

2022

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NSARB-2022-001  
NSARB 2022-002  
NSARB-2022-003

**Nova Scotia Aquaculture Review Board**

**IN THE MATTER OF: Applications made by TOWN POINT CONSULTING INC. for NEW MARINE SHELLFISH LICENCES/LEASES in ANTIGONISH HARBOUR, ANTIGONISH COUNTY for the SUSPENDED CULTIVATION OF AMERICAN OYSTERS**

**Town Point Consulting Inc.**

APPLICANT

-and-

**Minister of Fisheries and Aquaculture**

PARTY

-and-

**Mary Jo MacDonald, Patrick MacDonald, Lucy MacDonald, Richard Wilgenhof, Alena Wilgenhof, Sian Newman-Smith, Rick Turner, Rowan McLean, Peter Bowler, Colleen Bowler, Friends of Antigonish Harbour, Sheila MacKinnon Hudon, William Hudon, May Goring, Manfred Goring, Antigonish Harbour Watershed Association, Rod Brady, Mike MacDonald, Bill Brophy, Tim Brophy, Duncan Brophy, Daryl Beaton, and Brendon Doyle**

INTERVENOR GROUPS ONE AND TWO

-and-

**Mark Genuist, Stephen Feist, and the Community Liaison Committee**

INTERVENOR GROUP THREE

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**Affidavit of Robert Ceschiutti**

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I affirm and give evidence as follows:

1. I am Robert Ceschiutti, the Manager of Licensing and Leasing in the Department of Fisheries and Aquaculture (the Department). As part of this position, I am responsible for overseeing the maintenance and administration of applications and related records created

further to the issuance of any aquaculture leases and/or licenses issued pursuant to the *Fisheries and Coastal Resources Act* and the *Aquaculture Licence and Lease Regulations*. Part of my job is to conduct consultations with Mi'kmaq bands respecting established or asserted Mi'kmaq Aboriginal or treaty rights in the context of decisions or activities relating to specific aquaculture sites. I started in this position on July 1, 2019.

2. I have personal knowledge of the evidence affirmed in this Affidavit except where otherwise stated to be based on information and belief.
3. I state, in this Affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
4. On October 7, 2020, the Department sent Town Point Consulting Inc.'s licence and lease applications (#1442, #1443, and #1444) to the Office of Aboriginal Affairs (OAA) (now the Office of L'Nu Affairs) for review and advice.
5. OAA responded on November 6, 2020 advising consultation at the moderate level with the Assembly of Nova Scotia Mi'kmaw Chiefs, Millbrook First Nation and Sipekne'katik First Nation. This letter is at Tab J of the Report on the Outcome of Consultation for each licence and lease application.
6. On January 8, 2021, I sent a letter of offer to consult to the following bands:
  - (a) Acadia First Nation (attached to this Affidavit as **Exhibit 1**);
  - (b) Annapolis Valley First Nation (attached to this Affidavit as **Exhibit 2**);
  - (c) Eskasoni First Nation (attached to this Affidavit as **Exhibit 3**);
  - (d) Glooscap First Nation (attached to this Affidavit as **Exhibit 4**);
  - (e) L'sitkuk (Bear River) First Nation (attached to this Affidavit as **Exhibit 5**);
  - (f) Membertou First Nation (attached to this Affidavit as **Exhibit 6**);
  - (g) Millbrook First Nation (attached to this Affidavit as **Exhibit 7**);
  - (h) Paqtnkek Mi'kmaw Nation (attached to this Affidavit as **Exhibit 8**);
  - (i) Pictou Landing First Nation (attached to this Affidavit as **Exhibit 9**);
  - (j) Potlotek First Nation (attached to this Affidavit as **Exhibit 10**);
  - (k) Sipekne'katik First Nation (attached to this Affidavit as **Exhibit 11**);
  - (l) Wagmatcook First Nation (attached to this Affidavit as **Exhibit 12**); and
  - (m) We'koqmaq First Nation (attached to this Affidavit as **Exhibit 13**).

## KMKNO

7. At the time I sent these letters, all of the bands, with the exception of Millbrook First Nation and Sipekne'katik First Nation, were members of the Assembly of First Nations. As a result, consultation with those bands was done through the Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO).
8. On March 8, 2021, Twila Gaudet, of the KMKNO, responded indicating that the KMKNO wished to proceed with consultation. Ms. Gaudet requested further information regarding any impacts to the Piping Plover species. Ms. Gaudet also highlighted the need for underwater archaeology. This letter from Ms. Gaudet is attached to this Affidavit as **Exhibit 14**.
9. On June 6, 2022, I wrote a letter to Ms. Gaudet to continue consultation and provide an update on the status of Town Point Consulting Inc.'s application. The letter included a link to Town Point Consulting Inc's development plan. I noted that the development plan had been provided to federal and provincial agencies. I also provided more information about the Piping Plover species as requested in Ms. Gaudet's letter of March 8, 2021, specifically, the feedback the Department had received from the Nova Scotia Department of Natural Resources and Renewables (DNRR). I also noted that due to Ms. Gaudet's statement regarding underwater archeology, the Department had forwarded her correspondence to the Nova Scotia Department of Communities, Culture, Tourism and Heritage (CCTH). I reproduced the response the Department received from CCTH in my letter. This letter dated June 6, 2022, is attached to this Affidavit as **Exhibit 15**.
10. On July 13, 2022, I received another letter from Ms. Gaudet. Ms. Gaudet strongly recommended that a full Archaeological Resource Impact Assessment (ARIA) be completed given CCTH's observation that the area around the lease sites was an "area of elevated archaeological potential." This letter, dated July 13, 2022, is attached to this Affidavit as **Exhibit 16**.
11. The Department decided to proceed with processing these applications. A decision letter was sent to the KMKNO on September 28, 2022. This letter, dated September 28, 2022, is attached to this Affidavit as **Exhibit 17**.
12. Identical letters were sent to the Chiefs of the following bands:
  - (a) Acadia First Nation (attached to this Affidavit as **Exhibit 18**);
  - (b) Annapolis Valley First Nation (attached to this Affidavit as **Exhibit 19**);
  - (c) L'sitkuk (Bear River) First Nation (attached to this Affidavit as **Exhibit 20**);
  - (d) Eskasoni First Nation (attached to this Affidavit as **Exhibit 21**);
  - (e) Glooscap First Nation (attached to this Affidavit as **Exhibit 22**);
  - (f) Paqtnkek Mi'kmaw Nation (attached to this Affidavit as **Exhibit 23**);

- (g) Pictou Landing First Nation (attached to this Affidavit as **Exhibit 24**);
- (h) Potlotek First Nation (attached to this Affidavit as **Exhibit 25**);
- (i) Wagmatcook First Nation (attached to this Affidavit as **Exhibit 26**); and
- (j) Wekoqmaq First Nation (attached to this Affidavit as **Exhibit 27**).

#### Sipkne'katik First Nation

- 13. On January 7, 2022, Cheryl Maloney of the Sipkne'katik Governance Initiative – Consultations group responded on behalf of the Sipkne'katik Band. Ms. Maloney directed the Department to the SGI Protocol and six phase consultation process. She indicated that the Department had until February 11, 2022 to apply for consultation. This letter from Ms. Maloney is attached to this Affidavit as **Exhibit 28**.
- 14. On August 26, 2022, the Department received a letter from Cheryl Maloney again reiterating that all projects must go through the SGI Protocol process. This letter from Ms. Maloney, received on August 26, 2022, is attached to this Affidavit as **Exhibit 29**.
- 15. On October 12, 2022, the Department sent a decision letter to Ms. Maloney. This decision letter is attached to this Affidavit as **Exhibit 30**.


#### Millbrook First Nation

- 16. Millbrook First Nation did not respond to the Department's initial letter offering to consult.
- 17. On September 28, 2022, the Department sent a decision letter to Millbrook First Nation. This decision letter is attached to this Affidavit as **Exhibit 31**.

#### Membertou First Nation

- 18. Membertou First Nation did not respond to the Department's initial letter offering to consult.
- 19. On September 28, 2022, the Department sent a decision letter to Membertou First Nation. This decision letter is attached to this Affidavit as **Exhibit 32**.

Affirmed to before me on May 12, 2023, at  
Halifax, Nova Scotia

  
Alison W. Campbell  
A Barrister of the Supreme Court  
of Nova Scotia

  
Robert Ceschiutti



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 1 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



102

102

January 8, 2021

Chief Deborah Robinson  
Acadia First Nation  
10526 Highway #3  
Yarmouth, Nova Scotia  
B5A 5J7

Dear Chief Robinson and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall

consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.

The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

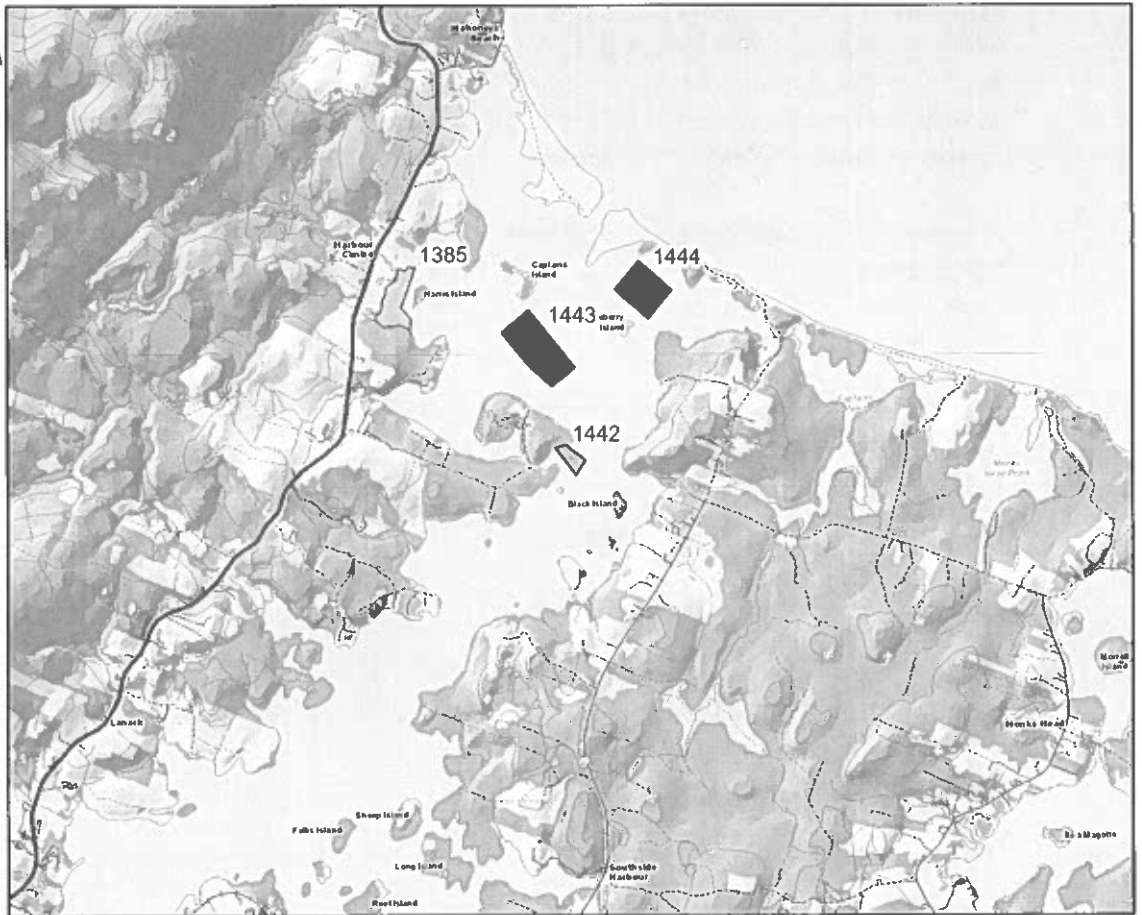
# SCHEDULE A



## Aquaculture Site 1442

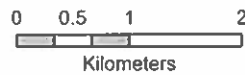
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3	45° 40' 21.104" -61° 53' 36.809"	
4	45° 40' 20.280" -61° 53' 43.080"	
Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

Proposed Application	Other Proposed Lease
Other Issued Lease	



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

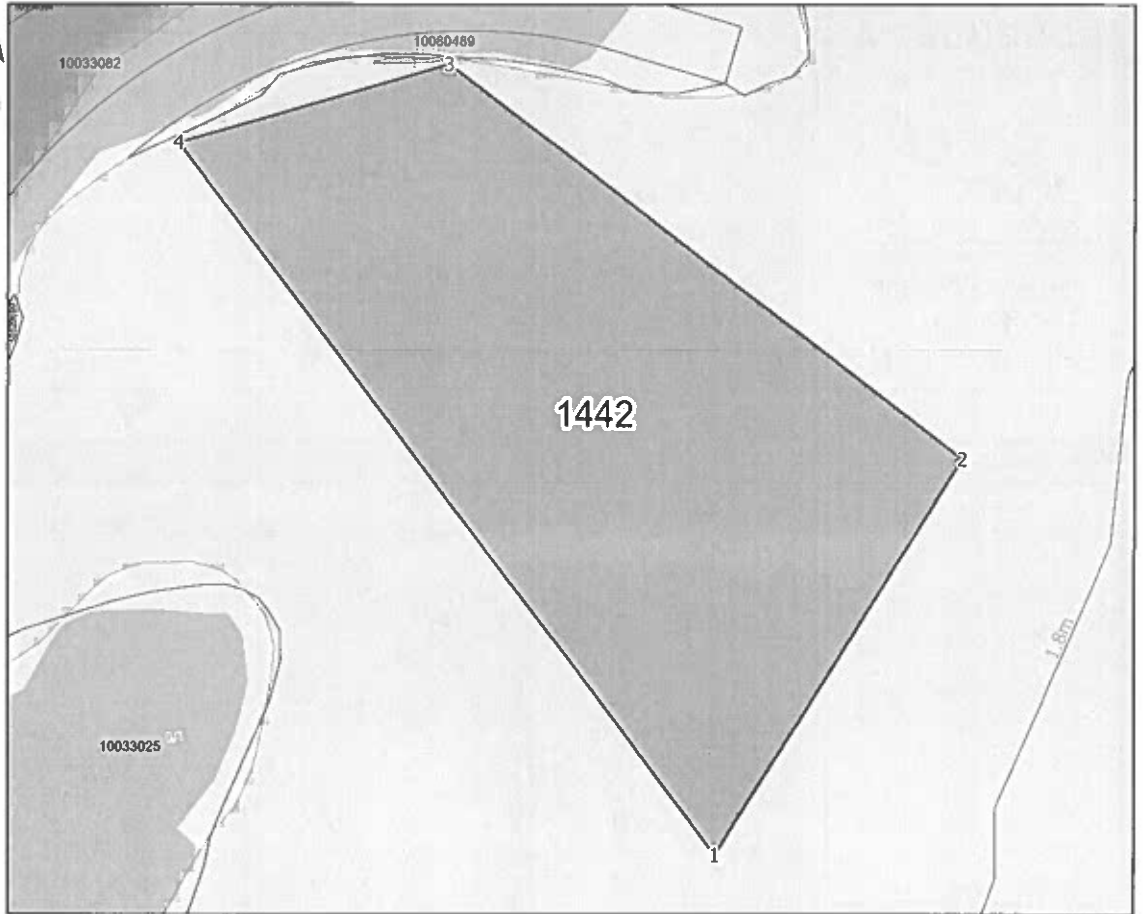
# SCHEDULE A



## Aquaculture Site 1442

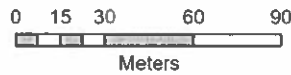
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

Proposed Application   
  Other Proposed Lease  
 Other Issued Lease   
  NS PIDs



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Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

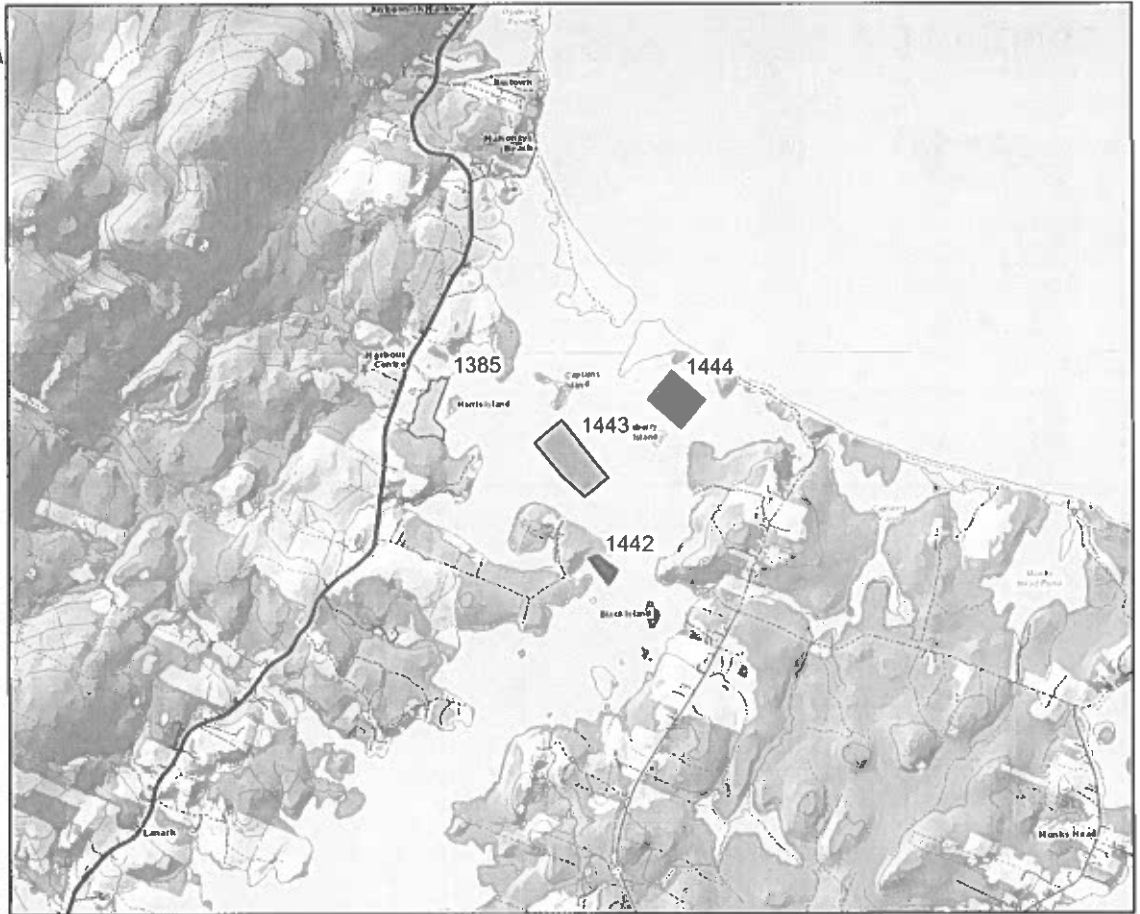
# SCHEDULE A



## Aquaculture Site 1443

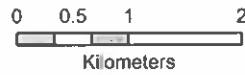
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2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Data: 2021-04-09 Created By: MH

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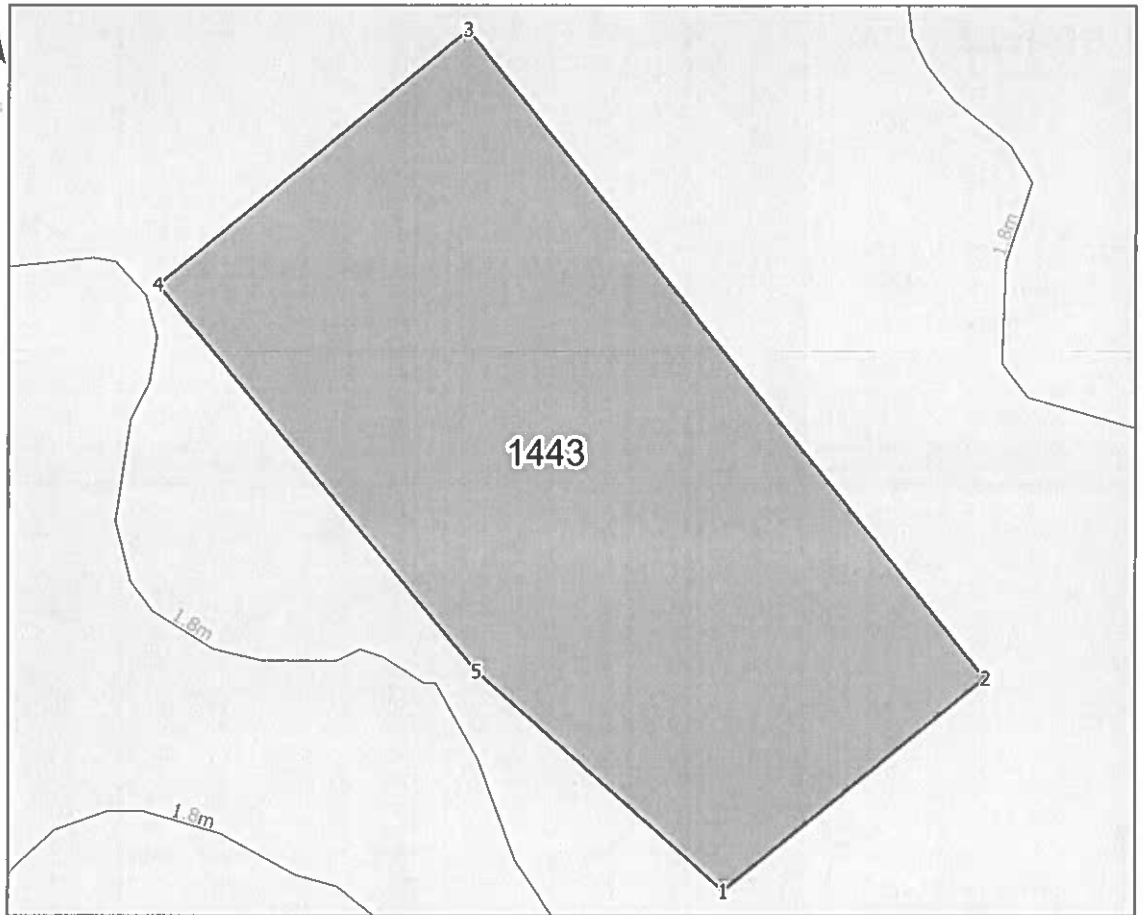
# SCHEDULE A



