COUNTY**.

**BEFORE:** Coleen Morrison, Vice Chair of the Board and Chair of the Hearing  
Tim Cranston, Chair of the Board  
Damien Barry, Board Member

**HEARING DATE(S):**      **Session 1**      November 25, 2024

**DECISION DATE:** December 23, 2024

**Introduction**

- [1] C&G Aquaculture (the Applicant or C&G) has applied for a new marine shellfish aquaculture license and lease (AQ#1448) in Merigomish Harbour, Pictou County. The proposed cultivation methods are suspended shellfish, bottom shellfish cultivation with gear and bottom shellfish cultivation without gear. The anticipated species are American oyster, quahog, bay scallop and razor clam.
- [2] Following extensive consultations between the Applicant, the Department of Fisheries and Aquaculture (DFA), various departments and agencies, and the public, followed by the requisite public hearing, the Aquaculture Review Board (the Board) has decided to issue the license and lease in respect of Q#1448, subject to the development of a farm management plan (Farm Management Plan) which includes eel grass monitoring.

## Background

- [3] In 2013, the Province of Nova Scotia tasked an independent panel to develop a regulatory framework for aquaculture in Nova Scotia. Following extensive study and consultation, Meinhard Doelle and William Lahey produced the report titled *A New Regulatory Framework for Low-Impact/High-Value Aquaculture in Nova Scotia* [Doelle Lahey Report] in 2014. The report's authors suggested aquaculture regulation to be guided by the concept that aquaculture that integrates economic prosperity, social well-being and environmental sustainability is characterized by low impact and high value. They explained that this meant that, ideally, social and environmental impacts were low and decreasing over time while aquaculture had positive economic and social value, increasing over time.
- [4] This work formed the basis for a new legislative and regulatory framework governing aquaculture in the province, namely the *Fisheries and Coastal Resources Act 1996 c.25* as amended (the Act). The purpose of the Act, as set out in Part 43A, is to:
- (a) recognize that aquaculture is a legitimate and valuable use of the Province's coastal resources;
  - (b) ensure aquaculture is conducted under conditions and in accordance with controls that protect the environment;
  - (c) provide a predictable and efficient regulatory environment for business and public confidence;
  - (d) ensure equity, fairness and compatibility in access to, and utilization of, public water resources for aquaculture;
  - (e) ensure that members of the public have access to information with respect to the regulatory process and an opportunity to participate in the process;
  - (f) ensure that regulations governing aquaculture are achievable, contain incentives for compliance and are enforceable;
  - (g) ensure that coastal communities derive positive social and economic benefits from aquaculture;
  - (h) ensure that aquaculture is conducted with due regard to the health, well-being and recovery of species at risk; and
  - (i) ensure that the regulation of aquaculture contributes to the productive development of the Province's coastal resources.
- [5] The legislation also established the Board under section 48(1) of the Act, giving it the authority, *inter alia*, to decide upon the grant of aquaculture licenses and leases. The Board is independent of the Minister, who is bound by the conclusions and direction of the Board [section 52 of the Act].

- [6] In deciding on applications for marine aquaculture sites, the Board is mandated, pursuant to rule 3 of the *Aquaculture Licence and Lease Regulations* N.S. Reg. 347/2015 amended to N.S. Reg. 186/2019 (the Regulations), to consider the following eight factors (Rule 3 Factors):
- (a) the optimum use of marine resources;
  - (b) the contribution of the proposed operation to community and Provincial economic development;
  - (c) fishery activities in the public waters surrounding the proposed aquacultural operation;
  - (d) the oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;
  - (e) the other users of the public waters surrounding the proposed aquacultural operation;
  - (f) the public right of navigation;
  - (g) the sustainability of wild salmon and
  - (h) the number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation;
- [7] Mr. Bouchie of C&G Aquaculture is local to the area of the lease. He is well experienced in aquaculture, in particular, oyster cultivation. He plans to cultivate oysters, for the moment, with the possible introduction of razor clam, quahog and bay scallops in the future. The contemplated gear type includes “BOBR” devices (using, for example 64 lines of 150m each) and other gear such as “Oyster Gro” cages, bags and trays on bottom. It is anticipated that significant portions of the proposed lease site could be used year-round, with smaller segments appropriate for seasonal use only. The site is approximately 24 hectares, which comprises less than 0.1% of Merigomish Harbour. The Applicant anticipates that the site will produce, at capacity, 1.6 million oysters. Advantages of the site include its proximity to existing aquaculture sites offering processing infrastructure. The location's water depths, shelter and ice formation are likewise favourable, as is the distance to homes. Mr. Bouchie believes the Applicant’s activities will not interfere with the limited recreational boating in the area and suggests that having people on the water will enhance recreational boat safety. He explains that commercial and private fishing activity is minimal.
- [8] As mandated by the application process, the Applicant undertook public outreach to the local community, including but not limited to recreational users, commercial fishermen and nearby landowners. His responses appear to have satisfied most concerns.
- [9] On September 21, 2021, shortly before the expiration of the option to lease which was granted on September 23, 2020, C&G submitted this application (the Application) to the Department of Fisheries and Aquaculture, pursuant to section 11 of the Regulations.
- [10] The Application then underwent the detailed review and analysis required under section 14 of the Regulations. This included consultation with stakeholders, namely the Federal Department of

Fisheries and Oceans Canada (DFO), the Canadian Food Inspection Agency, Transport Canada, Environment and Climate Change Canada – Canadian Shellfish Water Classification Program, and Canadian Wildlife Service (ECCC), the Nova Scotia Department of Environment and Climate Change (CCHT), the Nova Scotia Department of Agriculture (DoA), the Nova Scotia Department of Municipal Affairs and Housing, the Nova Scotia Department of Communities, Culture, Tourism and Heritage, the Nova Scotia Department of Natural Resources and Renewables and the Nova Scotia Office of L’nu Affairs (OLA). These agencies provided responses, including guidance and recommendations to DFA based on their respective mandates. DFA reported the results to the Applicant and facilitated responses to questions and comments of these network partners of DFA.

[11] The issues and questions raised during consultations included:

- (a) DFO provided information, advice and recommendations involving the presence of eelgrass habitat. It concluded that, based on available information, including satellite imagery, it is unlikely that the approval of the application would result in severe impacts to eelgrass in Merigomish Harbour, noting that the proposed site covers “approximately 2% of the harbour’s eelgrass” and expert review of available satellite imagery showed what appeared to be a large quantity of dense and healthy eelgrass throughout the Harbour. DFA indicated it would work with DFO to ensure its advice and recommendations are incorporated into the requisite Farm Management Plan. These include measures to mitigate impacts on eelgrass.
- (b) ECCC’s Canadian Wildlife Services Division provided operational advice and recommendations that were referred to Mr. Bouchie. These included beneficial practices to avoid issues with migratory birds, shorebirds, waterfowl, seaducks and colonial nesters.
- (c) DoA advised of significant agriculture, particularly livestock-related agriculture, near the proposed site. It identified a risk of impact from bacterial load build-up, particularly after heavy rainfall. DFA noted these issues are dealt with through the Canadian Shellfish Sanitation Program, which the operator must adhere to.
- (d) CCHT noted twelve pre-contact archaeological sites in the vicinity of the proposed lease site, two of which intersected with it. Underwater investigations were suggested, and DFA provided side scan sonar data for CCHT’s review. The side scan sonar data was reviewed by Aaron Taylor, an archaeologist and Ian Spooner, an environmental geoscientist, who concluded that based on the bathymetric data and geomorphological conditions at or near the proposed site, there is little potential for impacting pre-contact settlement, primarily owing to a lack of fresh water nearby. The DFA report indicated that if the application is approved, it will work with the Applicant to ensure the advice and recommendations provided by CCHT are incorporated into the Farm Management Plan or conditions of license.
- (e) OLA, more particularly the Pictou Landing First Nation, raised no issues and provided advice on the duty to consult with the Mi’kmaq of Nova Scotia, which DFA did upon deciding to proceed with the application.