## Aquaculture Site 1443

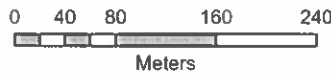
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- Proposed Application
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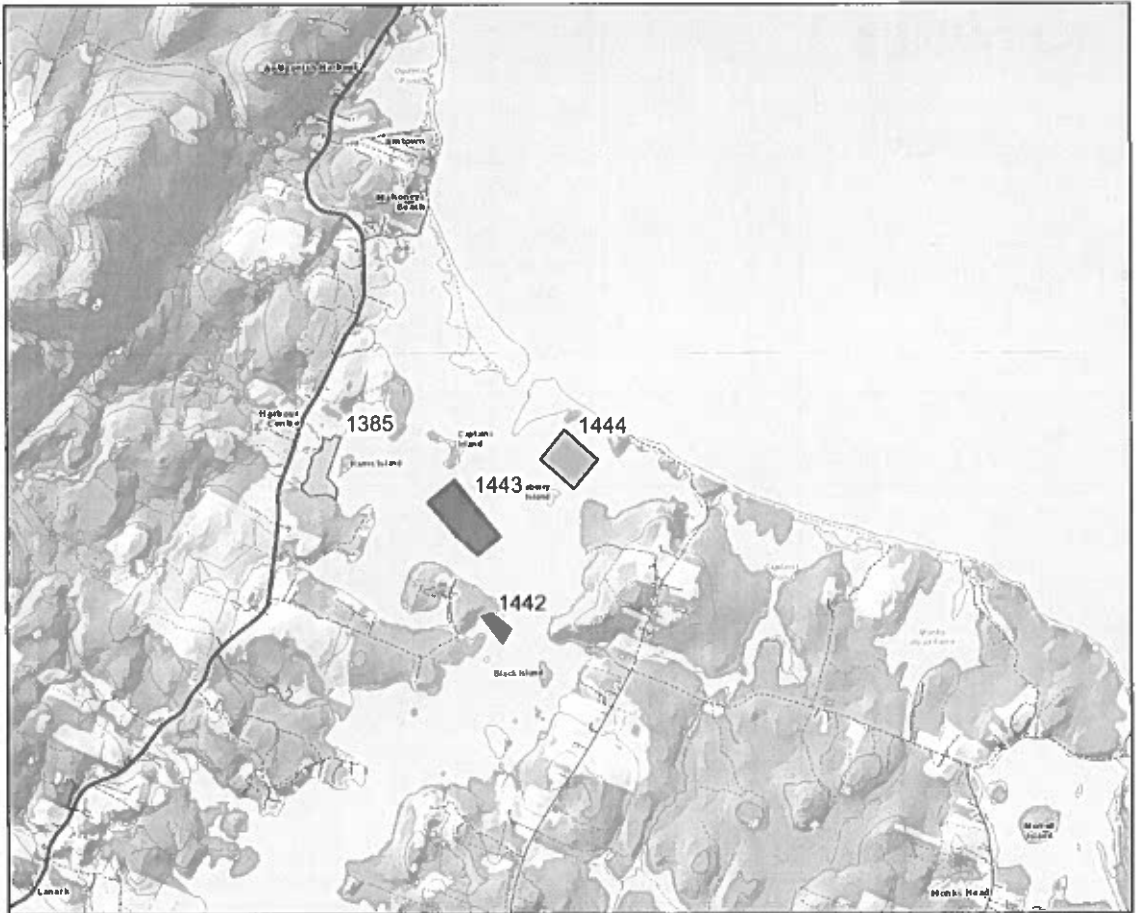
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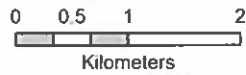
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4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
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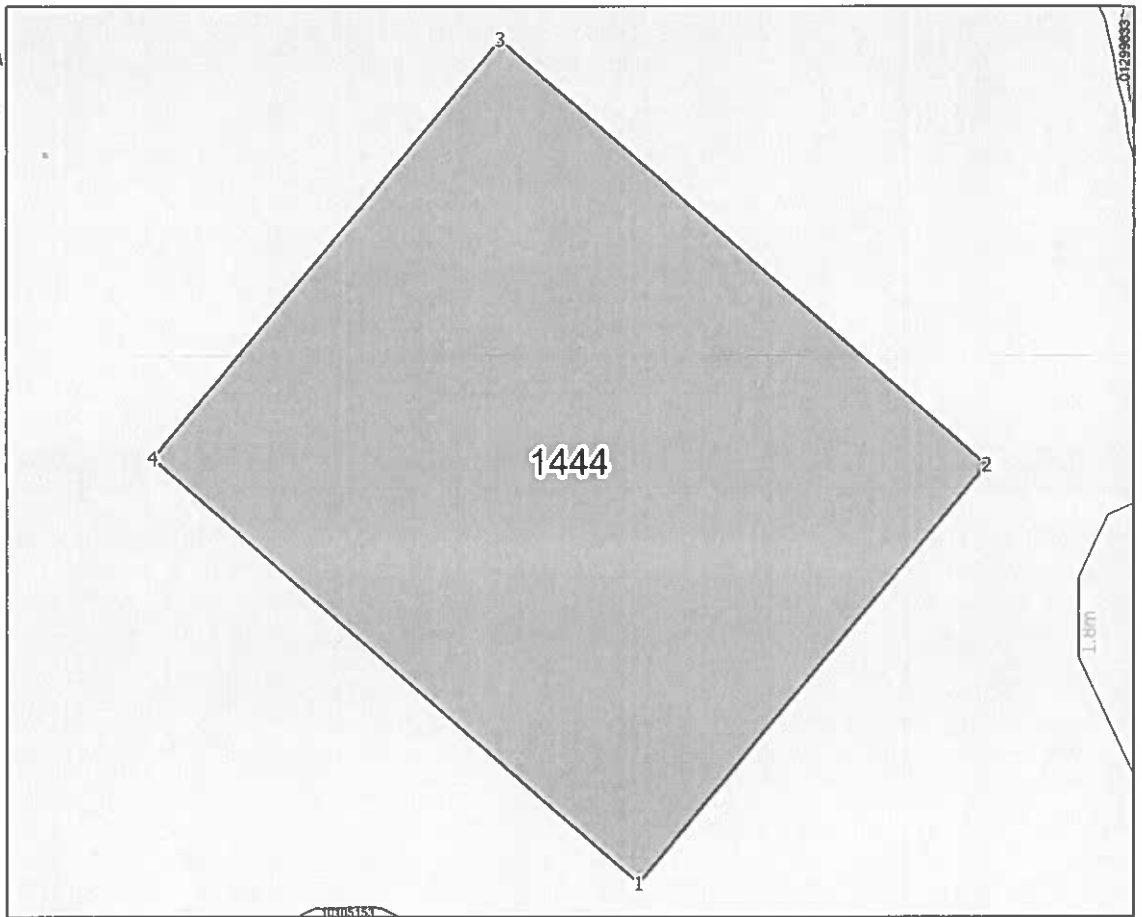
# SCHEDULE A



## Aquaculture Site 1444

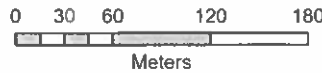
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2022

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This is Exhibit 2 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



12

12

January 8, 2021

Chief Gerald (Jerry) Toney  
Annapolis Valley First Nation  
29 Toney Blvd  
Cambridge Station, Nova Scotia  
BOP 1G0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

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AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

# SCHEDULE A

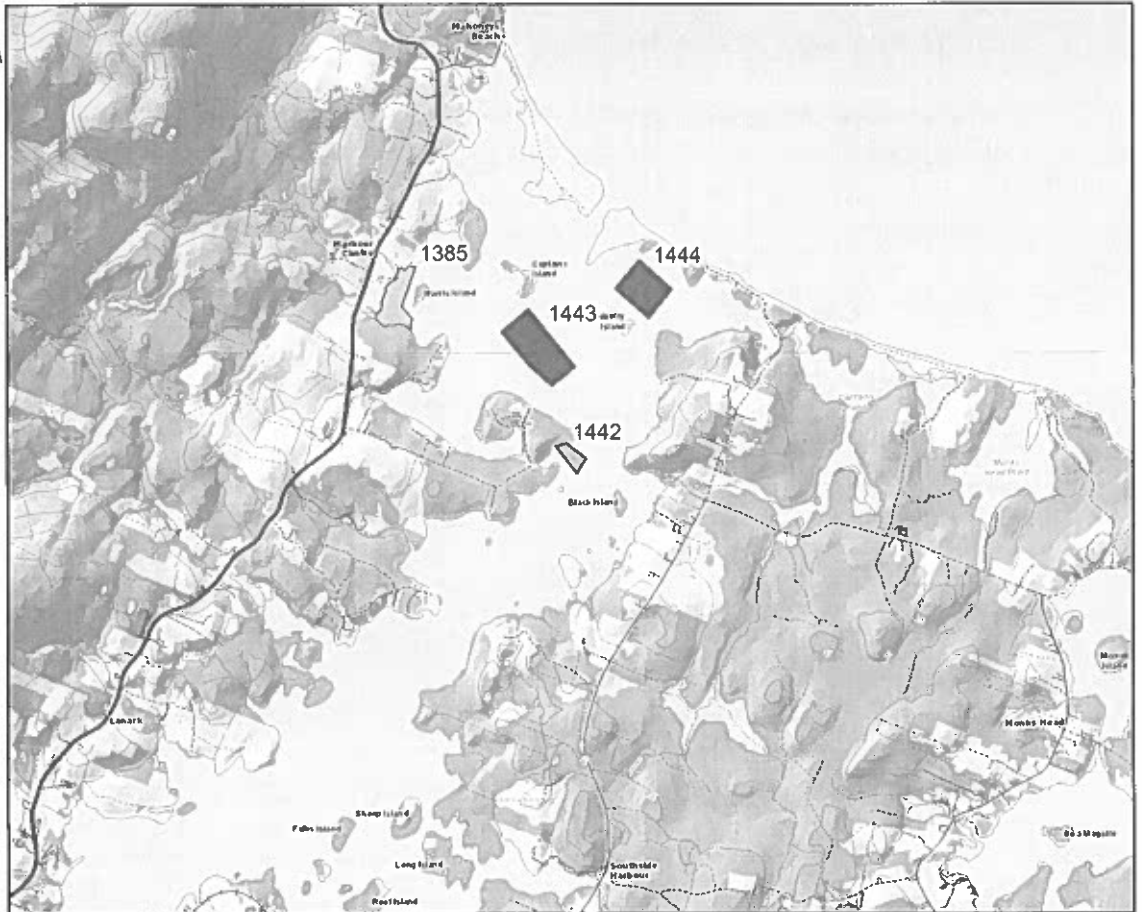


## Aquaculture Site 1442

Corner	Latitude	Longitude
1	45° 40' 12.380" -61° 53' 34.800"	
2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
4	45° 40' 20.280" -61° 53' 43.080"	
Centre	45° 40' 17.456" -61° 53' 36.442"	

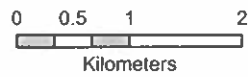
DATUM NAD 83 CSRS UTM Zone 20

The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-05 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

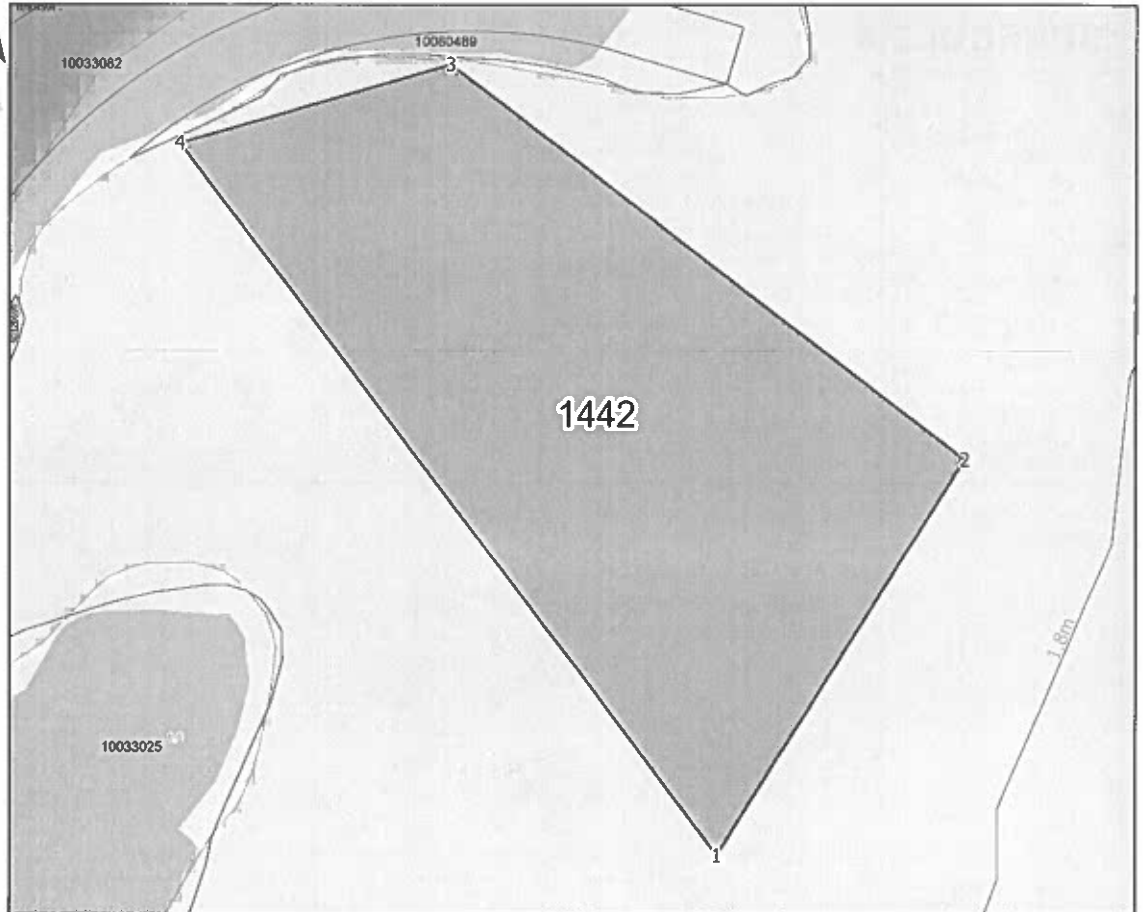
# SCHEDULE A



## Aquaculture Site 1442

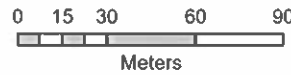
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date: 2020-04-08      Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, IAQ, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

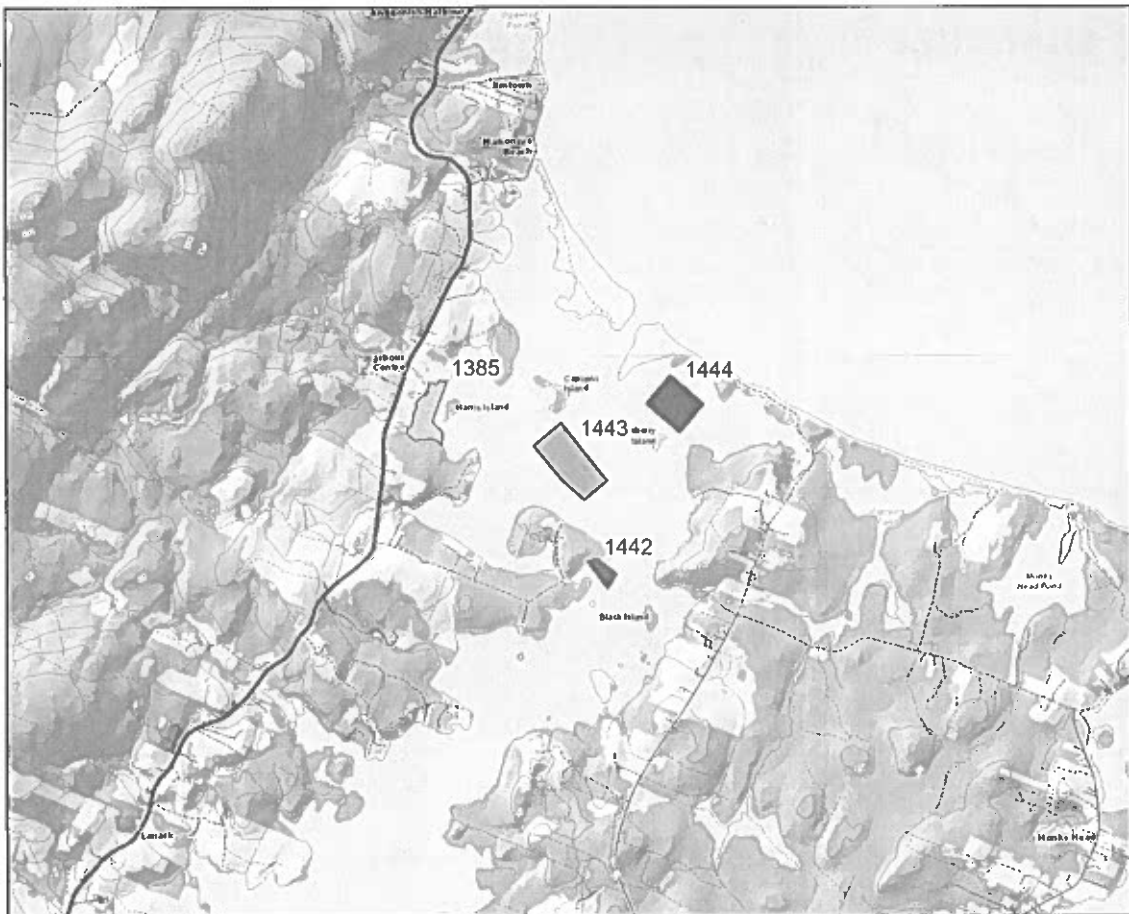
# SCHEDULE A



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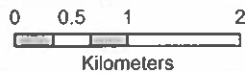
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1	45° 40' 37.920"	-61° 53' 44.160"
2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-08 created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

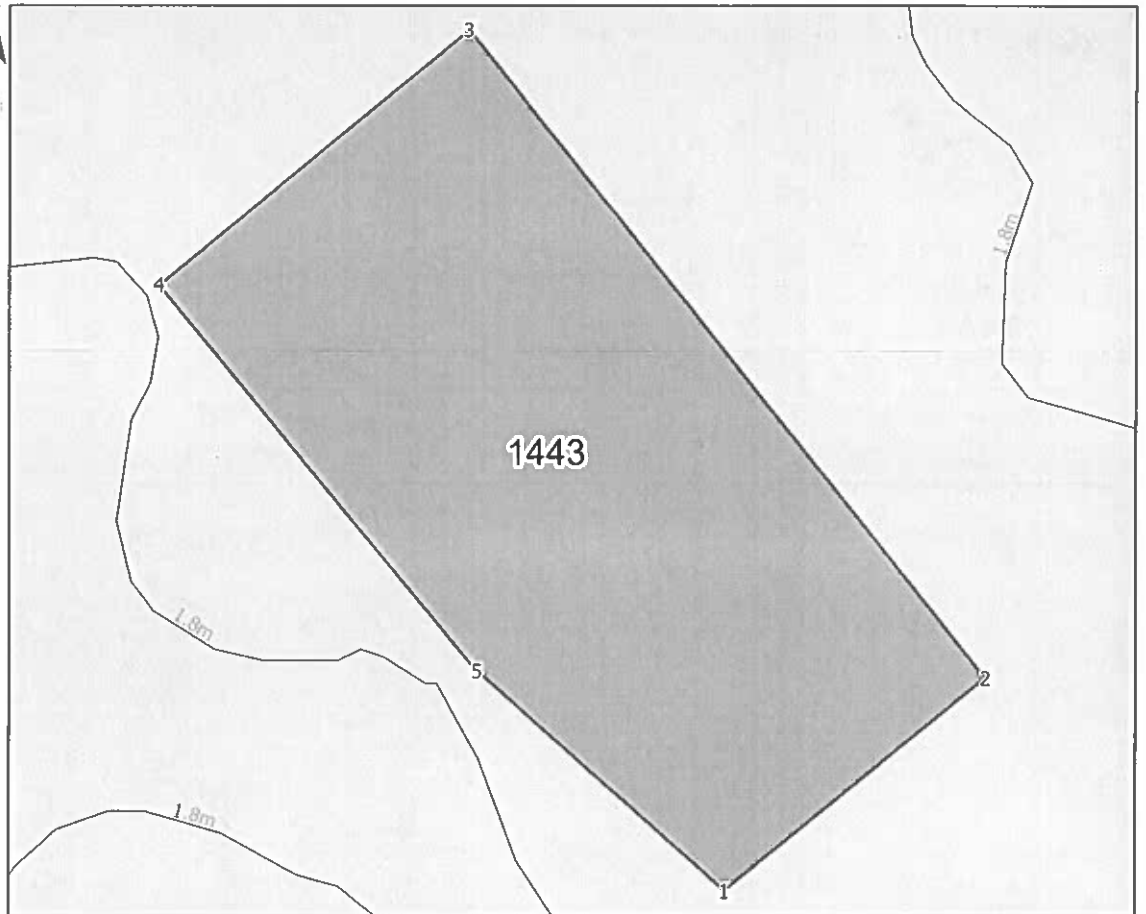
# SCHEDULE A



## Aquaculture Site 1443

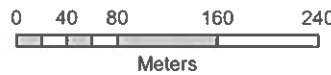
Corner	Latitude	Longitude
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- Proposed Application
- Other Proposed Lease
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# SCHEDULE A



## Aquaculture Site 1444

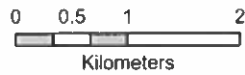
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

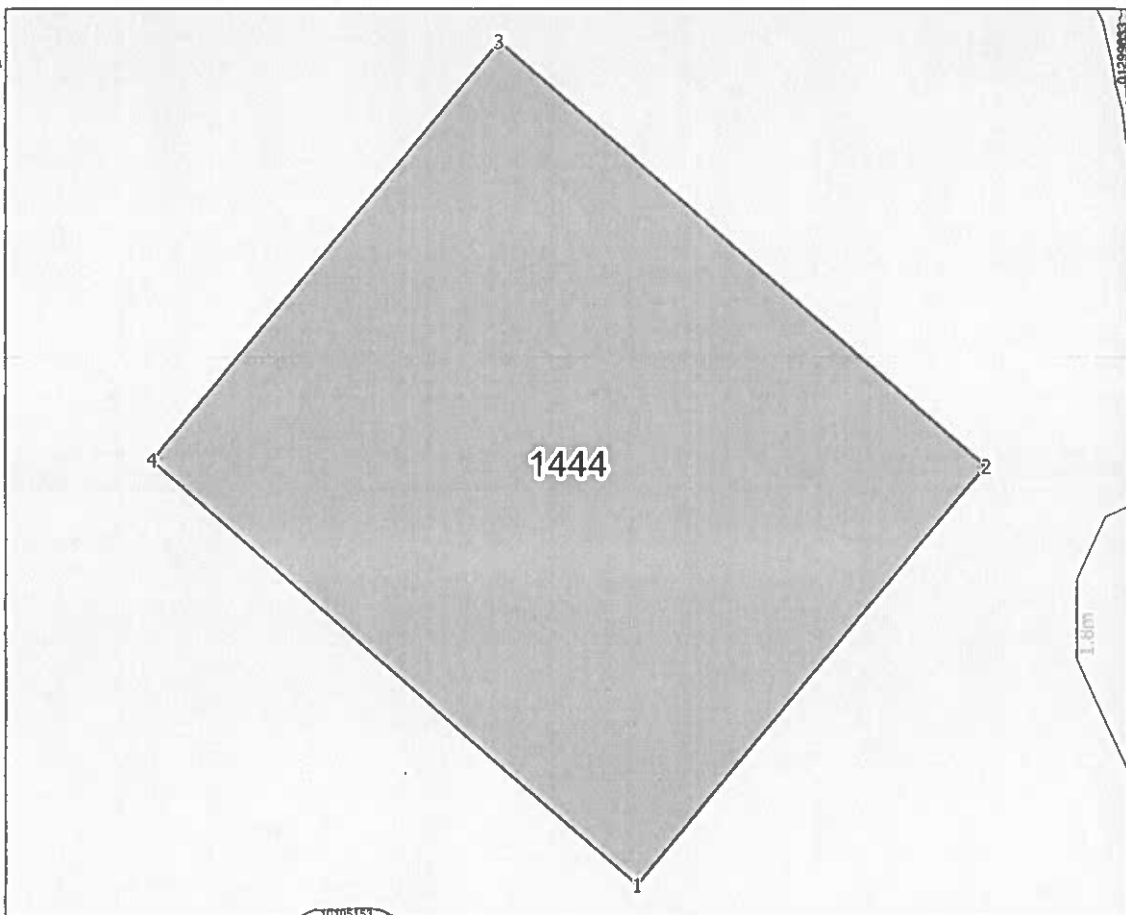
# SCHEDULE A



## Aquaculture Site 1444

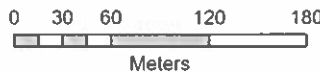
Corner	Latitude	Longitude
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- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date: 2023-04-08

Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MLLT, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services.