- [12] The DFA subsequently conducted its internal technical review and analysis as explained by Mr. Nathaniel Feindel, Manager of Aquaculture Development and Marine Plant Harvesting, in his affidavit and oral testimony. The DFA review includes assessing the production plan, infrastructure, services/suppliers, and employment. The Applicant provided information that allowed DFA to assess Mr. Bouchie's general knowledge of farming, infrastructures and environmental conditions. DFA assessed the site design, determining that the estimate provided by the Applicant was reasonable for the initial establishment of the site. DFA noted that ultimately the maximum number of lines, cages, tumblers and other equipment will be determined by how the site performs in its ability to support aquaculture. It also concluded that the estimated production level was reasonable and within standard industry practices in this Province. DFA approved of the seven to ten-year estimate Mr. Bouchie provided for reaching full production on the basis this "illustrates the applicant's willingness to develop their operation in a methodical, stepwise fashion." DFA noted that this methodical approach will facilitate ongoing assessment and modifications to optimize the site. DFA also concluded that the existing infrastructure was acceptable for development of the lease.
- [13] The review by DFA found that the Applicant identified well-known service suppliers in the vicinity of Merigomish Harbour who might be relied upon for products and services. It also considered the estimate of 1-2 full-time and two seasonal staff to be reasonable estimates of anticipated employment levels. DFA anticipated that, given the scale of the operation, the primary economic contribution would be employment, even if spin-offs from service support of farming, processing and sales were possible.
- [14] As part of its review mandate, DFA considered the commercial fishing activities relating to lobster and groundfish near the proposed site that take place outside the harbour. Commercial fisheries for quahogs and oysters are conducted within the harbour. Quahogs are collected by recreational harvesters in the vicinity of the site. DFA noted that the network partners, in particular DFO, whose jurisdiction includes commercial fisheries, did not advise of any adverse impacts to commercial fisheries when reviewing the application.
- [15] DFA, through its review team, assessed several oceanographic and biophysical factors of the proposed site as well. It found the sheltered nature of the site and the low profile of lease infrastructure meant that anticipated winds or waves should not be problematic. Because of the location of the proposed site, currents within the ranges identified by the Applicant were expected even if research showed speeds in excess of 50cm/s in the main channel of the harbour. The current was not anticipated to affect the proposed screw anchors and concrete moorings. The salinity near the site ranged from 11.3 to 23.2ppt. Noting optimal salinity for oyster growth is 20-20ppt with minimum and maximum of 5 and 35 respectively, DFA concluded salinity was acceptable. In doing so, it noted that the wild and recreational fisheries in the area suggested the salinity is acceptable for shellfish growth. Temperature data for the proposed lease ranged from -2 to 29C, which was found to be within the known tolerance for shellfish. DFA noted that if temperatures exceed the tolerable range and appear to affect health or behaviour, husbandry and culture practices can be adapted to address such changes. Water depth analysis indicated that the more shallow zones within the lease boundaries could not be used in winter. However, the

Applicant divided the proposed lease into five production zones, recognizing that the ability to utilize a particular zone might be seasonal. DFA was satisfied that the water depth at the site was suitable for the intended purpose.

- [16] DFA also considered the site's environmental carrying capacity, recognizing that available seston (small plant, phytoplankton, plankton and inorganic matter) would limit carrying capacity as this is what oysters feed upon. It is well recognized that, generally, too little or too much seston adversely affects aquaculture. Local research concluded that aquaculture in the area could be increased with minimal concern. DFA, noting the potential identified by a partner regarding agricultural run-off, considered the potential for nutrient loading and anticipated that the proposed aquaculture could mitigate detrimental effects, possibly reducing the likelihood of events such as algal blooms or epiphyte growth.
- [17] DFA's review team considered water quality at the site, noting the classification for Merigomish Harbour is "approved," meaning oysters can be freely harvested and depuration is not necessary. It also considered underwater video footage provided by the Applicant, noting the presence of eelgrass. The concern with respect to eelgrass involves the potential impact on fish and fish habitat, aquatic species at risk and aquatic invasive species. DFO provided recommendations for mitigation measures to minimize any impact on eelgrass, for example limiting the sinking of gear in winter areas where eelgrass is not present. It was noted that the impact on a bay-wide scale of eelgrass would not be severe.
- [18] DFA's review team thoroughly reviewed these factors concluding that the site design recognized and accounted for oceanographic and biophysical characteristics. Similarly, it concluded that the side scan sonar data analysed by experts, suggested that the site location had low potential for impacting pre-contact settlement.
- [19] DFA's review also included an assessment of other users of the public waters surrounding the proposed site. It was noted that Mr. Bouchie has local experience working on a nearby site and would be familiar with the regional and seasonal users of the area. DFA also notes the Applicant undertook public engagement described in his development plan and scoping report. The team also contemplated impacts on wildlife under this factor, noting that one network partner had no concerns and the second offered management practices to mitigate potential damage. DFA confirmed that incorporating the suggested management practices into the FMA would address the concerns.
- [20] DFA recognized the Applicant's outreach to users, including recreational kayakers, fishers, and landowners. The team noted that Mr. Bouchie acknowledged and provided suggestions that might allow for shared use of the area. One concern, namely roosting sea birds, was addressed, for example, by the nature of the chosen equipment, which should prevent or, at least reduce, roosting.
- [21] DFA assessed the factor of the public right of navigation, noting that Transport Canada did not raise concerns. The review team noted that Mr. Bouchie will require Canadian Navigable Waters