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 3 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



100

100  
100  
100

January 8, 2021

Chief Leroy D.C. Denny  
Eskasoni First Nation  
P.O. Box 7040  
63 Mini Mall Drive  
Eskasoni, Nova Scotia  
B1W 1A1

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

Description of the Project

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

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The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
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Nova Scotia Office of Aboriginal Affairs

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Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

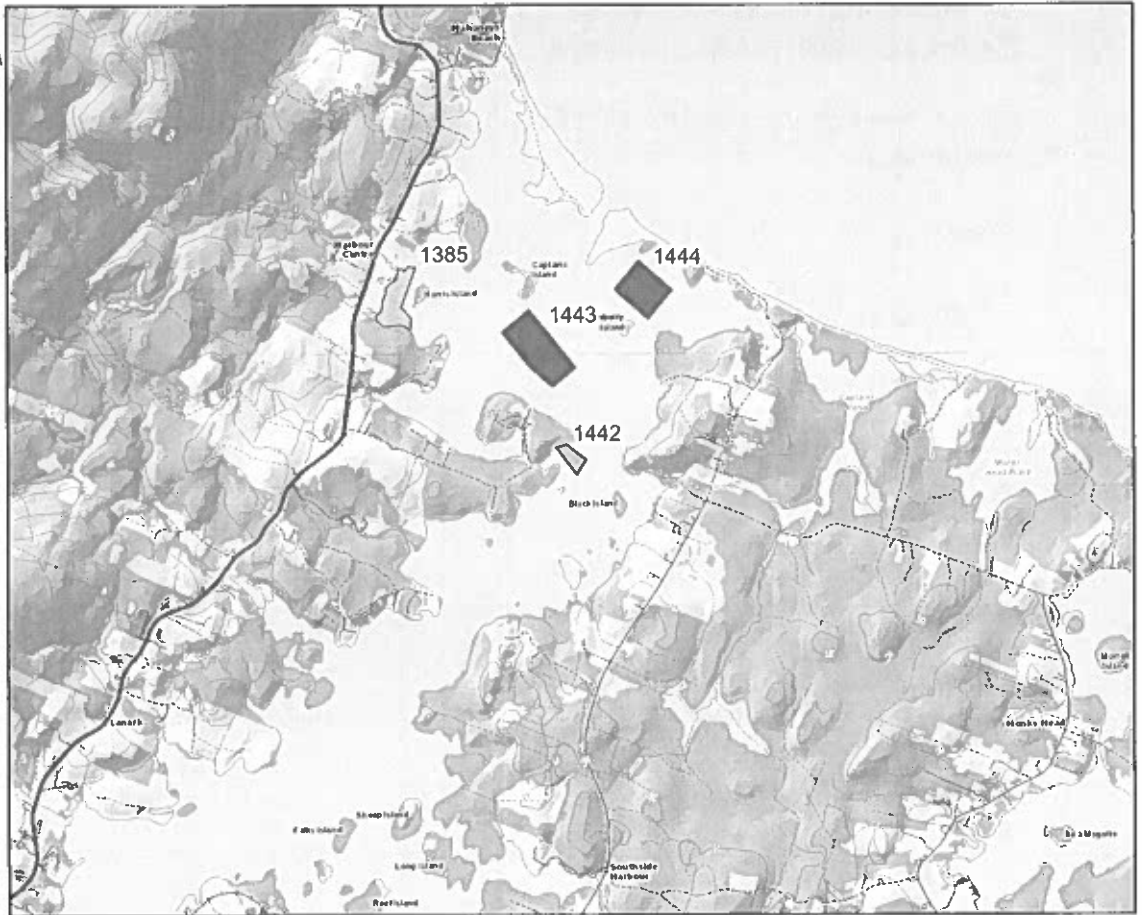
# SCHEDULE A



## Aquaculture Site 1442

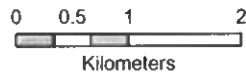
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DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



**NOVASCOTIA**  
Fisheries and Aquaculture

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Date: 2020-04-08 Created By: MH

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

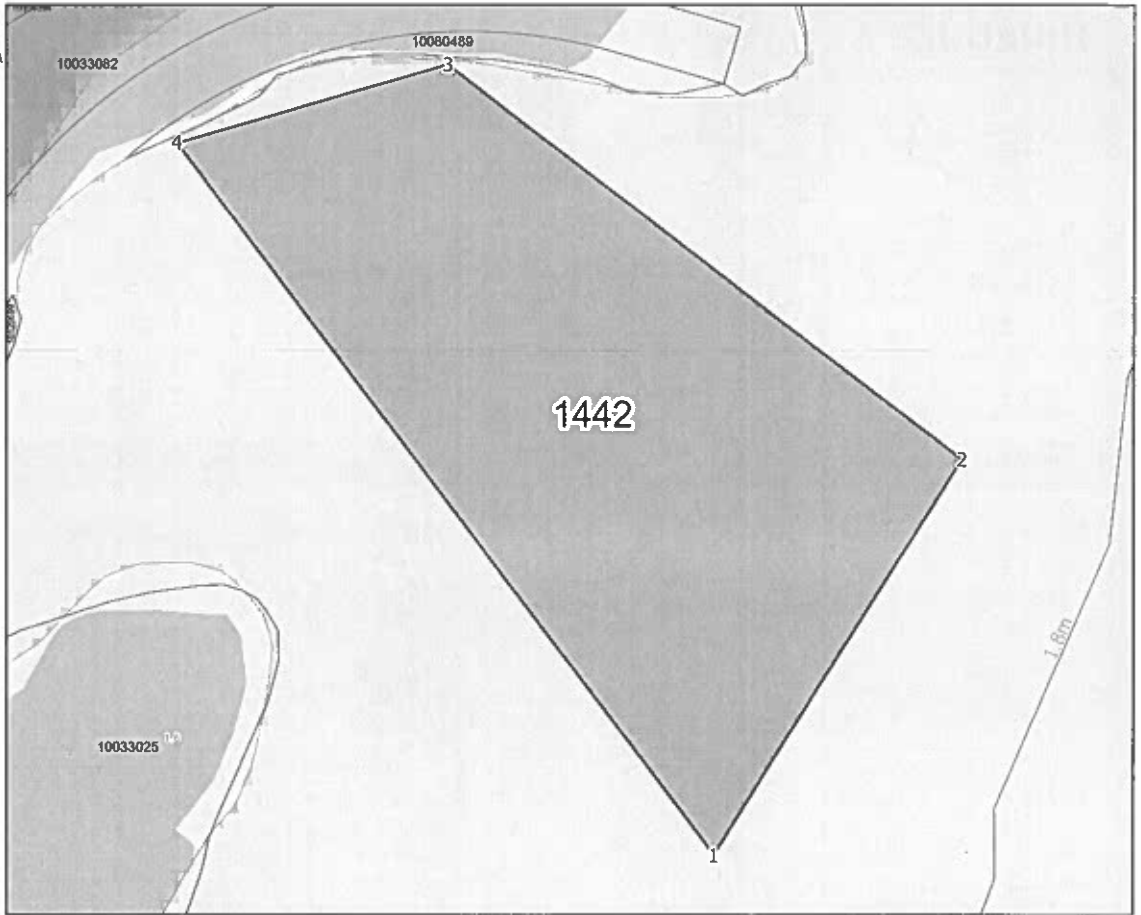
# SCHEDULE A



## Aquaculture Site 1442

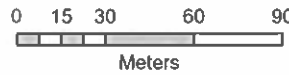
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Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

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- NS PIDs



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Date 2020-01-08 Created By MK

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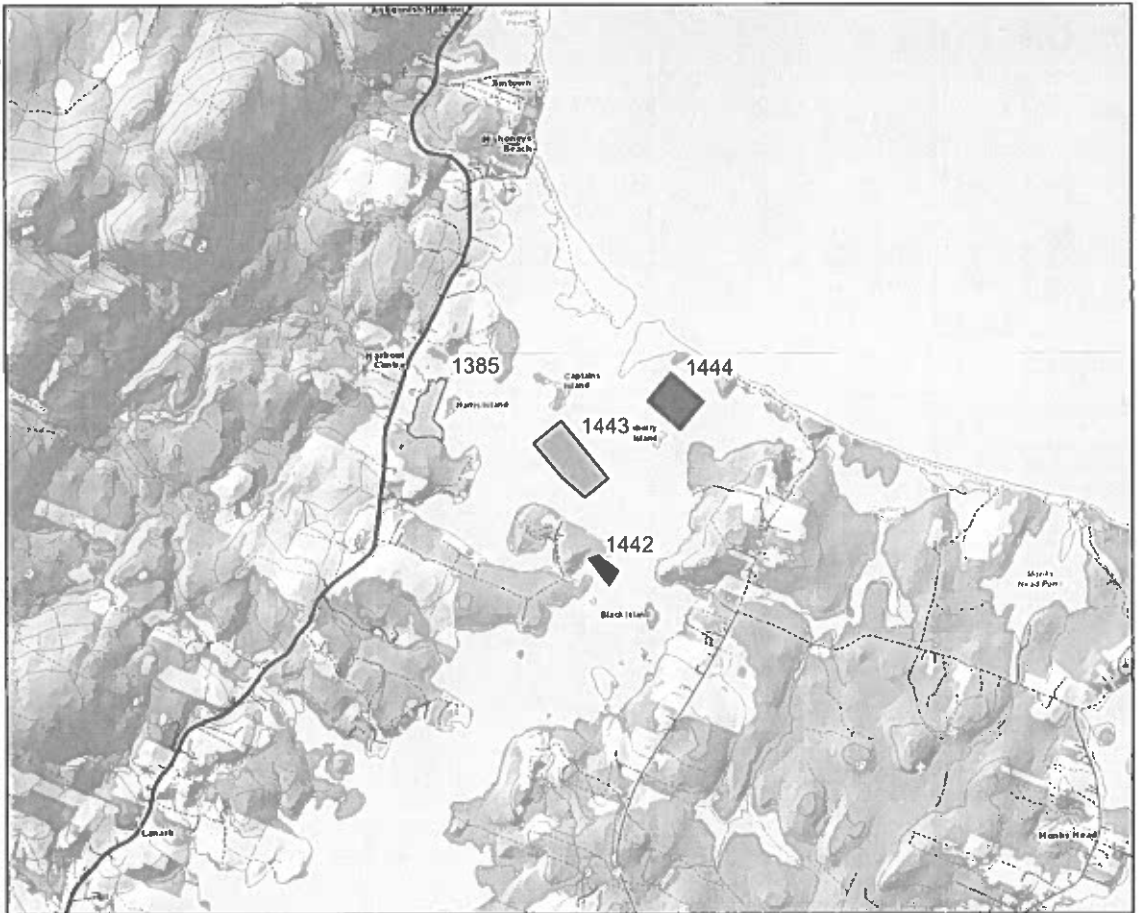
# SCHEDULE A



## Aquaculture Site 1443

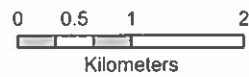
Corner	Latitude	Longitude
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Centre	45° 40' 48.263" -61° 53' 49.213"	

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

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**SCHEDULE A**



**Aquaculture Site  
1443**

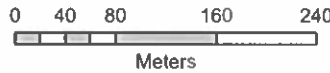
Corner	Latitude	Longitude
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- Other Issued Lease
- NS PIDs



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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, TAD, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MELI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

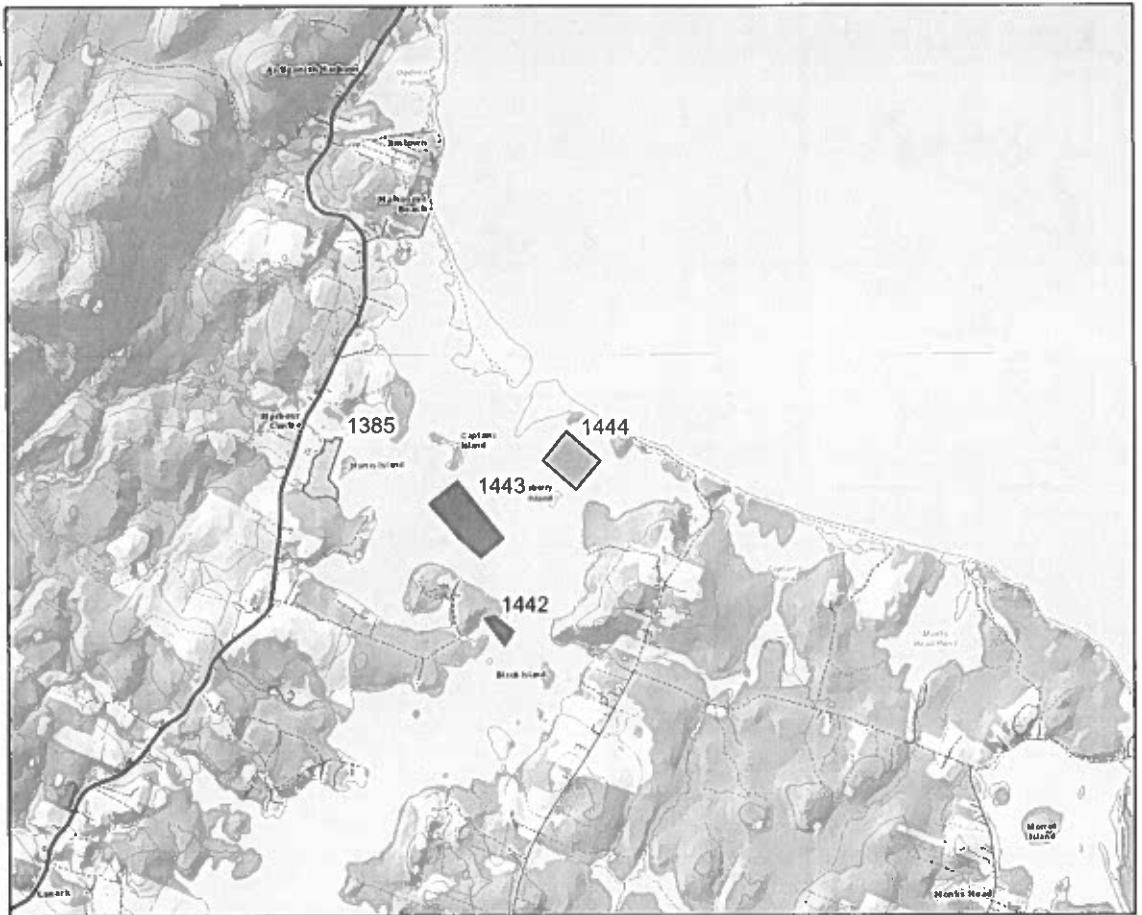
# SCHEDULE A



## Aquaculture Site 1444

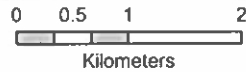
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-08  
Creator: B. MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

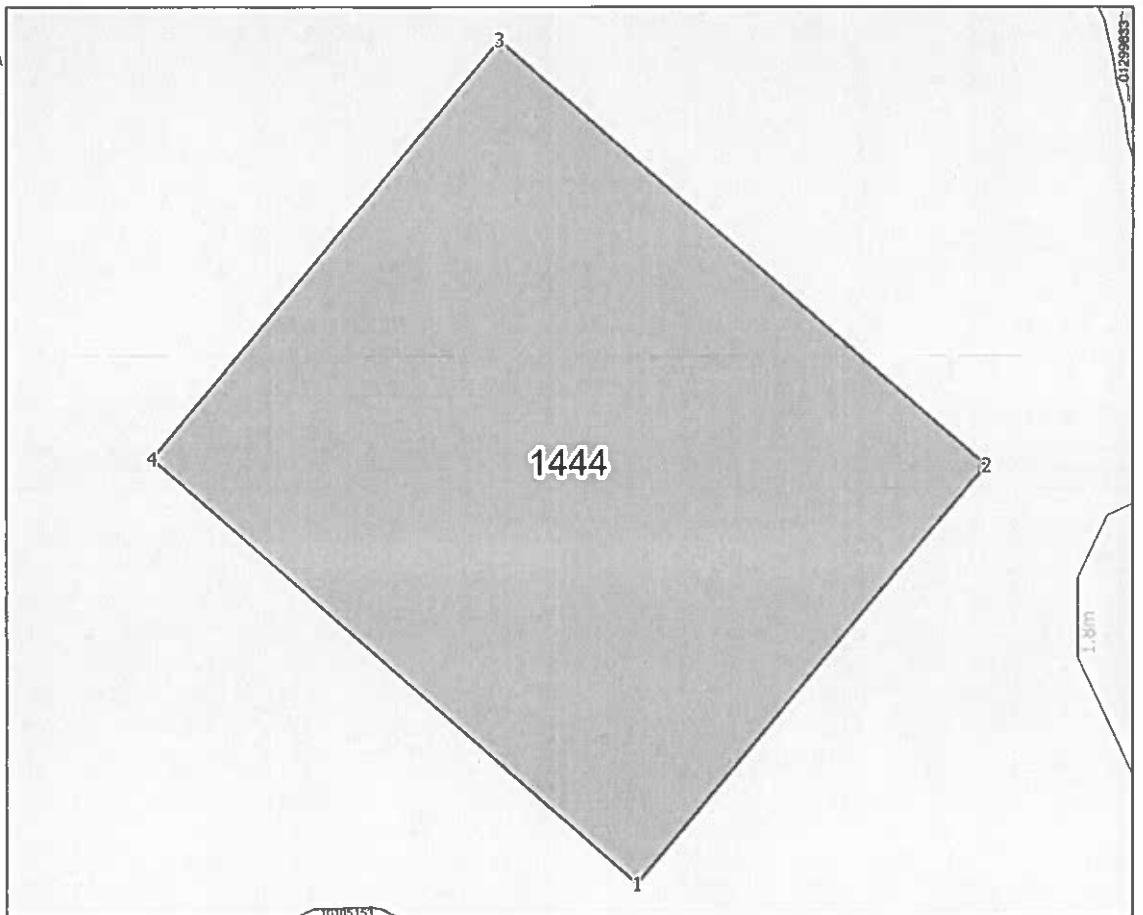
# SCHEDULE A



## Aquaculture Site 1444

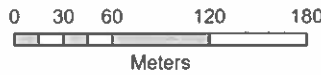
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1	45° 40' 57.000"	-61° 53' 4.200"
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DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date: 2020-04-01 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, IAQ, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 4 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



January 8, 2021

Chief Sidney Peters  
Glooscap First Nation  
159 Smith Road  
Hantsport, Nova Scotia  
BOP 1P0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

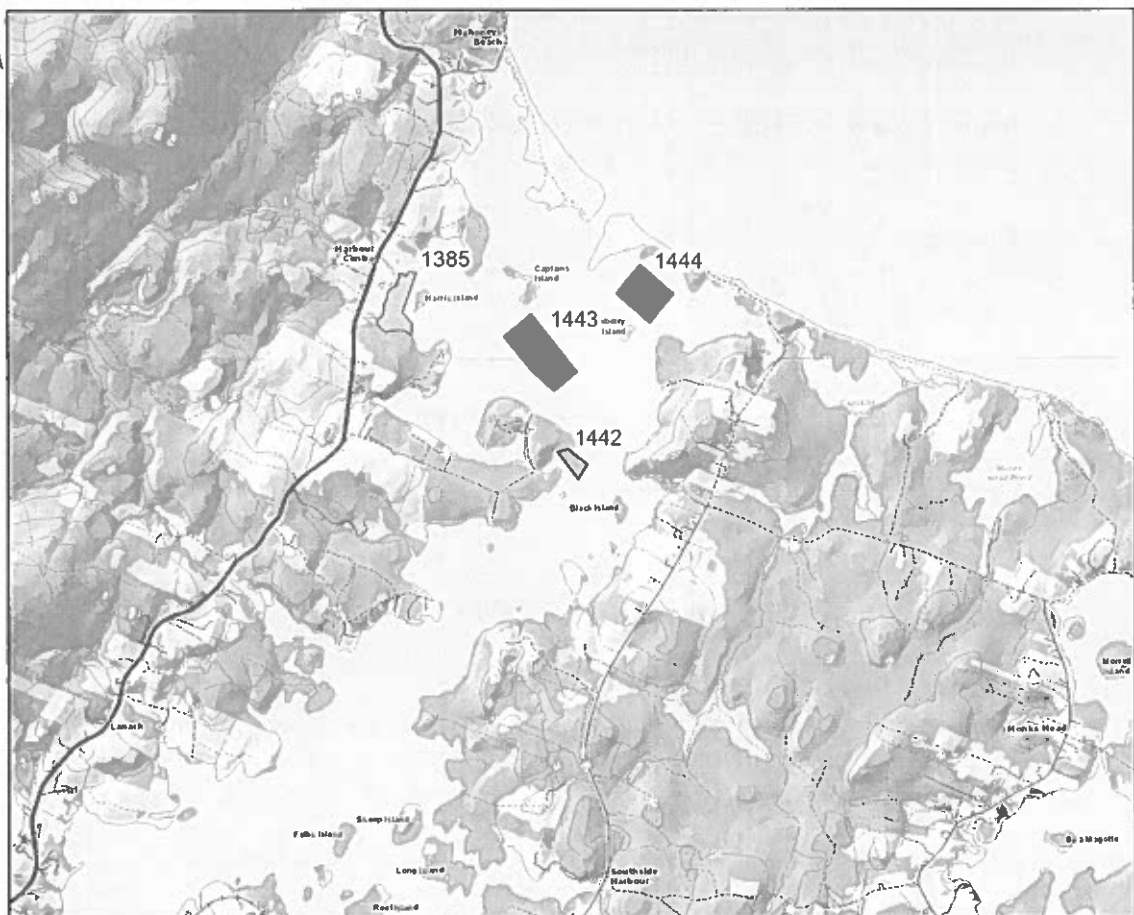
# SCHEDULE A



## Aquaculture Site 1442

Corner	Latitude	Longitude
1	45° 40' 12.360" -61° 53' 34.800"	
2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
4	45° 40' 20.280" -61° 53' 43.080"	
Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2010-04-05 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, TAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

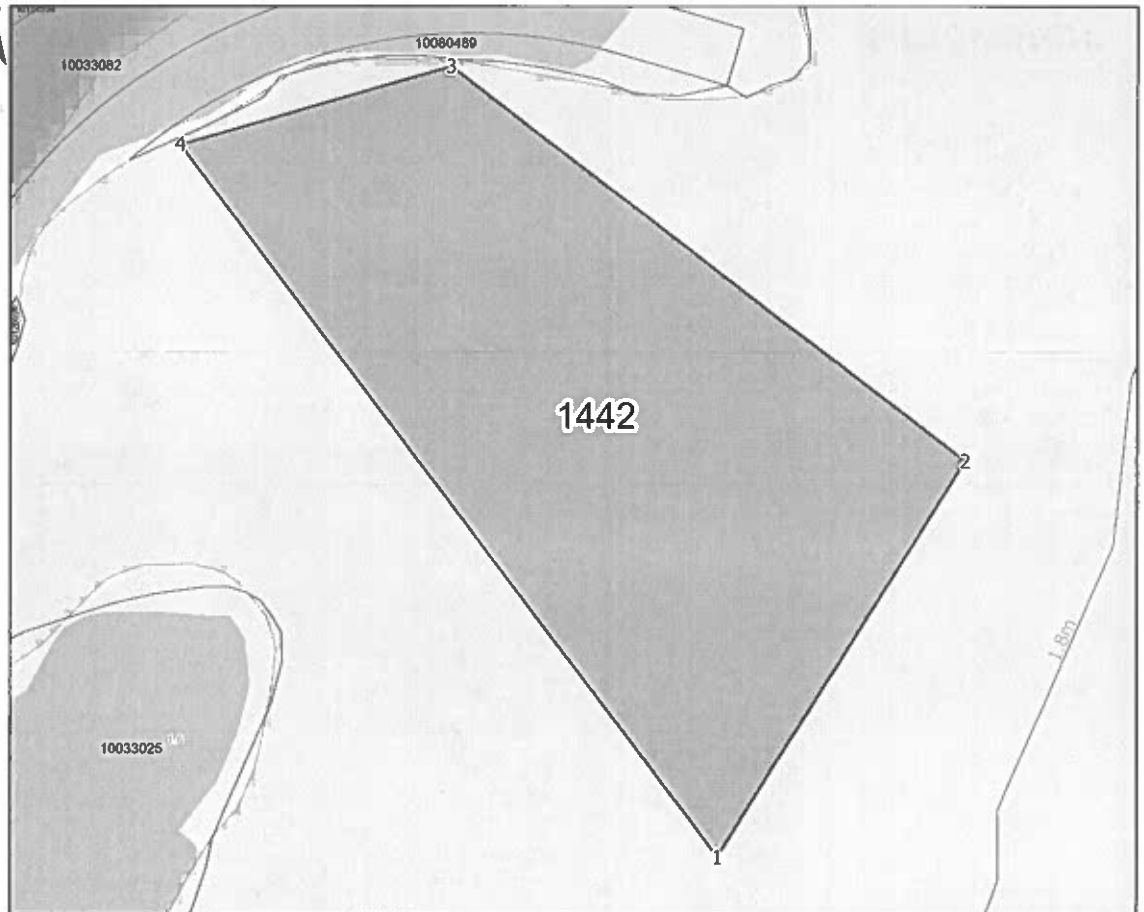
# SCHEDULE A



## Aquaculture Site 1442

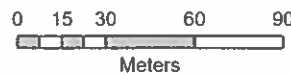
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

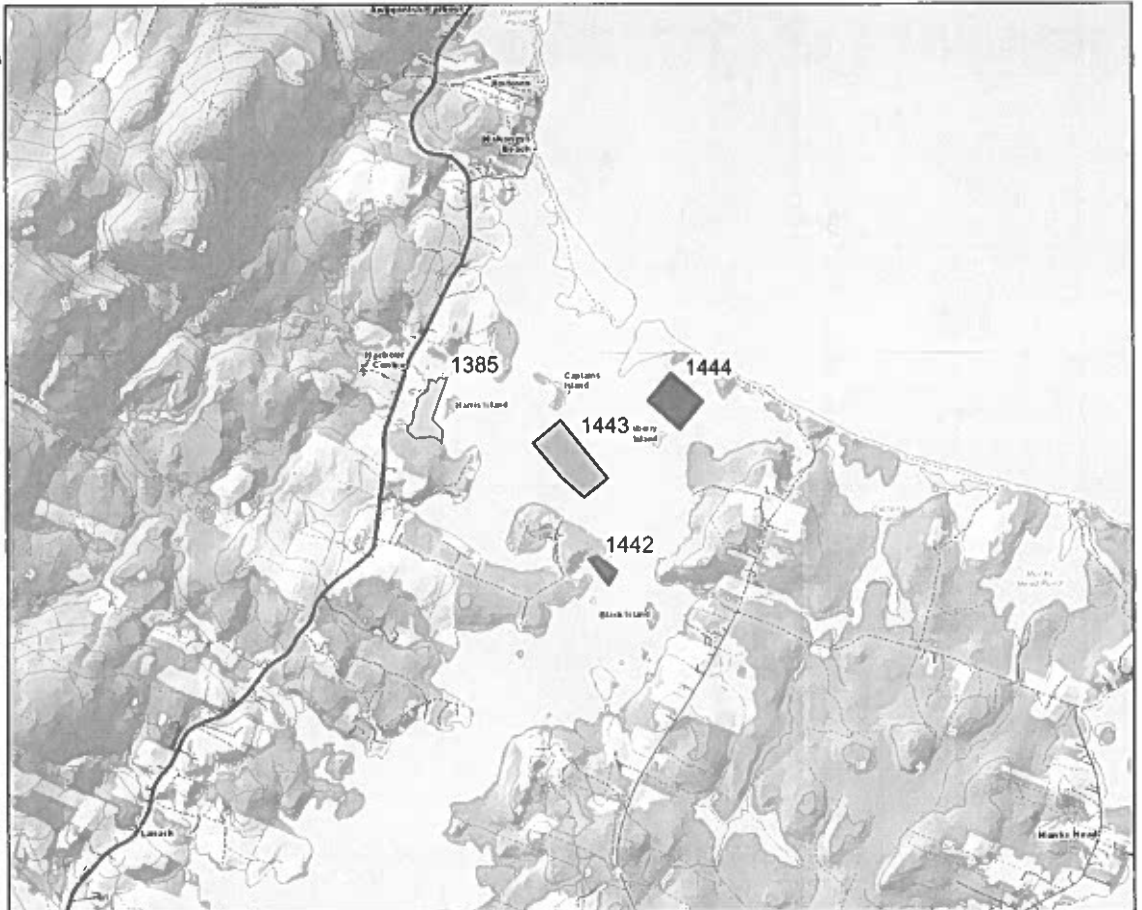
# SCHEDULE A



## Aquaculture Site 1443

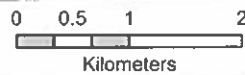
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1	45° 40' 37.920"	-61° 53' 44.160"
2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20 21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-09 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

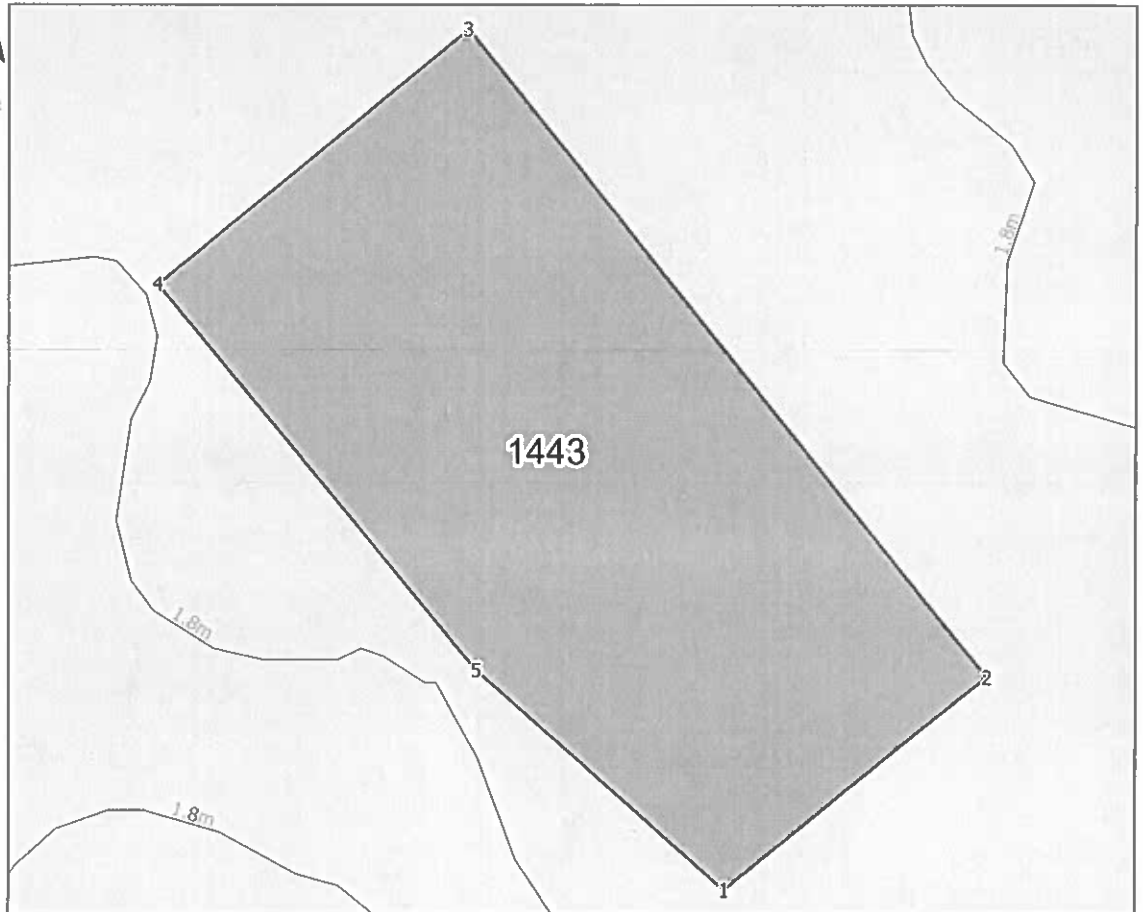
# SCHEDULE A



## Aquaculture Site 1443

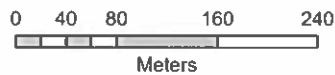
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
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Date: 2020-04-08 Created By: MK

Sources: Esri, BERNL, Garmin, Intermap, increment P Corp., GEBCO, USGS, IAU, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

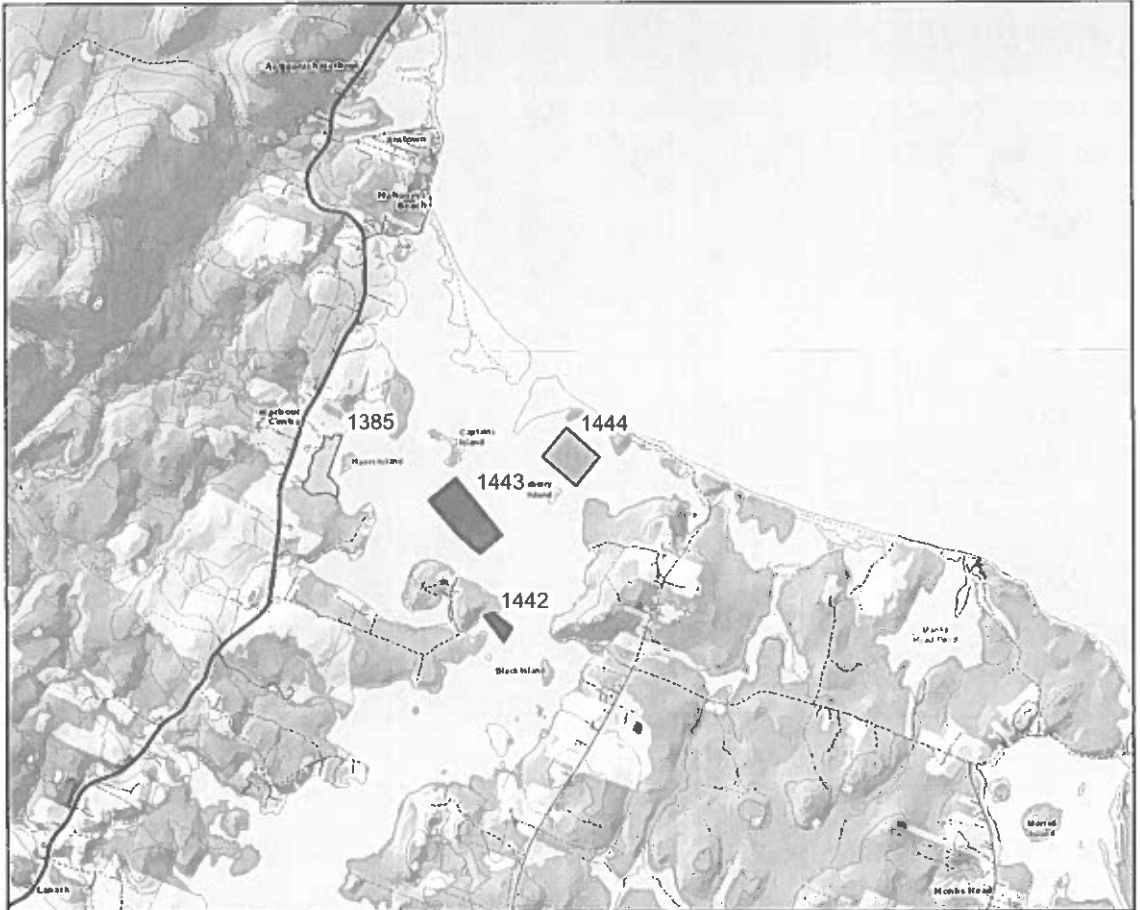
# SCHEDULE A



## Aquaculture Site 1444

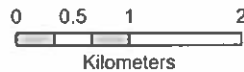
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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- Proposed Application
- Other Proposed Lease
- Other Issued Lease



**NOVA SCOTIA**  
Fisheries and Aquaculture

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Date: 2020-04-08

Created By: JMR

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

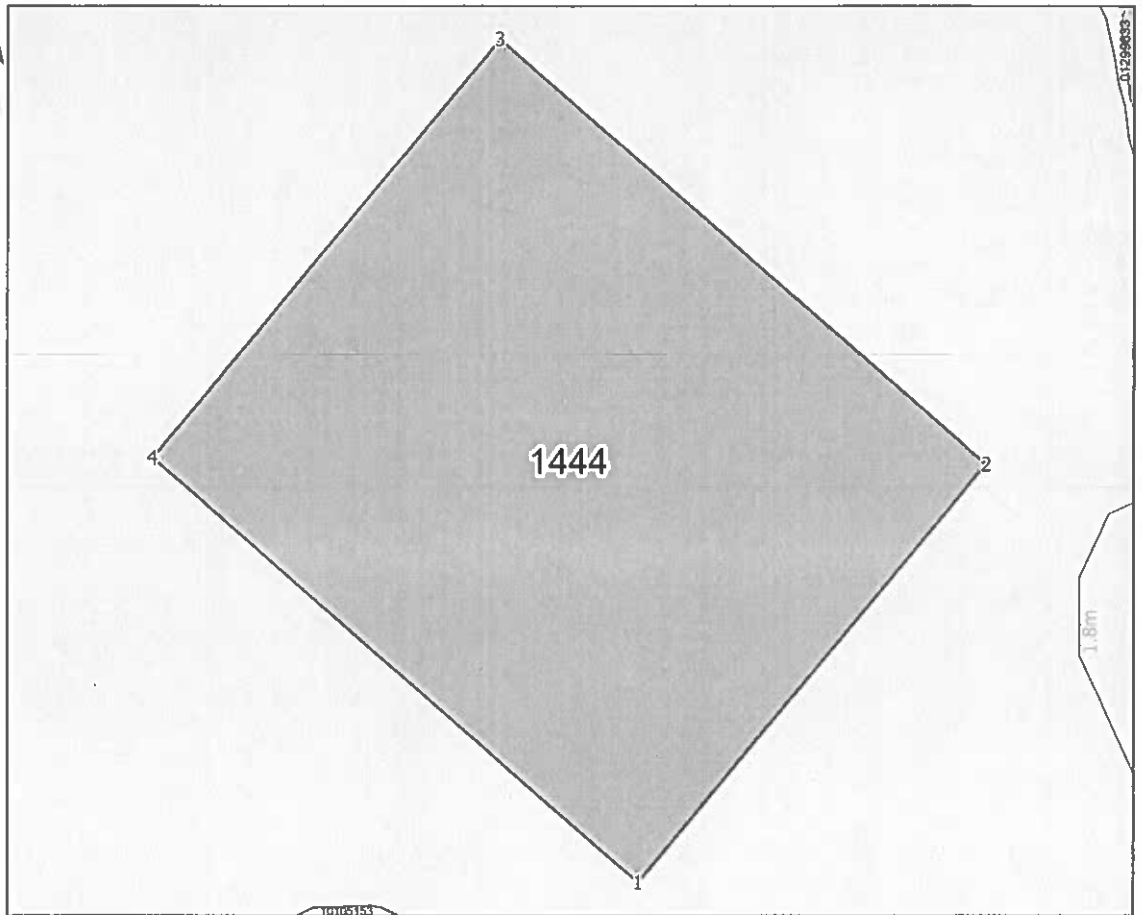
# SCHEDULE A



## Aquaculture Site 1444

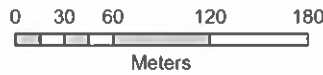
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 5 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

THE UNIVERSITY OF CHICAGO  
LIBRARY

January 8, 2021

Chief Carol Dee Potter  
L'sitkuk (Bear River)  
130 Reservation Road  
Bear River, Nova Scotia  
BOS 1B0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

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#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

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#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

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Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

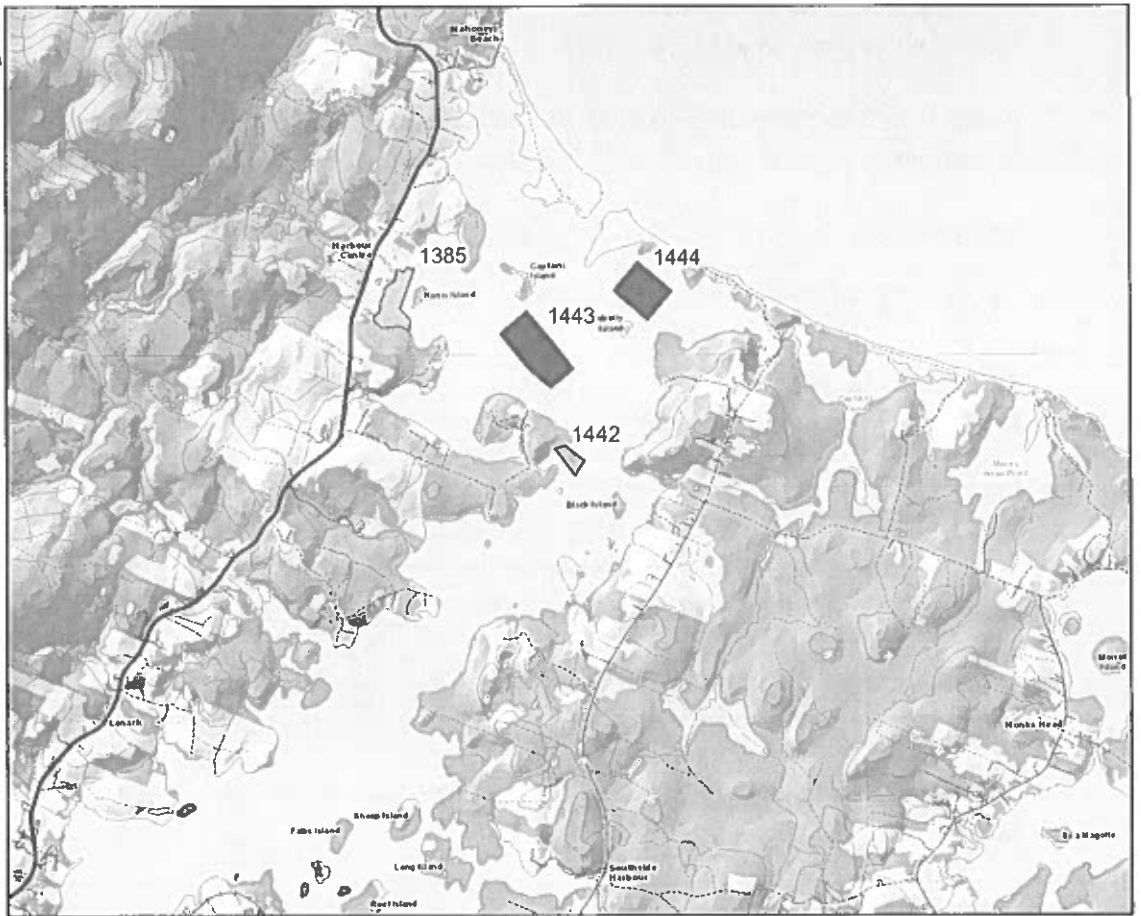
# SCHEDULE A



## Aquaculture Site 1442

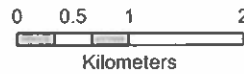
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1	45° 40' 12.360" -61° 53' 34.800"	
2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
4	45° 40' 20.280" -61° 53' 43.080"	
Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2010-04-08 Created By: M