Act approval before the site is developed, assuming it is approved. Transport Canada will complete its consideration following Board approval.

- [22] DFA noted that in respect of the factor involving the sustainability of wild salmon, the nearest salmon runs were approximately 3 and 4.5 km distant, and as such, the review team was satisfied that the site would not impact the sustainability of wild salmon.
- [23] Regarding the number and productivity of other aquaculture sites in the surrounding public waters, DFA noted that eleven other leases in Merigomish Harbour represent 2.72% of the harbour. The proposed site would add 0.84%. The review team was satisfied that the site operations would not affect the production of other existing sites in the area.

### **Public Response**

- [24] No person or entity sought intervenor status in respect of this proceeding.
- [25] In addition to the outreach efforts, including a public meeting and direct outreach, three written submissions were received from members of the public. Mr. Andrew Thompson, along with his parents, Bryce and Donna Thompson offered their feedback. Mr. Dale Webb, also submitted written submissions.

### **Summary of Written Responses and Oral Presentations**

#### *Mr. Thompson's Submissions*

- [26] Mr. Andrew Thompson is a local commercial harvester of oysters and quahogs who expressed concerns regarding the proposed license and lease. He takes issue with the Applicant's characterization of the commercial harvesting in the harbour as being "very little". He explains that he has harvested in the area for the last 12 years and continues to do so, adding that a number of other fishermen are doing the same. He adds that he has witnessed numerous recreational boaters and kayakers.
- [27] Mr. Thompson also objects to the Applicant's statement that there are a minimal number of quahogs in the area, stating that he believes there is a "large quantity". He invites a study of the number of quahogs and oysters and also whether the lease site could be a quahog nursery. In addition, Mr. Thompson questions the Applicant's statement that there are no adverse economic impacts, pointing to the income generated by his fishing in the area.
- [28] When commenting on the fishery activity in the area, he notes that beyond the "substantial bed of oysters and quahogs, the lease could impact lobster fishermen, commercial fishermen or Indigenous fisheries. He advises he has seen "numerous lobsters in the area" and speculates it

could easily become a future fishing area. He states he has observed rock crab fishermen in the area.

- [29] Mr. Thompson alleges the Applicant has contacted only leaseholders in the harbour rather than all commercial fishermen who harvest oysters, quahogs and rock crabs in the area.
- [30] Mr. Thompson also takes issue with the information in the application package involving exchanges with Mr. Bouchie involving a purported statement by Mr. Thompson indicating Mr. Bouchie he should apply for the entire cove. Mr. Thompson had (describe background).
- [31] Mr. Thompson suggests the alternative of moving the lease area away from the shoreline to permit the existing fishery to continue.

#### *Mr. Bryce and Ms. Donna Thompson's Submissions*

- [32] Mr. Thompson's parents, Bryce and Donna, also filed brief written responses regarding the criterion of fisheries activities in the public water surrounding the proposed site. They sought modifications to the lease to allow continued recreational quahog and oyster harvesting in the area. They also commented that the lease would reduce their son's ability to harvest oysters and quahogs, thereby reducing his income to support his family.

#### *Conclusion Thompsons' Submissions*

- [33] We will disregard Mr. Thompson's speculations, involving, for example, whether a future lobster or rock crab fishery might be possible. However, we recognize the truth in his heartfelt statements about the loss of harvest area having an economic impact. However, we also recognize that a sizeable area remains in which he can continue to harvest. The lease area is tiny in comparison to available fishing areas. In addition, we are mindful that prior to the Applicant making this application, Mr. Thompson himself held similar lease rights and had intended to make his own application. One has to ask if he would consider these same concerns well raised by Mr. Thompson had he decided to proceed?

#### *Mr. Webb's Submissions*

- [34] Mr. Dale Webb identifies himself as a commercial oyster and quahog fisherman in the Merigomish area. He states that he is against the lease being granted as he feels "as it is, there is already too many leases in the area". He is of the view that it would affect the "livelihood of many" as it would take away from commercial fishing. Again, we recognize the sentiment that loss of harvest area is difficult for commercial fishermen and have considered this carefully when making our determination. However, we must also take into consideration the fact that DFO made no



mention whatsoever of the Application having any negative impacts on commercial fishermen in their analysis.

### *Ms. Nelson's Submissions*

- [35] Ms. Hanna Nelson attended the oral hearing to provide oral submissions. She identified herself as co-owner of ShanDaph Oyster Co. Inc., a successful leaseholder and licensee in the area of the proposed lease. Currently, ShanDaph employs Mr. Bouchie and is responsible for providing his training and the aquaculture expertise he has acquired. Ms. Nelson strongly supports the Applicant in its planned operations. She is an articulate advocate for the aquaculture industry, particularly in this Province. She utilized the time allocated to her to explain aquaculture's benefits, including the sustainability of oysters as a blue food. She described the need to develop the industry that she believes is characterized by great local potential. She also discussed some of the many roadblocks currently hindering development of the industry. She was very clear in her opinion and belief that the proposed lease and license would positively impact the area.
- [36] During the Hearing, it was revealed that ShanDalph now owns the one privately owned island near the lease. As such, Hanna and her business are the landowners most affected by the proposed lease, and she is clearly in favour of the planned operations.

### **Summary of Opposition to the License and Lease**

- [37] The application process contemplates community outreach to the local community with the goal of understanding and, to the extent possible, addressing concerns. Of the handful of fishermen who Mr. Thompson advises fish in the area of the lease, two objected. The sentiment was expressed that giving up harvesting grounds is difficult and creates some degree of economic hardship for commercial fishermen who work hard to provide for themselves and their families.
- [38] The Applicant states that the site was chosen due to its minimal impact on landowners, recreational users and commercial fishers [section 4.1 of the application package]. There do not seem to be significant concerns from landowners and minimal levels of concern from recreational users.

### **Analysis**

- [39] The statute mandates the consideration of the eight factors set out in s. 3 of the Regulations. These will now be considered, and in doing so, we are mindful of the stated purpose in Part 43A (d) of the Act of ensuring equity, fairness and compatibility in access to, and utilization of, public water resources for aquaculture. It is also clear that different factors exist for different prospective sites. It is, therefore, appropriate for us to accord different weights to each factor in a context-specific assessment. We have begun the analysis with what we believe is the primary concern of the

arising out of the consultation, namely the shared resource that is our coastline and adjacent waters.

### **Fishery Activities in the Surrounding Public Waters**

- [40] The Applicant indicates that many local boats are involved in commercial fishing activities, but much of the fishing is done outside the harbour. However, as noted above, at least two commercial fishermen, Mr. Thompson and Mr. Webb, indicate they would be impacted to an unspecified extent through the loss of access to the lease site.
- [41] Mr. Bouchie suggested, during his testimony at the hearing, that fishing at or near the lease site takes place a few days a season. He also commented that Mr. Thompson appeared to be interested in a lease himself at one time and that he found it difficult to reconcile this with the position that the commercial fishermen need to retain the lease area for fishing.
- [42] Be that as it may, Andrew Thompson stated that harvesting in the area contributed to the generation an income to support his family. There is, however, no suggestion that the area of the lease contributes significantly to Mr. Thompson or Mr. Webb's yearly catch. Testimony from Mr. Bouchie suggests that the lease area is a small portion of the area available to the fishermen. Had Mr. Thompson and Mr. Webb provided information to support a claim that the loss of the lease area resulted in a substantial loss to them, this criterion might have been decided differently. However, absent such information we can only speculate as to the economic significance and given what we know, it appears that the effect is modest. We note presuming otherwise would have the effect of creating an insurmountable barrier to aquaculture development. As to Mr. Thompson's reference to "others" who are affected, we note that these individuals did not voice their concerns. Similarly, speculations on future fisheries that might or might not be viable are of limited value given we are assessing the potential for use of the area that appears to us to be viable here and now.
- [43] Finally, we note that the DFO did not raise concerns regarding the operations' impact on commercial fisheries. Therefore, we find that, on balance, this factor favours the grant of the lease and license.
- [44] Lease areas will, by definition, reduce the area available for commercial fishing. The issue at the heart of this consideration is appropriate balance. With less than 3% of the harbour allocated to leases in general and less than 1% reserved for this lease, we find the proper balance favours permitting this relatively small area to be reserved for aquaculture.