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

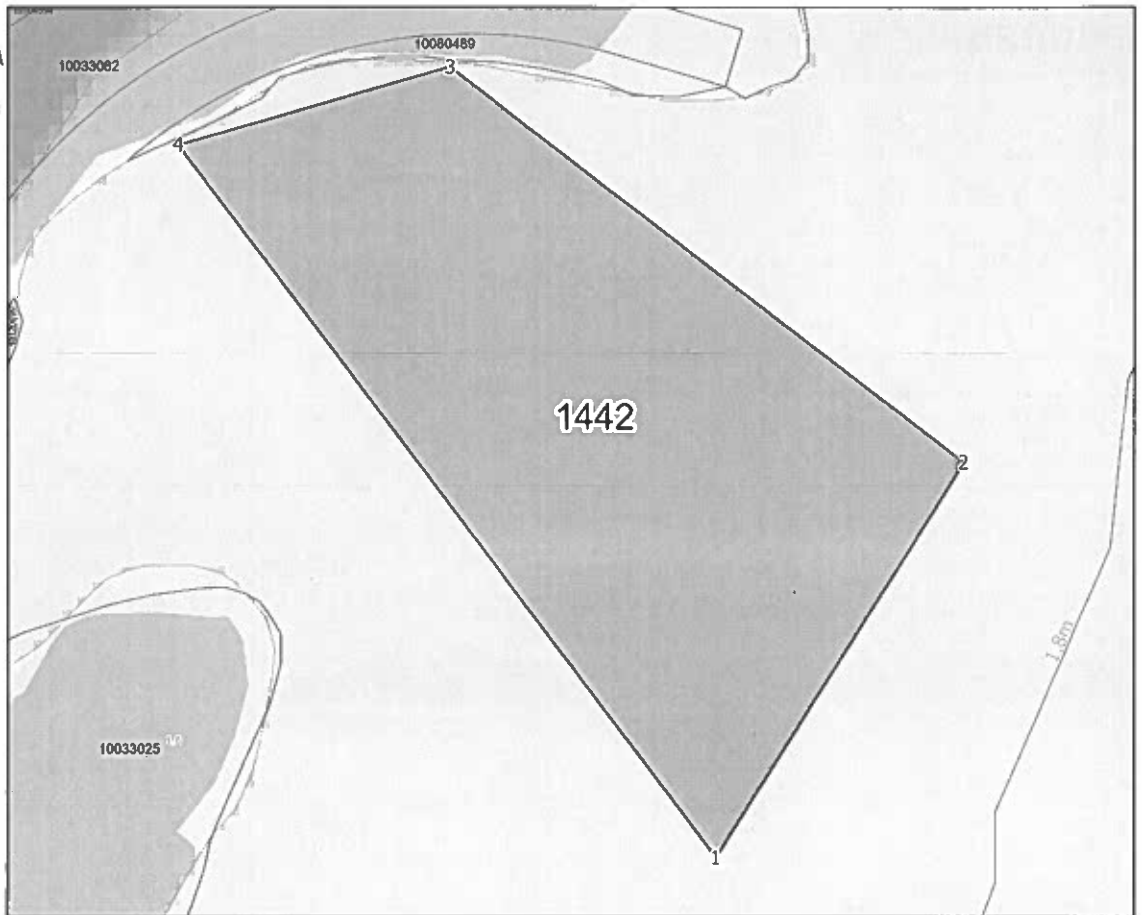
# SCHEDULE A



## Aquaculture Site 1442

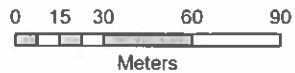
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
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- NS PIDs



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Date: 2020-04-08 Created By: MK

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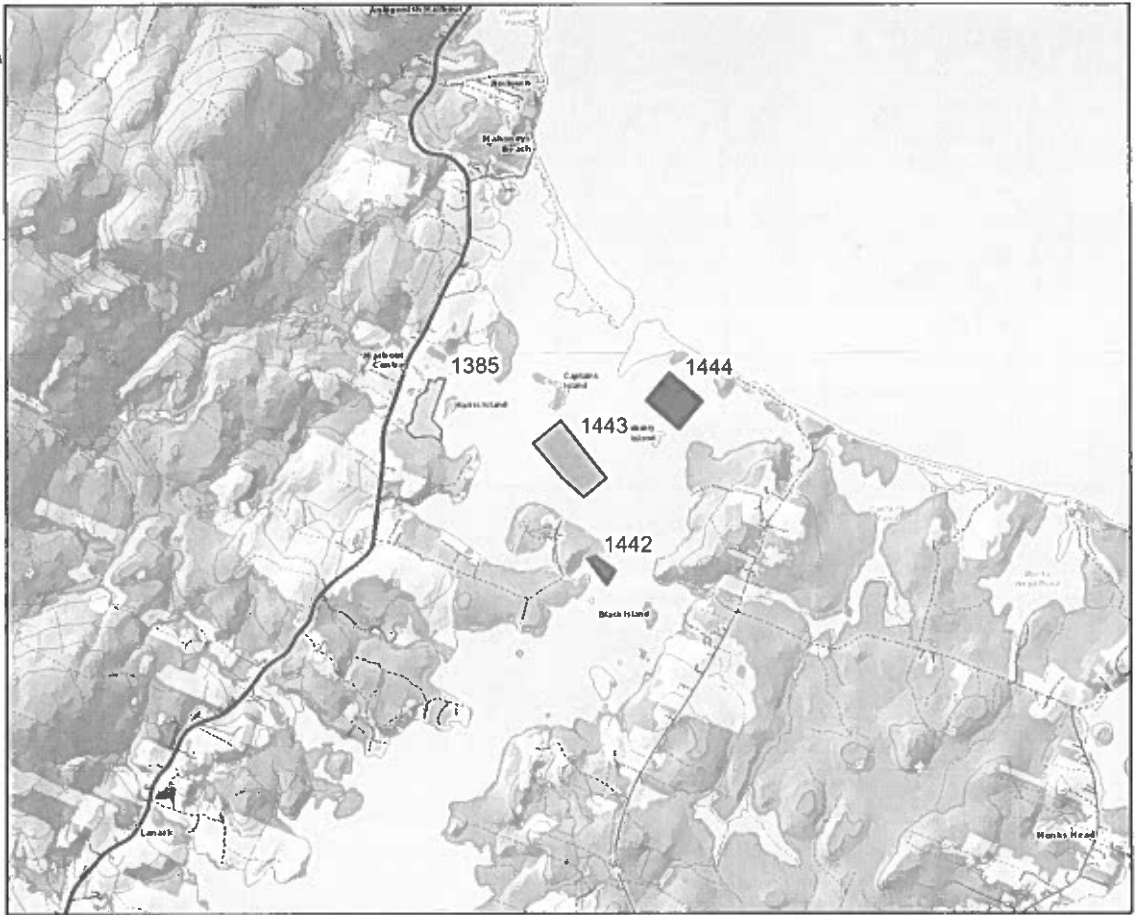
# SCHEDULE A



## Aquaculture Site 1443

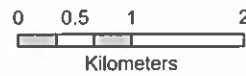
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3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MELI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services



# SCHEDULE A



## Aquaculture Site 1443

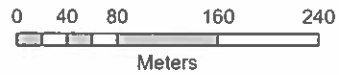
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
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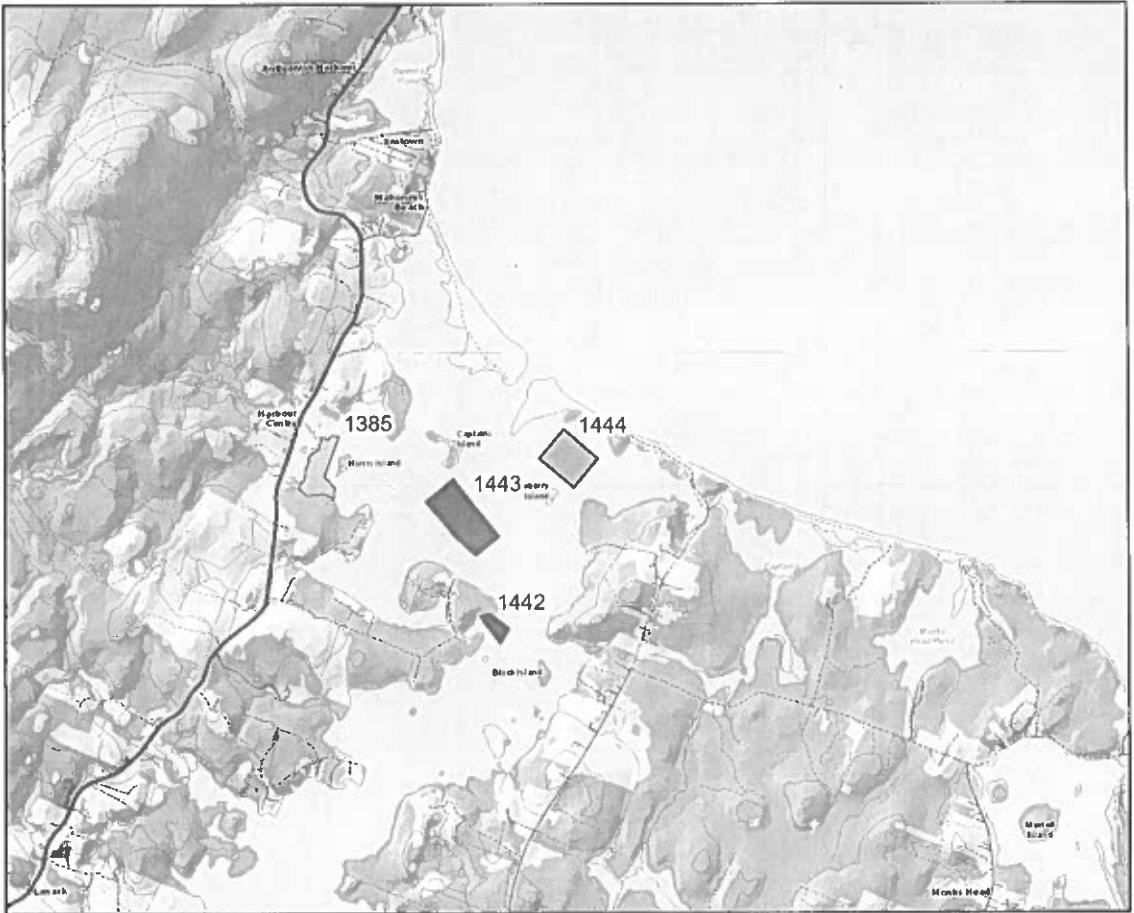
# SCHEDULE A



## Aquaculture Site 1444

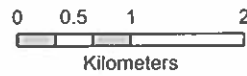
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2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08  
Created By: NIK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

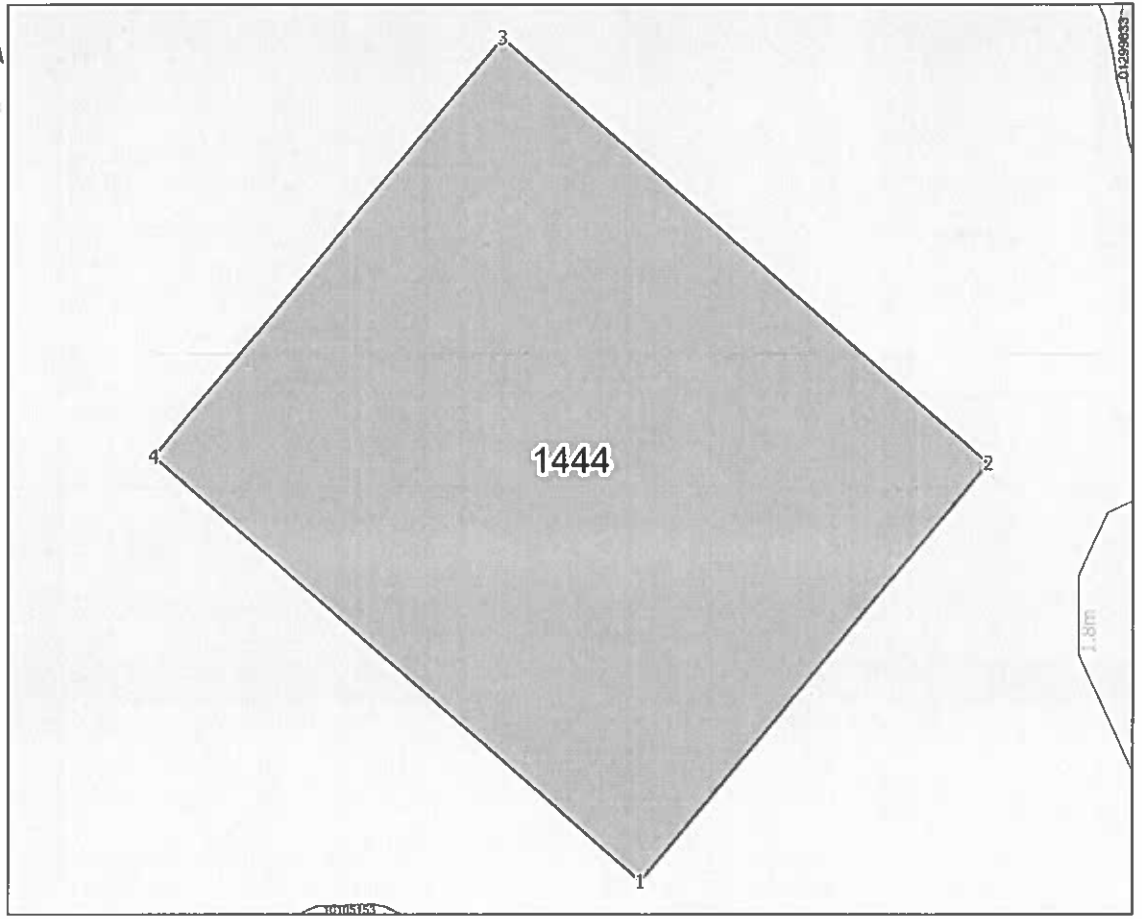
# SCHEDULE A



## Aquaculture Site 1444

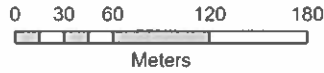
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 6 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

74

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January 8, 2021

Chief Terrance J. Paul  
Membertou First Nation  
111 Membertou Street  
Membertou, Nova Scotia  
B1S 2M9

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

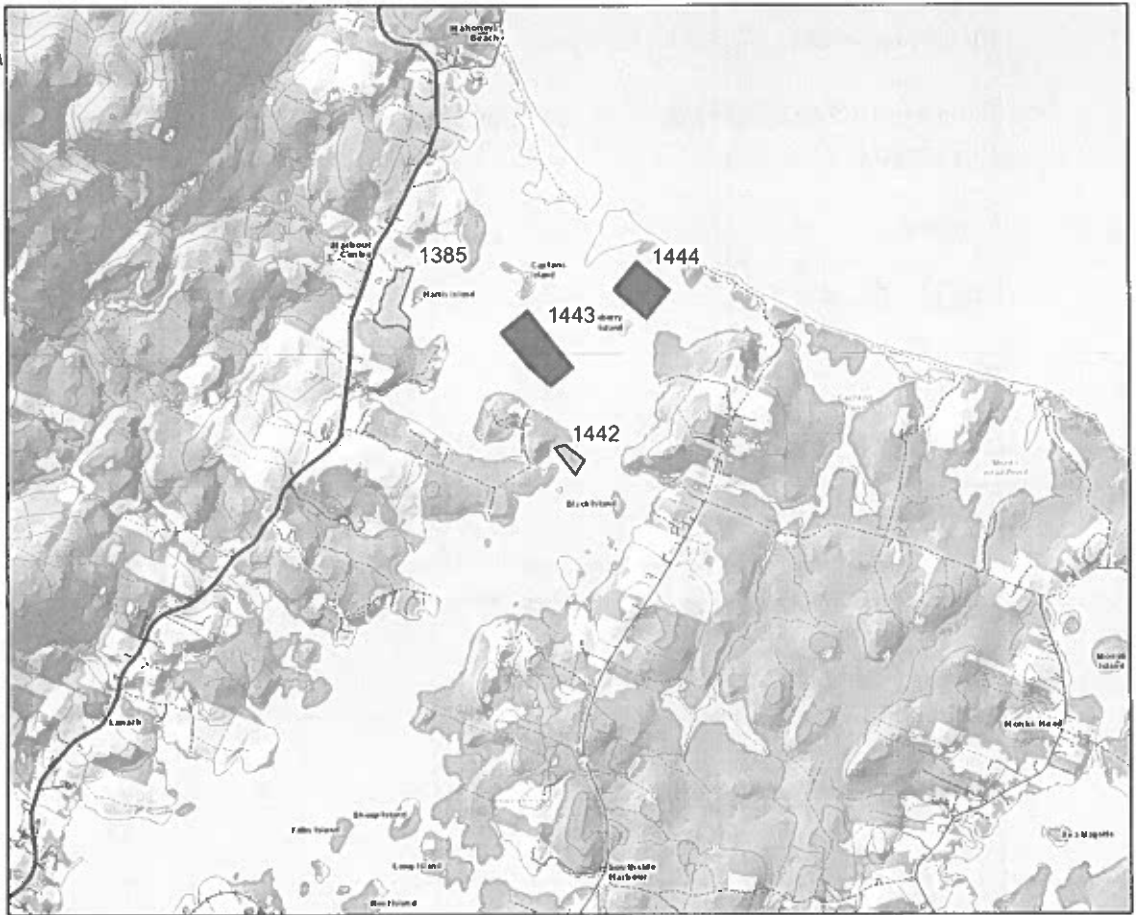
# SCHEDULE A



## Aquaculture Site 1442

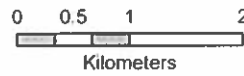
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Centre	45° 40' 17.456"	-61° 53' 36.442"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

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- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-05 Created By: MK

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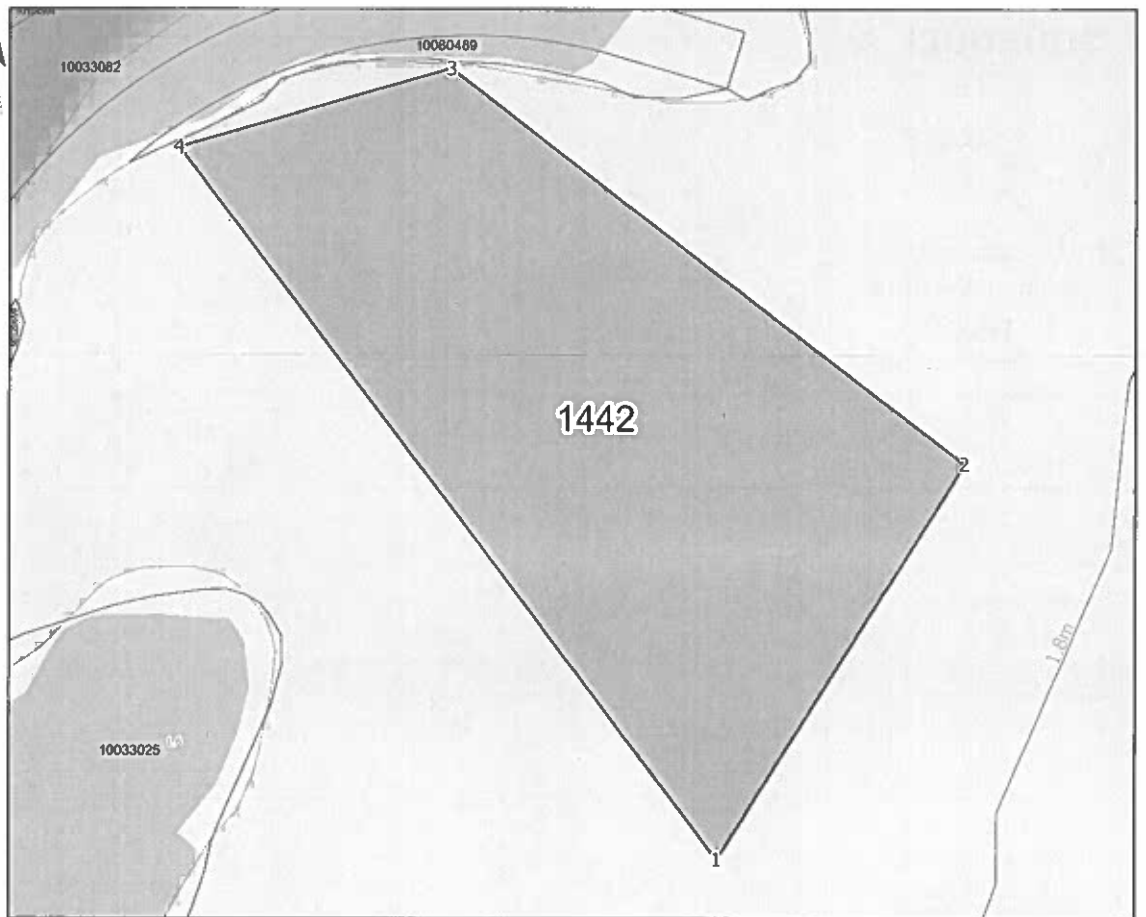
# SCHEDULE A



## Aquaculture Site 1442

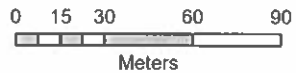
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

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Date: 2/25/14-08  
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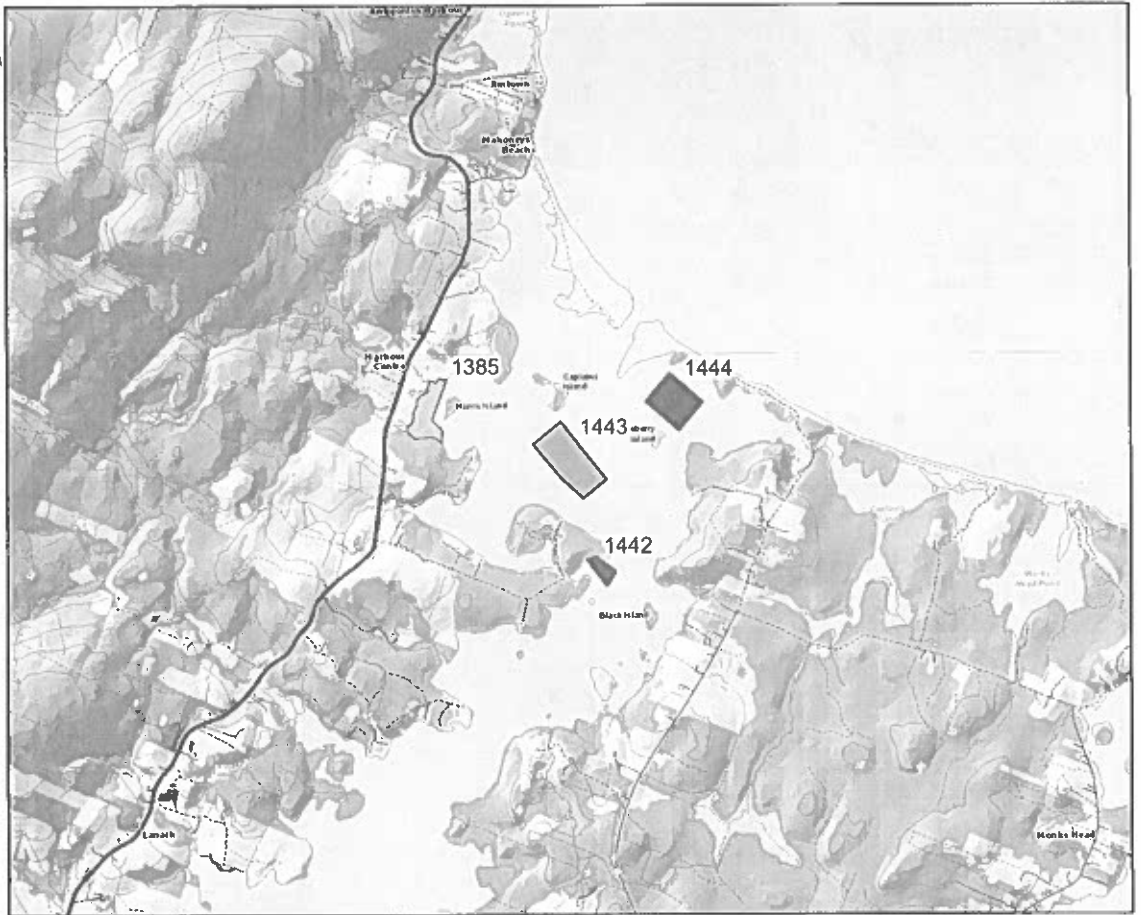
# SCHEDULE A



## Aquaculture Site 1443

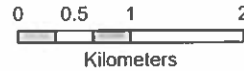
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4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

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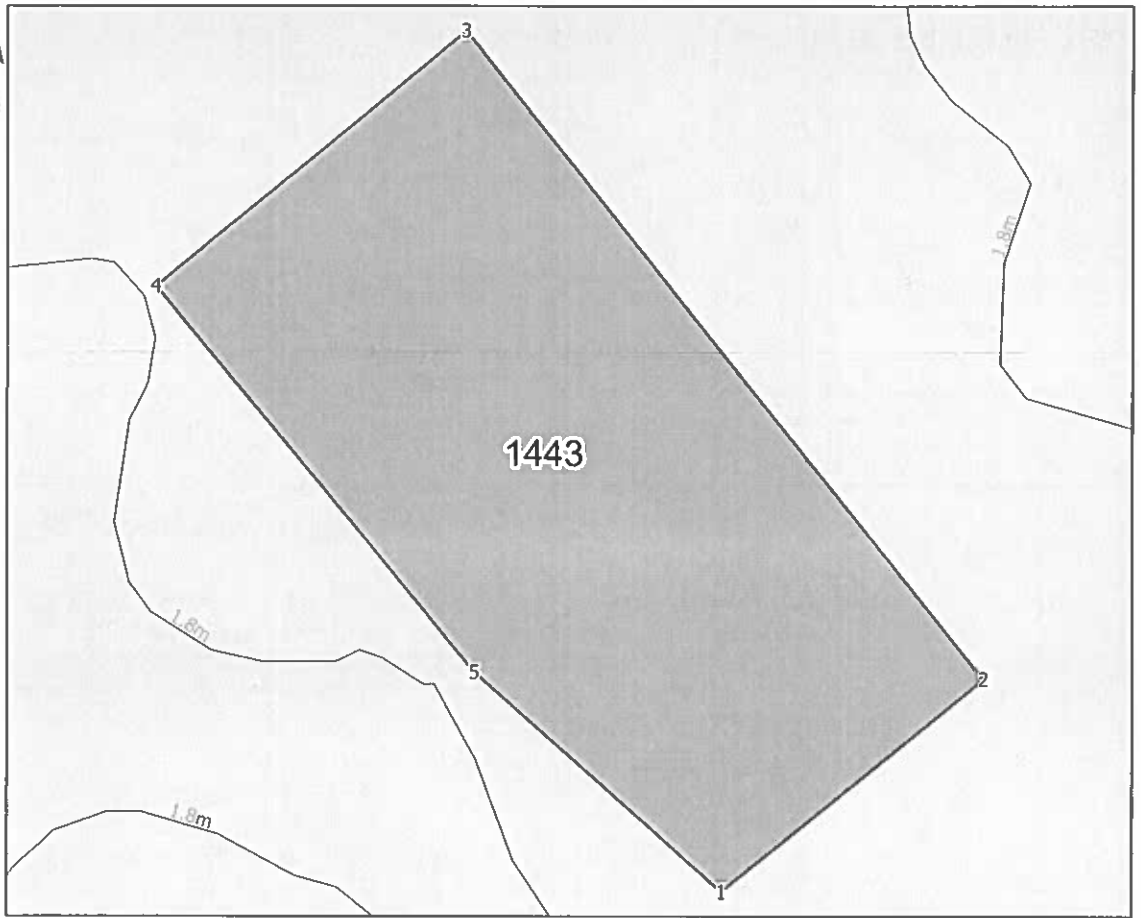
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## Aquaculture Site 1443

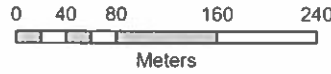
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# SCHEDULE A



## Aquaculture Site 1444

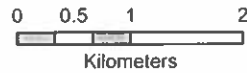
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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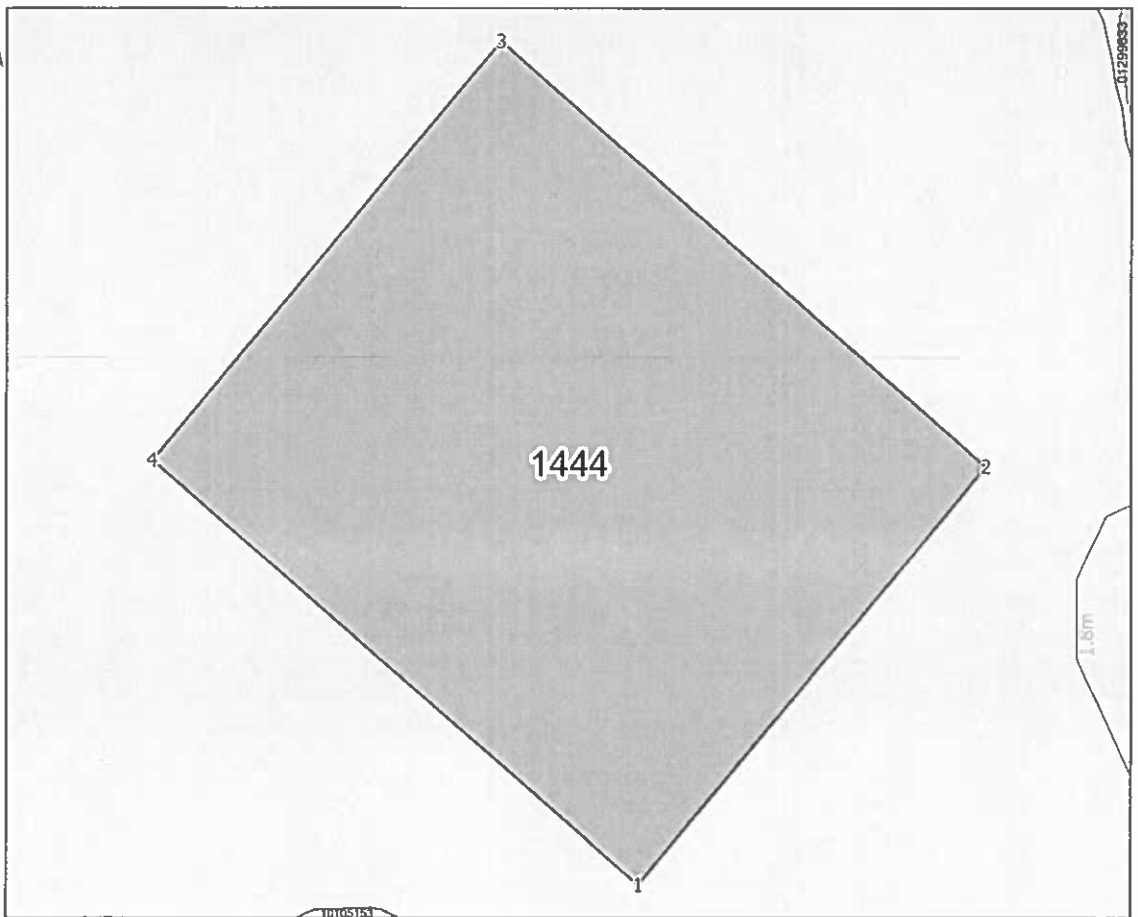
# SCHEDULE A



## Aquaculture Site 1444

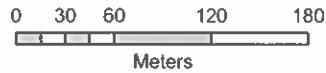
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 7 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



501

1. 2010年10月1日  
2. 2010年10月1日  
3. 2010年10月1日

January 8, 2021

Chief Gloade and Council  
Millbrook First Nation  
PO Box 634  
Truro, NS  
B2N 5E5

Dear Chief Gloade and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, along with partnership of ShanDaph Oyster Farm have developed the BORB (Benefits of Being Round) system. These are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BROR system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.58 hectares and has an intended production of over one million oysters using BROR system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

### Provincial Approval Requirements

It is anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column. We have agreed to coordinate engagement and consultation, and any feedback received will be shared with Transport Canada.

### Consultation with the Mi'kmaq of Nova Scotia

Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative.

We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs and Sipekne'katik First Nation have been informed about this project.

Sincerely,



**Robert Ceschiutti**  
Manager of Licensing and Leasing

Cc:

**Shelly Martin, Solicitor**  
Millbrook First Nation

**Gerald Gloade, Consultation Coordinator**  
Millbrook First Nation

**Claire Rillie, Consultation Advisor**  
Nova Scotia Office of Aboriginal Affairs

**Linda Babineau-LeBlanc, Aboriginal Consultation Officer**  
Transport Canada

**Ed Parker, Senior Aquaculture Advisor**  
Fisheries and Oceans Canada

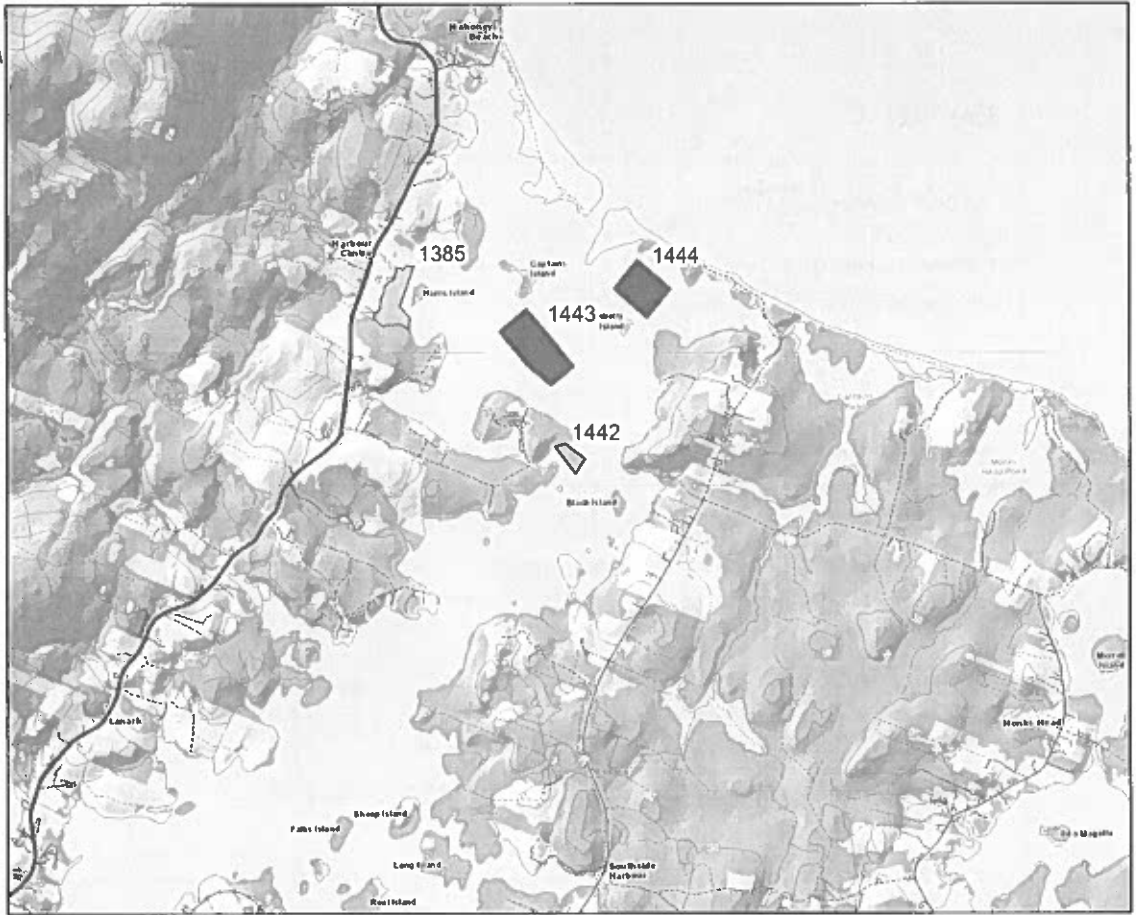
# SCHEDULE A



## Aquaculture Site 1442

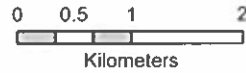
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2	45° 40' 16.680"	-61° 53' 30.840"
3	45° 40' 21.104"	-61° 53' 38.809"
4	45° 40' 20.280"	-61° 53' 43.080"
Centre	45° 40' 17.456"	-61° 53' 36.442"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2021-04-28 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services.

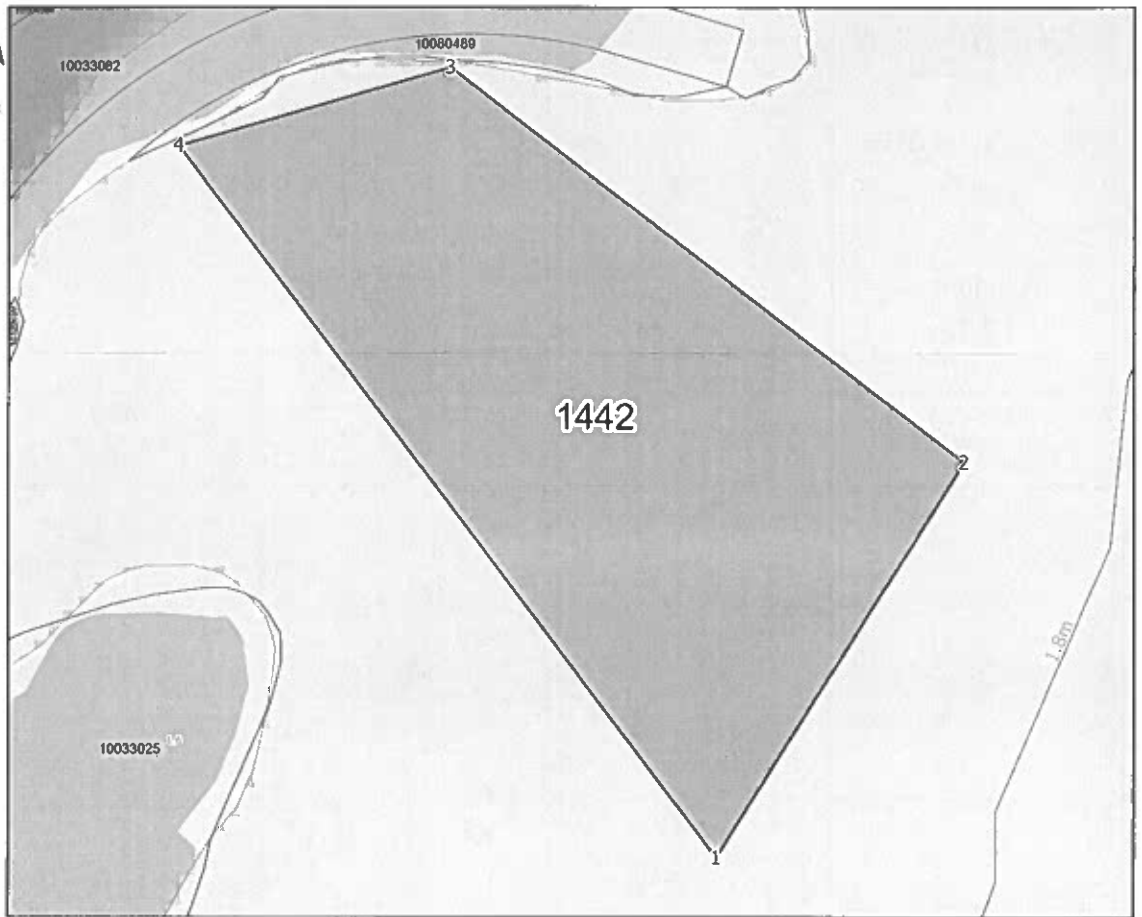
# SCHEDULE A



## Aquaculture Site 1442

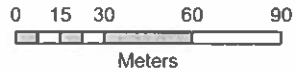
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date: 2020-04-08 Created By: MK

Sources: Esri, BNL, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCO, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MELI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

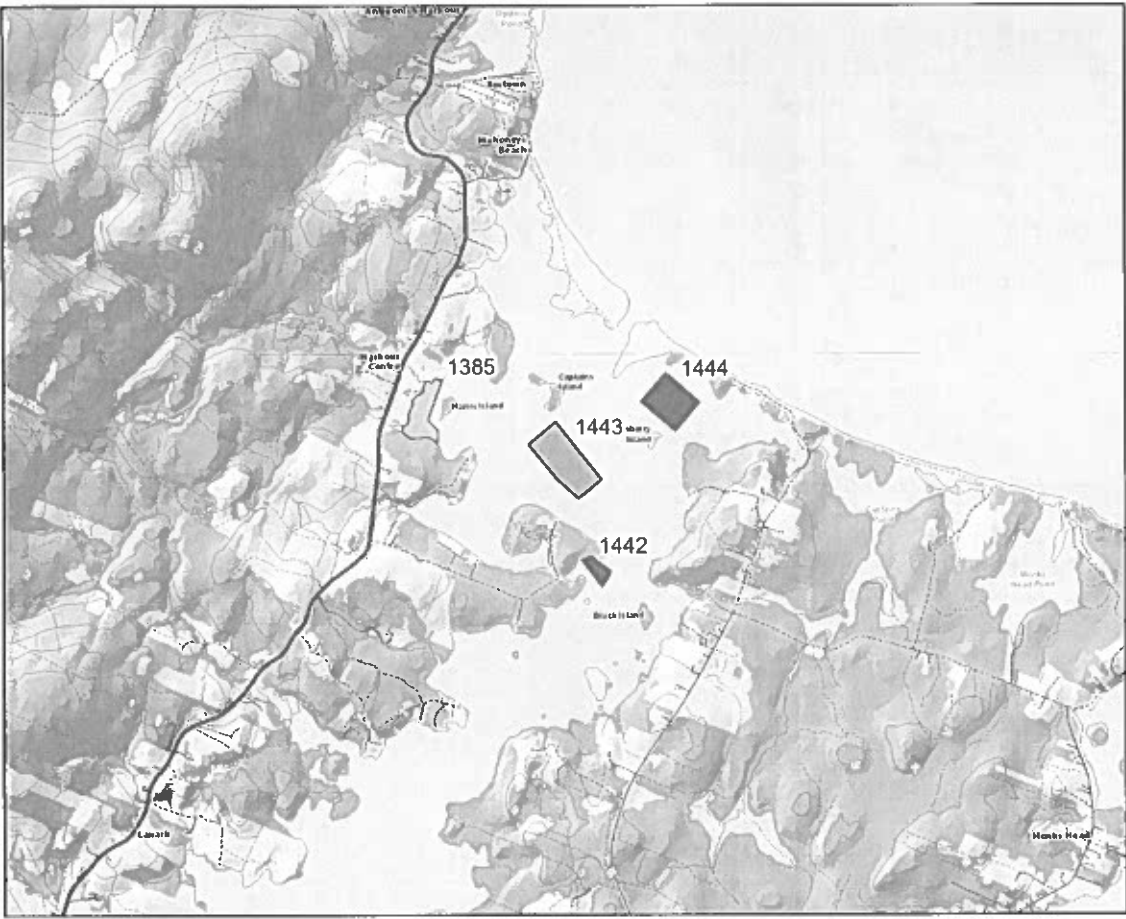
# SCHEDULE A



## Aquaculture Site 1443

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3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

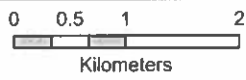
DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

Proposed Application
  Other Proposed Lease

Other Issued Lease



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Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services



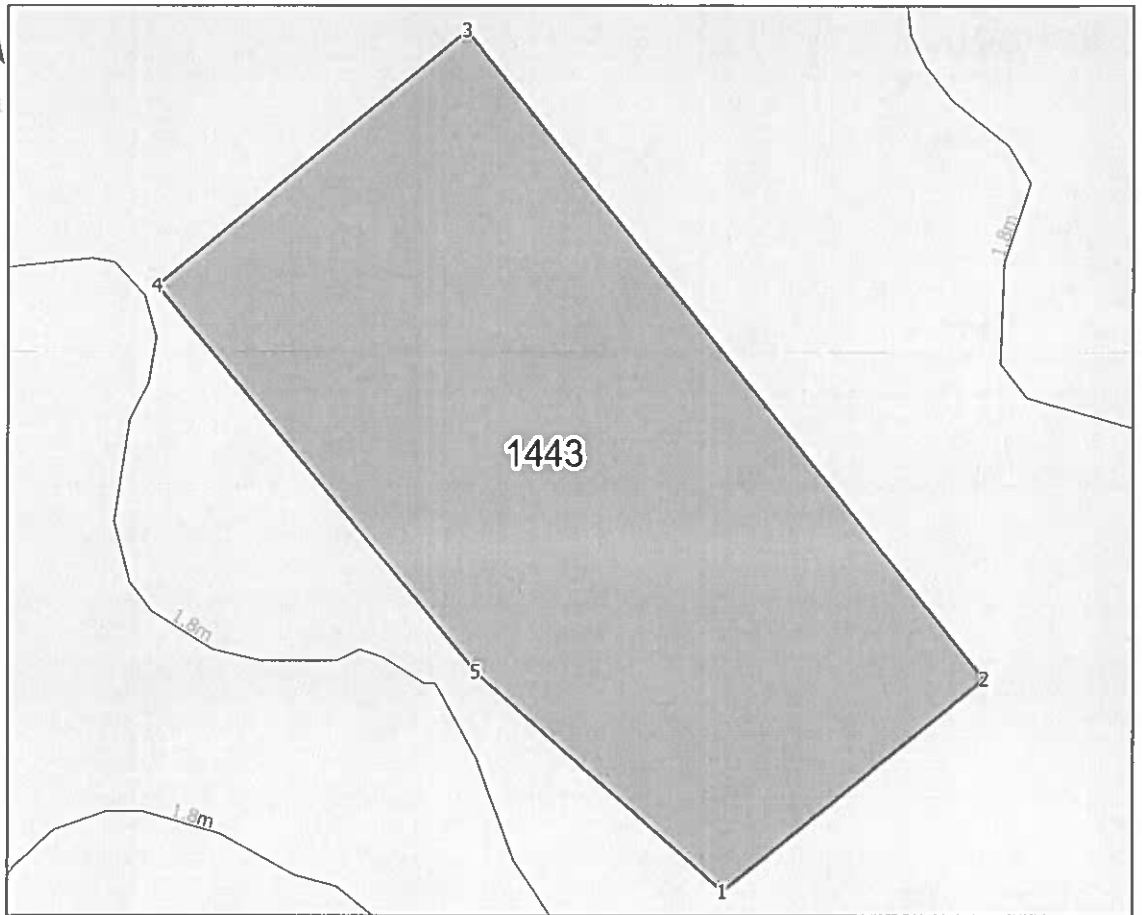
# SCHEDULE A



## Aquaculture Site 1443

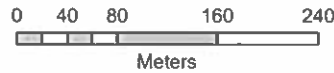
Corner	Latitude	Longitude
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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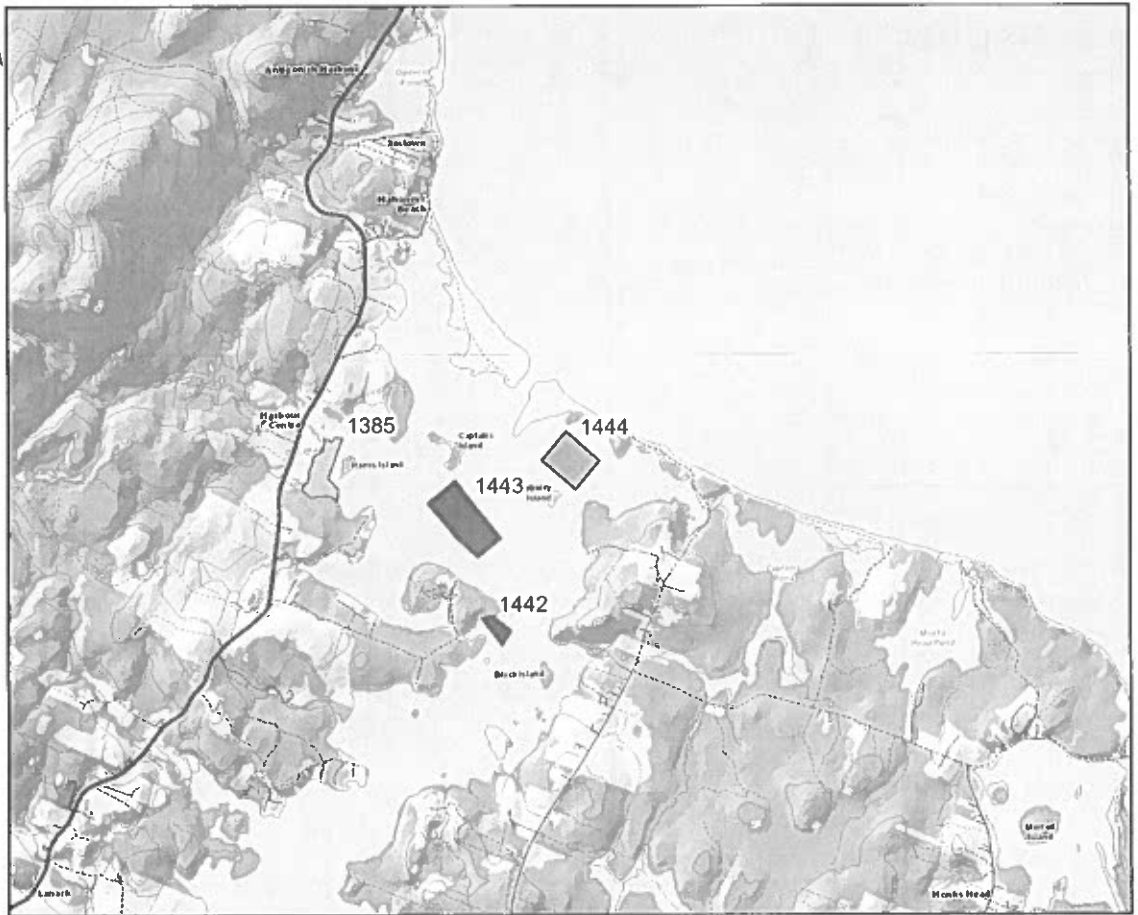
# SCHEDULE A