### **Contribution to Community and Provincial Economic Development**

- [45] The Applicant believes the operation will employ one or two full-time and two seasonal staff. Mr.

Bouchie has provided a listing of suppliers who will have found a new customer in C&G. The DFA review team found these estimates provided to be reasonable. In reaching this conclusion, DFA assessed the production plan, finding the species, culture methods, equipment, seed, stocking and production volume, concluding the estimated production level as reasonable. DFA observes that other economic contributions to the community and province depend on the farm's success.

- [46] We find that given Mr. Bouchie's expertise, extensive training, and the support of colleagues from ShanDaph and other operations in the area, the business has every chance of success. Therefore, it is reasonable to expect additional economic contributions in the future. We would add, nearby ShanDaph being a well-established operation, is indicative of the suitability of the site generally. It is hoped the Applicant will share a similar level of success, thereby providing additional economic benefits in due course. This would be consistent with the Doelle Lahey Report principle of a positive economic and social value increasing over time.
- [47] Of the individuals making submissions, two touched on this criterion of contribution to economic development. Both Mr. Bouchie and Ms. Nelson described our province's significant underutilization of coastal areas for aquaculture. Both conveyed the importance of increasing the critical mass of producers. They also noted the potential for agricultural tourism. It would be a mistake to consider the economic impact of the Applicant in isolation. Adding C&G to the existing operations, enhances the likelihood the industry can acquire critical mass to grow and extend into new areas such as agricultural tourism. In addition, Mr. Bouchie testified that he actively assists others with applications and amendments. He also supports new developments, including through the provision of knowledge and guidance. Clearly, Mr. Bouchie is a strong advocate for the industry, and we believe he will be successful, not just in his own business but also in contributing to aquaculture development in Nova Scotia.
- [48] The only point on which we disagree with the Applicant is the statement that there are "no adverse economic impacts." We recognized that, to some extent, the commercial fisherman will experience adverse economic benefits. However, particularly because there is no evidence that such an effect would be substantial, we find that, on balance, this factor nonetheless favours the grant of the lease and license.

### **Oceanographic and Biophysical Characteristics**

- [49] By all accounts the lease site offers very favourable conditions for aquaculture. For example, the current speeds and wave heights fall within the preferred ranges. A combination of sheltered and exposed areas facilitates the ability to modify operations to overcome difficulties. We note that DFA's review team did not have serious concerns regarding wind data, wave data, current data, salinity, temperature, water depth, carrying capacity and water quality.
- [50] The DFO has noted the presence of eelgrass at the site. Underwater footage provides a baseline against which any effect of the operations can be measured. The DFO has suggested mitigation measures to preserve eelgrass and noted that on a bay-wide scale, it is unlikely that the operations would have a severe impact on it.

[51] We find the site well chosen. This is no surprise, given Mr. Bouchie's training, skills, and understanding of farming practices and local conditions. This factor favours the grant of the license and lease.

### **Other Users of the Surrounding Public Waters**

Other users have been broadly identified as recreational and wildlife.

#### *Recreational Users*

[52] The views and practices of commercial fishermen have been discussed above. In addition, the Applicant identifies recreational fishermen, boaters (including kayakers) and campers. Other than speculation, there is little to suggest that recreational users would be adversely affected.

[53] Mr. Bouchie notes that the site has low traffic with no infrastructure on the islands nearby, not to mention an abundance of mosquitos in more favourable times of year. He believes that having people on the water would benefit the boaters and kayakers as it offers a measure of safety to those engaging in recreational activities nearby. We find this to be a sensible observation. In addition, Mr. Bouchie explains that the aquaculture equipment does not prevent, for example, kayakers or other small boaters from passing. He also notes the shallow depth to the east, tends to keep many larger boaters at bay.

[54] Mr. Thompson indicates that he is aware of recreational users but provides no details of how they would be affected. The Thompsons speak of the recreational harvest of quahogs. Mr. Bouchie submits that there are other equally suitable areas for this recreational activity.

[55] The Board is satisfied that with the small footprint of the lease relative to the harbour and the availability of alternative sites, recreational quahog harvesters and boaters will not be unduly disadvantaged by the presence of the lease.