## Aquaculture Site 1444

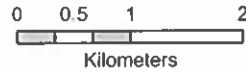
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVASCOTIA  
Fisheries and Aquaculture

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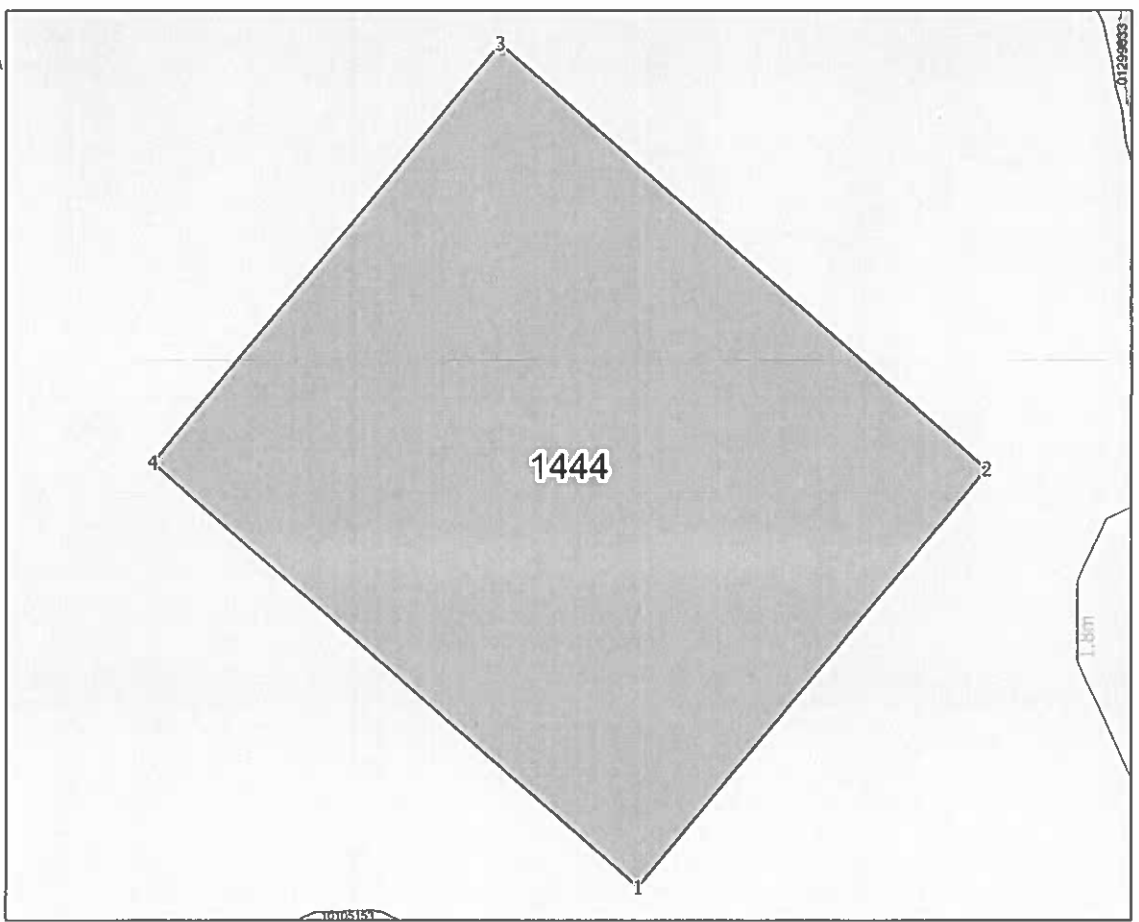
# SCHEDULE A



## Aquaculture Site 1444

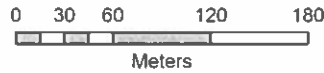
Corner	Latitude	Longitude
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- Proposed Application
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 8 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



January 8, 2021

Interim Chief Tma Francis  
Paqtnkek Mi'kmaw Nation  
7 Dillon Street  
Afton Station, Nova Scotia  
B0A 1A0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

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AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### **Summary of Consultation Screening**

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### **Provincial Approval Requirements**

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### **Consultation with the Mi'kmaq of Nova Scotia**

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnekek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

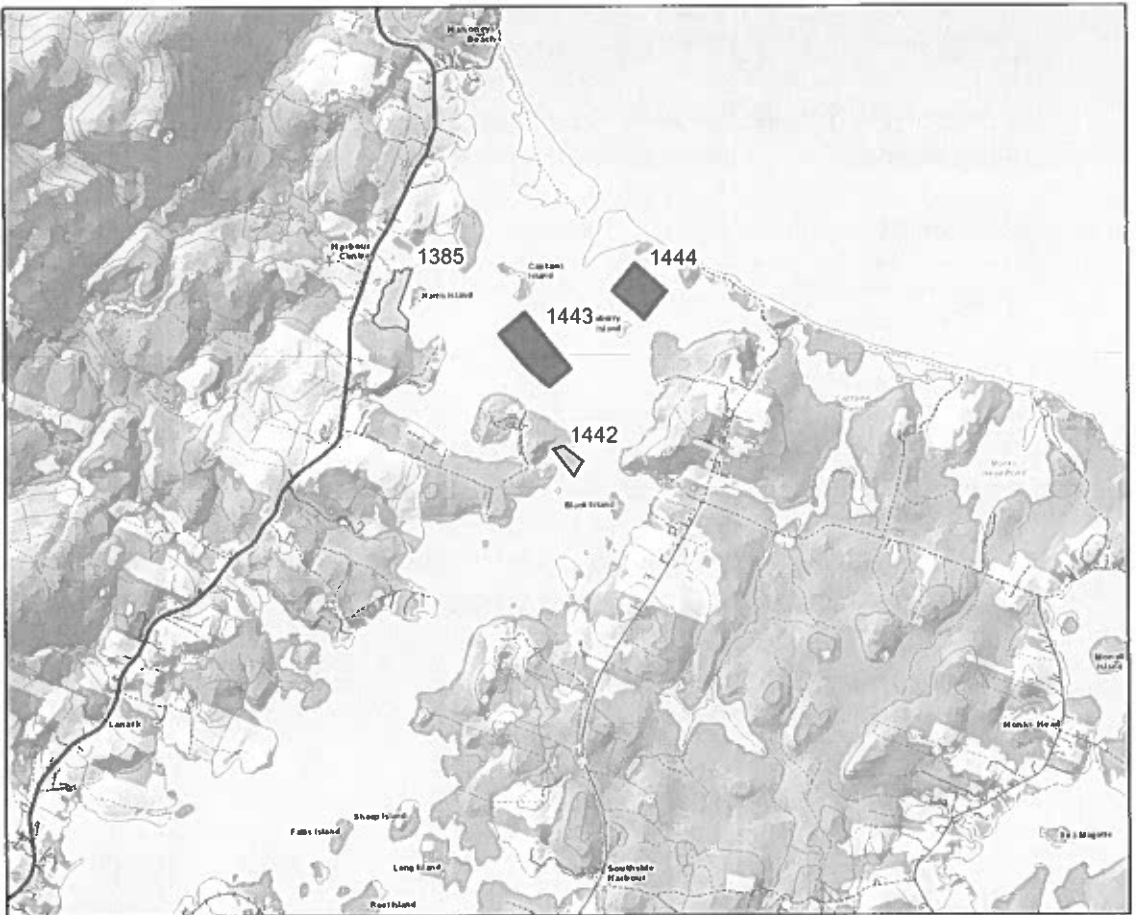
# SCHEDULE A



## Aquaculture Site 1442

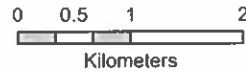
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DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



**NOVA SCOTIA**  
Fisheries and Aquaculture

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Date: 2020-04-09 Created By: LAR

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

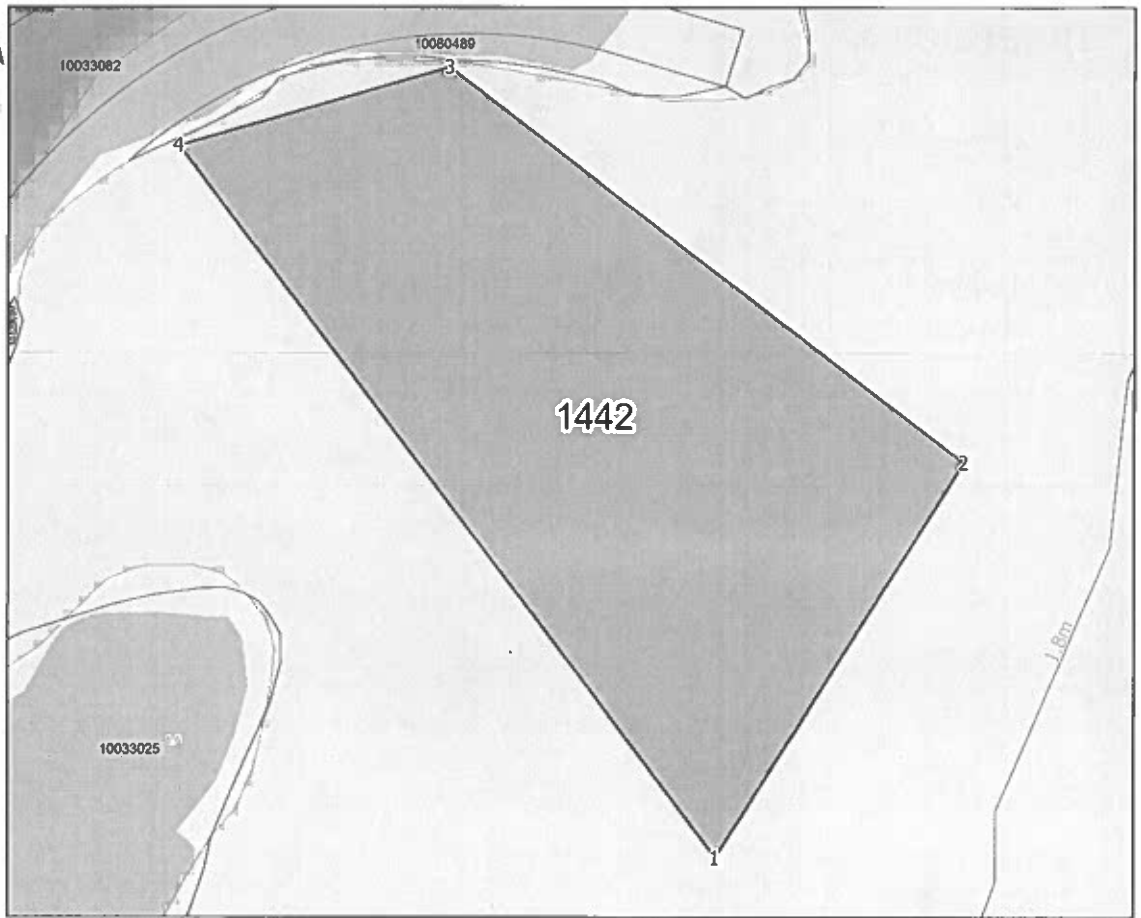
# SCHEDULE A



## Aquaculture Site 1442

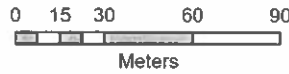
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- Proposed Application
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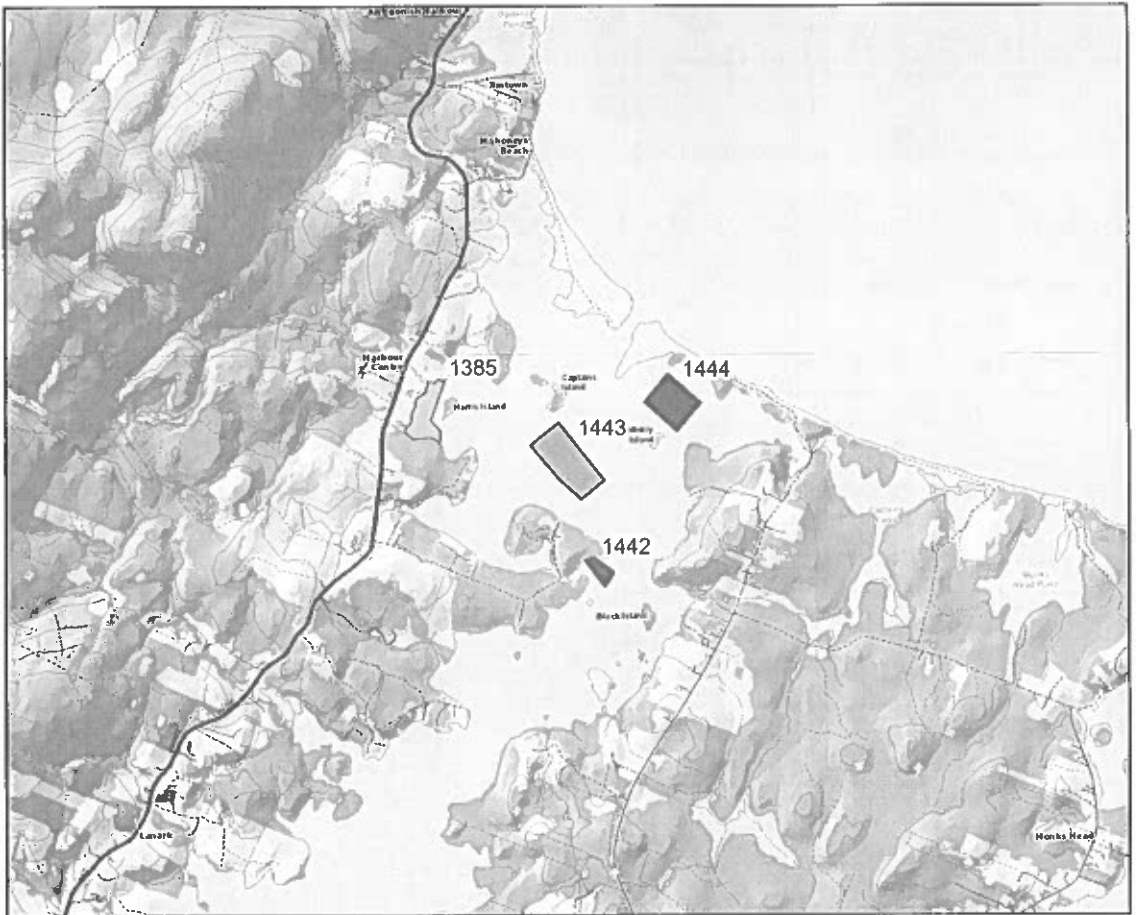
# SCHEDULE A



## Aquaculture Site 1443

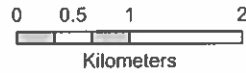
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- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2/27/04-05 Created By: LK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

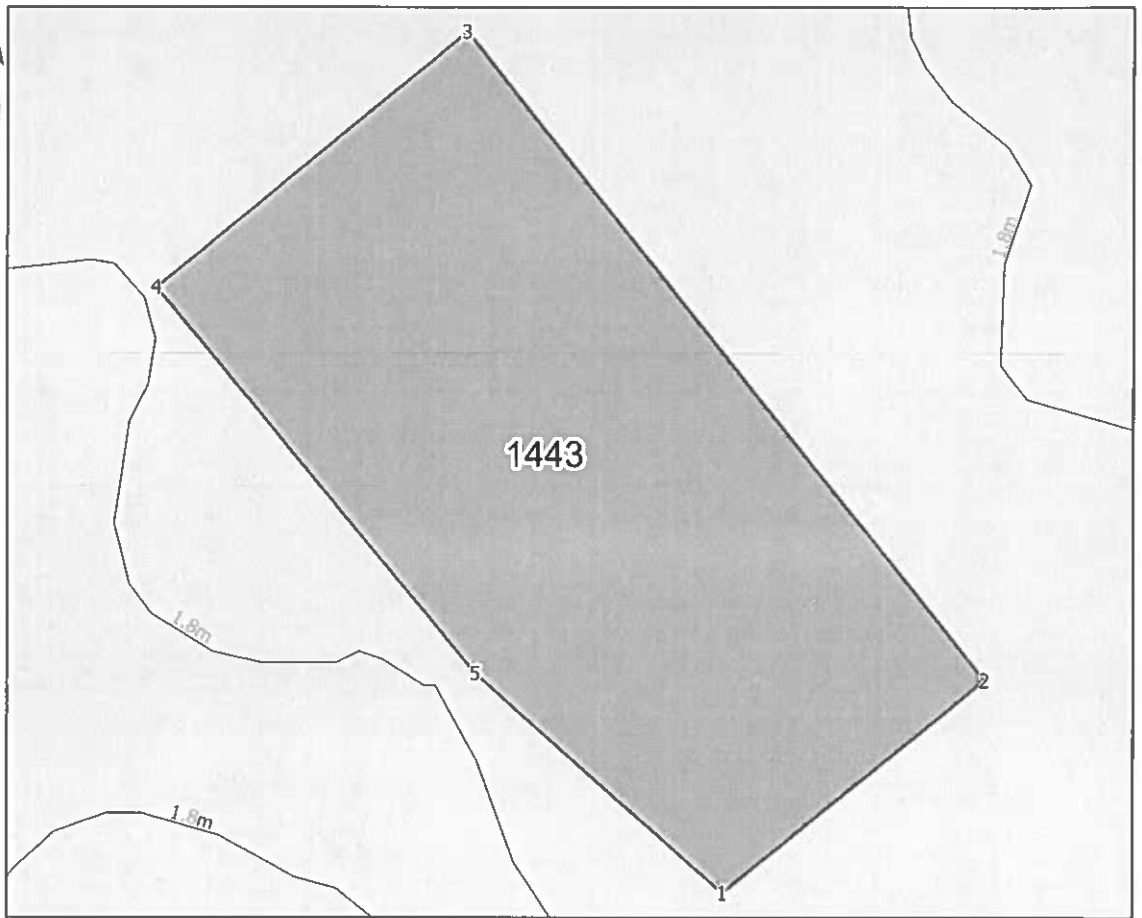
# SCHEDULE A



## Aquaculture Site 1443

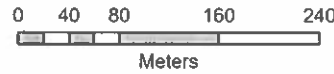
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3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date 2020-04-08 Created By MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

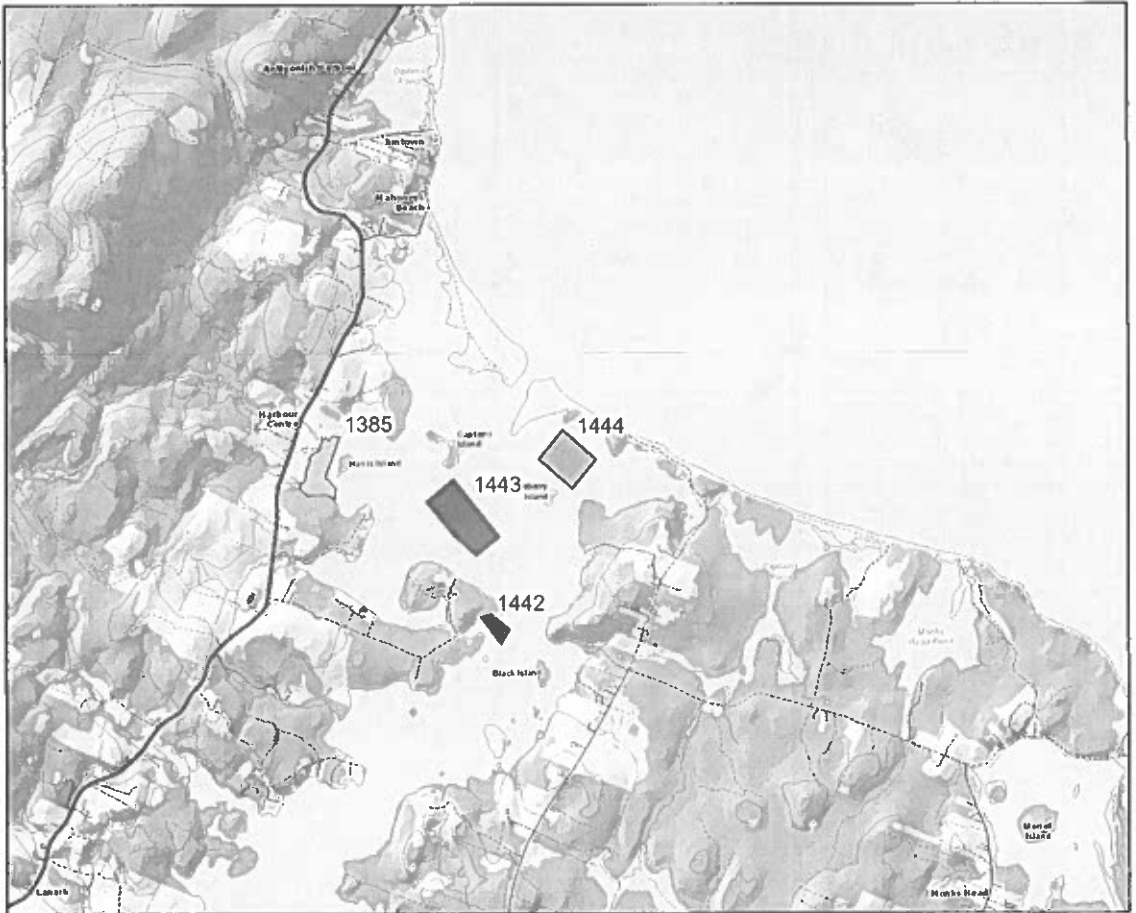
# SCHEDULE A



## Aquaculture Site 1444

Corner	Latitude	Longitude
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2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08  
Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