#### *Wildlife*

[56] We note that the DFA review team's consultation with ECCC was favourable. ECCC, for example, identified the area as important to migratory birds and suggested mitigation measures to avoid negative effects. It lists several beneficial management practices to assist the Applicant in mitigating potential damage to wildlife. DFA notes it will work with the Applicant to incorporate these recommendations into the anticipated farm management plan. This satisfies us that wildlife is unlikely to be adversely affected.

### **Public Right of Navigation and Sustainability of Wild Salmon**

[57] No evidence was presented that the sites would impact the factors of public right of navigation and wild salmon.

### **Number and Productivity of Other Aquaculture Sites**

- [58] We note there are eleven existing aquaculture sites in Merigomish Harbour. The total leased area comprises 2.72% of the harbour. The proposed lease site would represent 0.84% of the harbour area. DFA concluded that the proposed aquaculture operation would not affect existing site production. We concur.
- [59] There is no indication that an additional operation in the area cannot be supported. We find the presence of multiple operations in the same area to be a positive factor, as the Applicant plans to use the facilities owned by others, thus simplifying its own operations and bolstering those of another. Mr. Bouchie's information suggests a fairly tight-knit group of aquaculturists in the area willing to share resources and expertise. Again, this factor favours the grant of the license and lease.

### **Optimum Use of Marine Resources**

- [60] We are fortunate to live in a province with an abundance of coastline. However, it is important to be cognizant of the fact that the Applicant requests the right to derive a business and livelihood from a miniscule portion of that coastline.
- [61] The area near Pig Islands is largely uninhabited, and as such, the lease area has minimal, if any, impact on surrounding residents, all of whom are more than 700m away. Mr. Bouchie has noted that the remoteness of the proposed location was an important factor in site selection.
- [62] The shallow water limits commercial fisheries other than the handful of commercial oyster and quahog fishermen who fish the area several days each season. The depth also limits recreational users. The sheltered nature of the site and ice formation make it a desirable location for aquaculture. It is situated near other aquaculture operations, and it is anticipated by all that C&G will contribute to that industry in the Merigomish Harbour and beyond.
- [63] According to the Oxford Canadian Dictionary, 2nd edition, "optimal" means the best possible compromise between opposing tendencies. Therefore, the question is what is the appropriate compromise or balance between competing interests.
- [64] The work done by C&G and DFA during the application process addressed concerns raised by the various network partners through the use of the farm management plan. As such, in this case, the unaddressed competing interest is limited to conflict between the planned aquaculture site and a relatively small amount of occasional commercial fishing associated with the site area.

[65] We are sympathetic to and have considered seriously, Mr. Thompson's point that every dollar counts when raising a family. However, even if considered at the microscopic level of how many individuals or families benefit or are harmed and to what extent this is the case, the aquaculture operation is likely to support, or help support at least one or two or more families, even ignoring the spin-off benefit to providers of goods and services to the operation. Loss of the site area to fishing will have a limited impact on a handful of commercial fishermen who fish in the area a few days a season and are able to focus efforts elsewhere. Because of this, we consider that the most equitable use of the marine resource that is the area of the lease site is for aquaculture. Weighed against the detriment of fishing area loss are many benefits, including economic development of an undeveloped area, a new customer for local and regional business, growth and development of an important and underdeveloped industry and enhanced safety for recreational boaters.

### Decision

[66] We are convinced the proposed operation aquaculture has low impact and high value and, therefore, meets the requirement of aquaculture that offers economic prosperity, social well-being and environmental sustainability. We are of the view after considering the Application in its totality that social and environmental impacts are now low and will likely decrease over time with an effective farm plan that mitigates, for example, any resulting damage to eelgrass. The Farm Management Plan incorporates the practices suggested by ECCC and the advice and recommendations provided by CCHT. We are also hopeful the aquaculture operation will have a positive economic and social value, that increases over time. The Board wishes Mr. Bouchie and C&G every success in the future.

**DATED** at Irish Cove, Nova Scotia this **23<sup>rd</sup>** day of **DECEMBER 2024**.




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Coleen Morrison, Chair of the Hearing  
and Vice Chair of the Board




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Tim Cranston, Chair of the Board




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Damien Barry, Board Member

### **DISTRIBUTION:**

Alex Bouchie, Applicant.

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