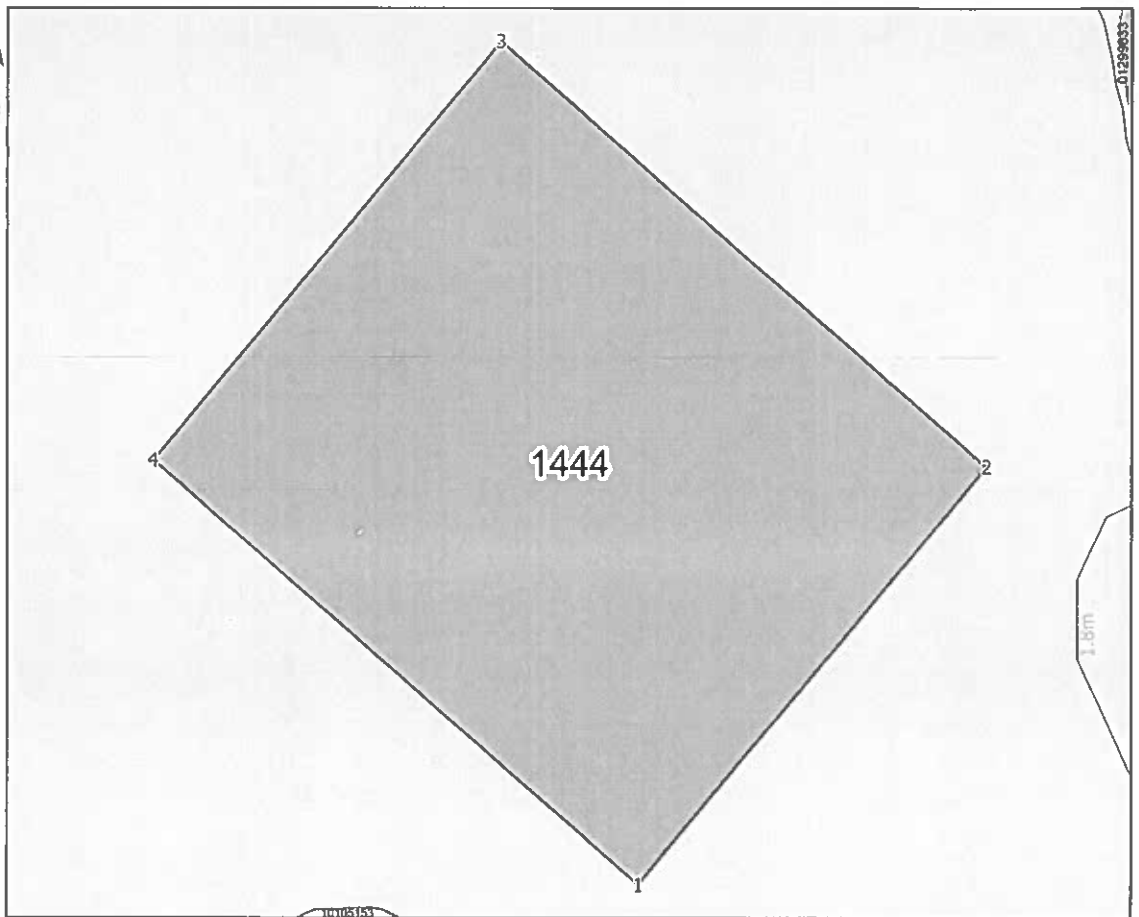
# SCHEDULE A



## Aquaculture Site 1444

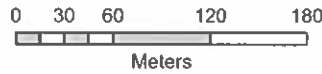
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 9 referred to in the Affidavit of Robert  
Ceschiutti affirmed before me this 12<sup>th</sup> day of May,  
2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

528

1955 10-15-55  
1956 10-15-56  
1957 10-15-57

January 8, 2021

Chief Andrea Paul  
Pictou Landing First Nation  
43 Maple Street  
RR# 2 Box55 Site 6  
Trenton, Nova Scotia  
BOK 1X0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.

The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

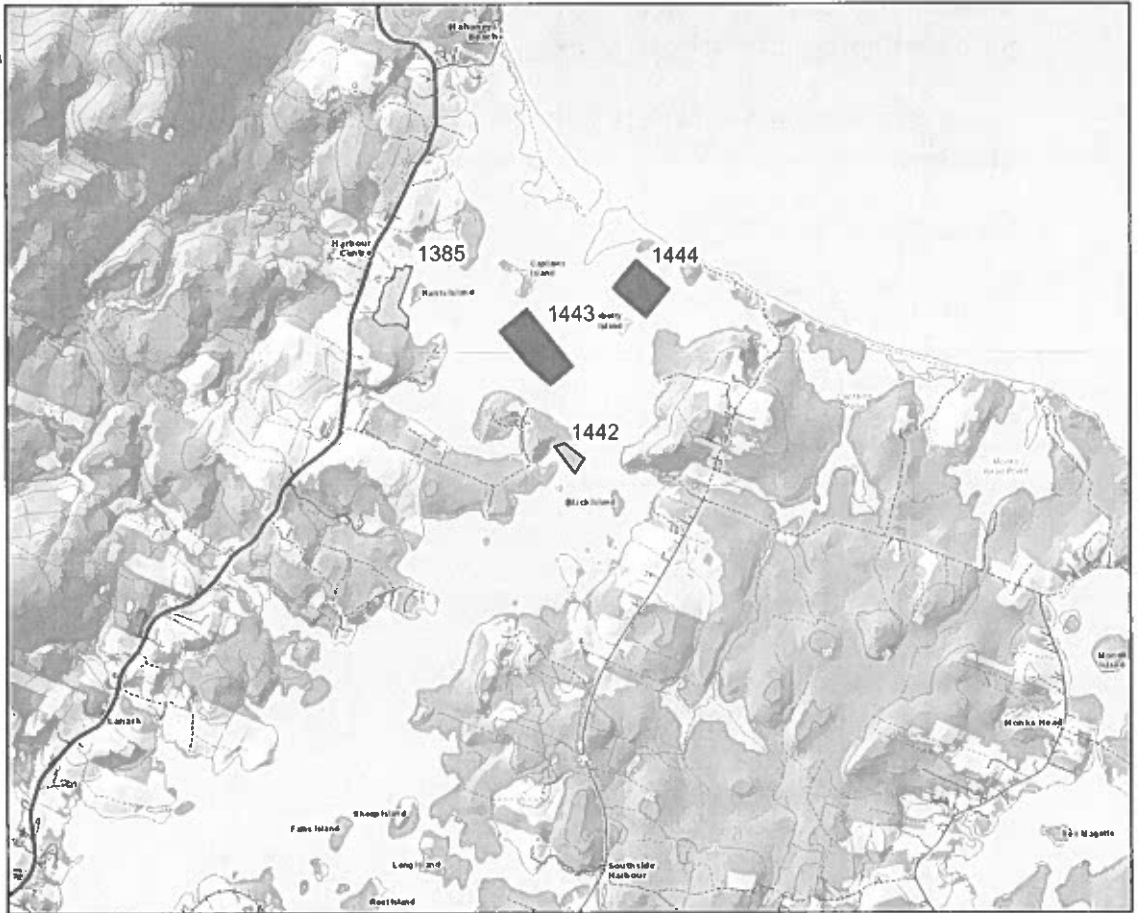
# SCHEDULE A



## Aquaculture Site 1442

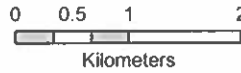
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2	45° 40' 16.680" N	-61° 53' 30.840" W
3	45° 40' 21.104" N	-61° 53' 38.809" W
4	45° 40' 20.280" N	-61° 53' 43.080" W
Centre	45° 40' 17.456" N	-61° 53' 36.442" W

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services.

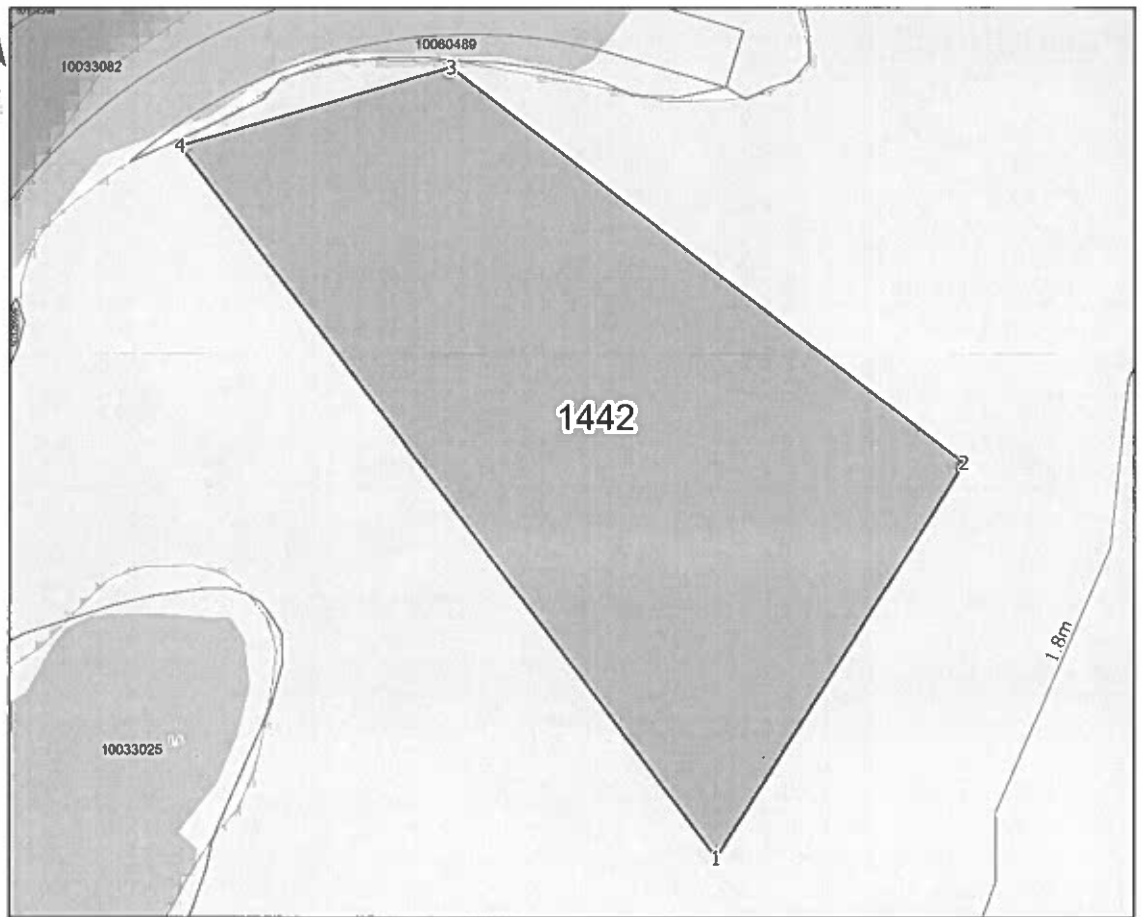
# SCHEDULE A



## Aquaculture Site 1442

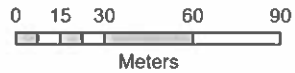
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3	45° 40' 21.104"	-61° 53' 38.809"
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
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Date 2020-04-08 Created By: MK

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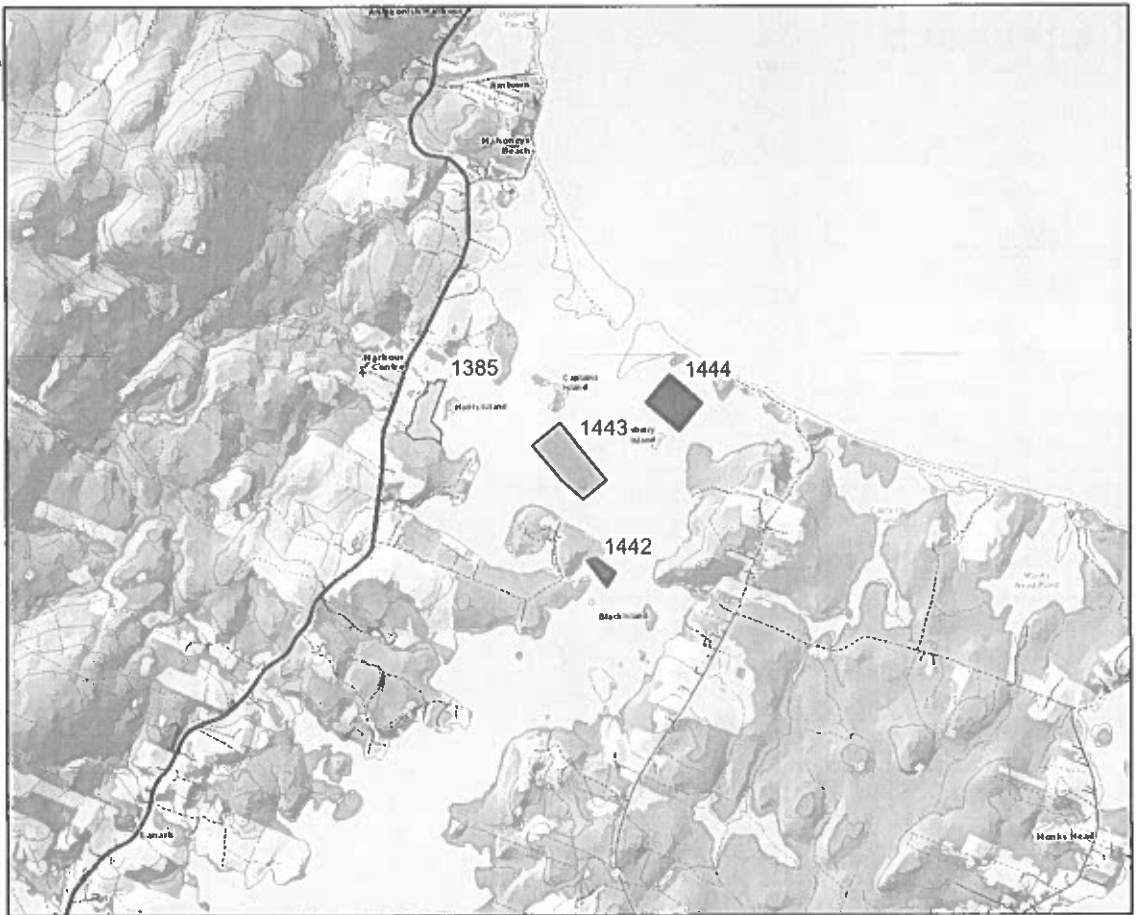
# SCHEDULE A



## Aquaculture Site 1443

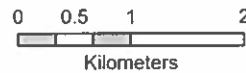
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2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM: NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-08  
Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services



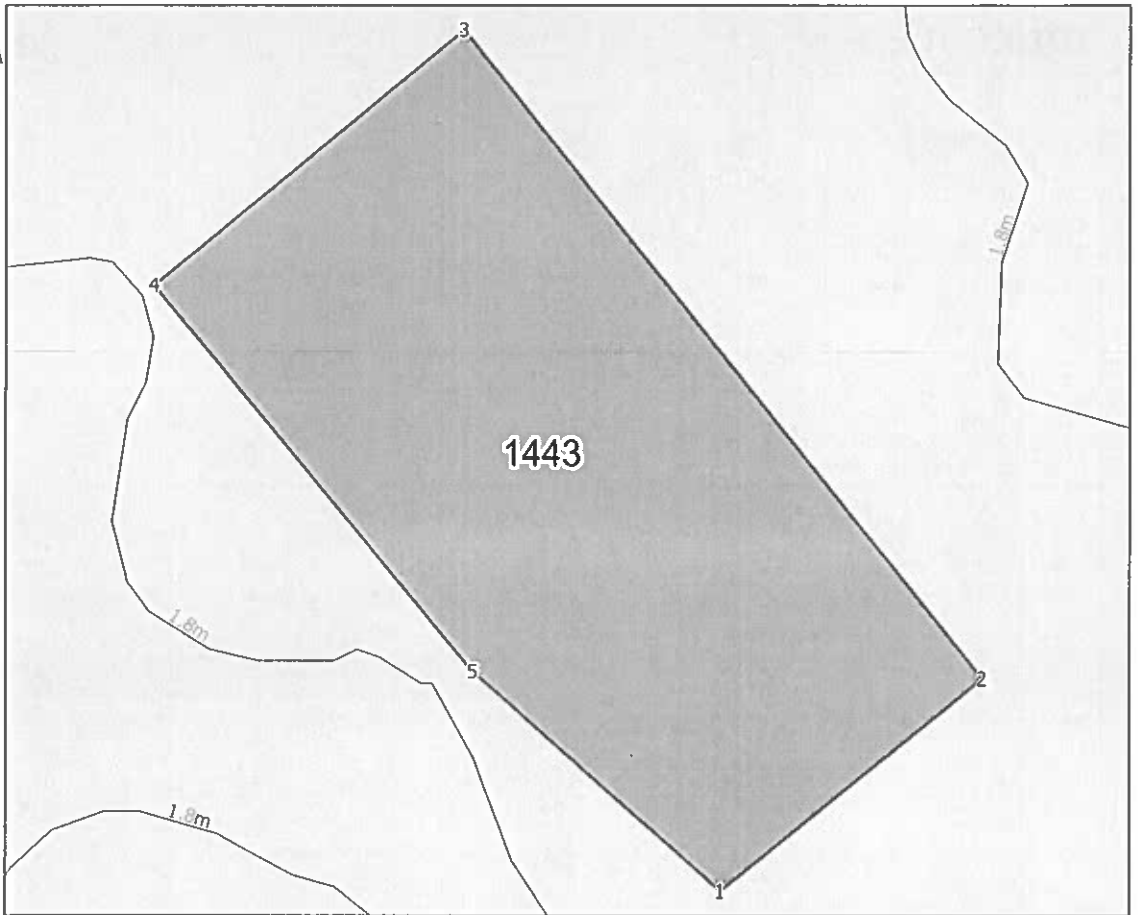
# SCHEDULE A



## Aquaculture Site 1443

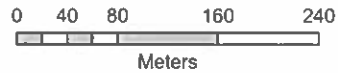
Corner	Latitude	Longitude
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Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

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Date 2020-04-08 Created By MK

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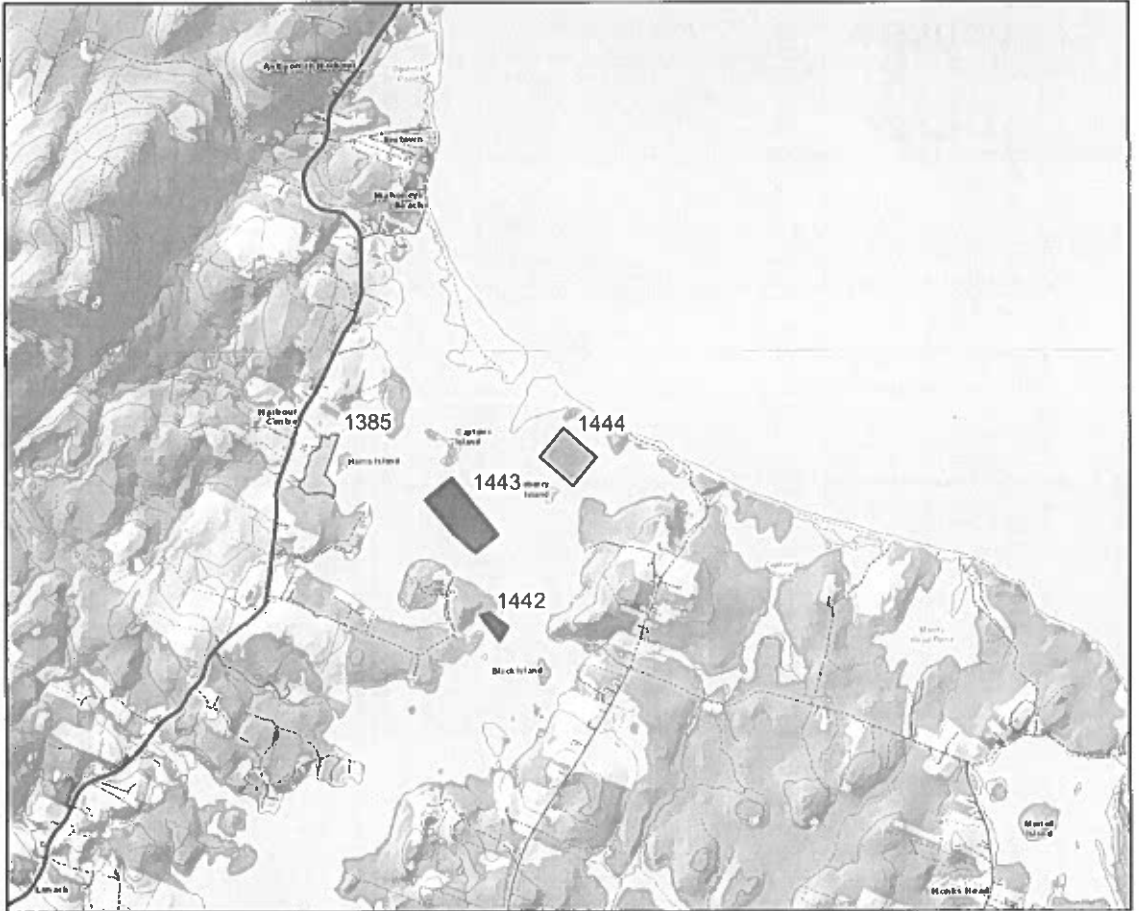
# SCHEDULE A



## Aquaculture Site 1444

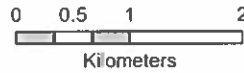
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2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
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Centre	45° 41' 5.289"	-61° 53' 5.986"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
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Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services.

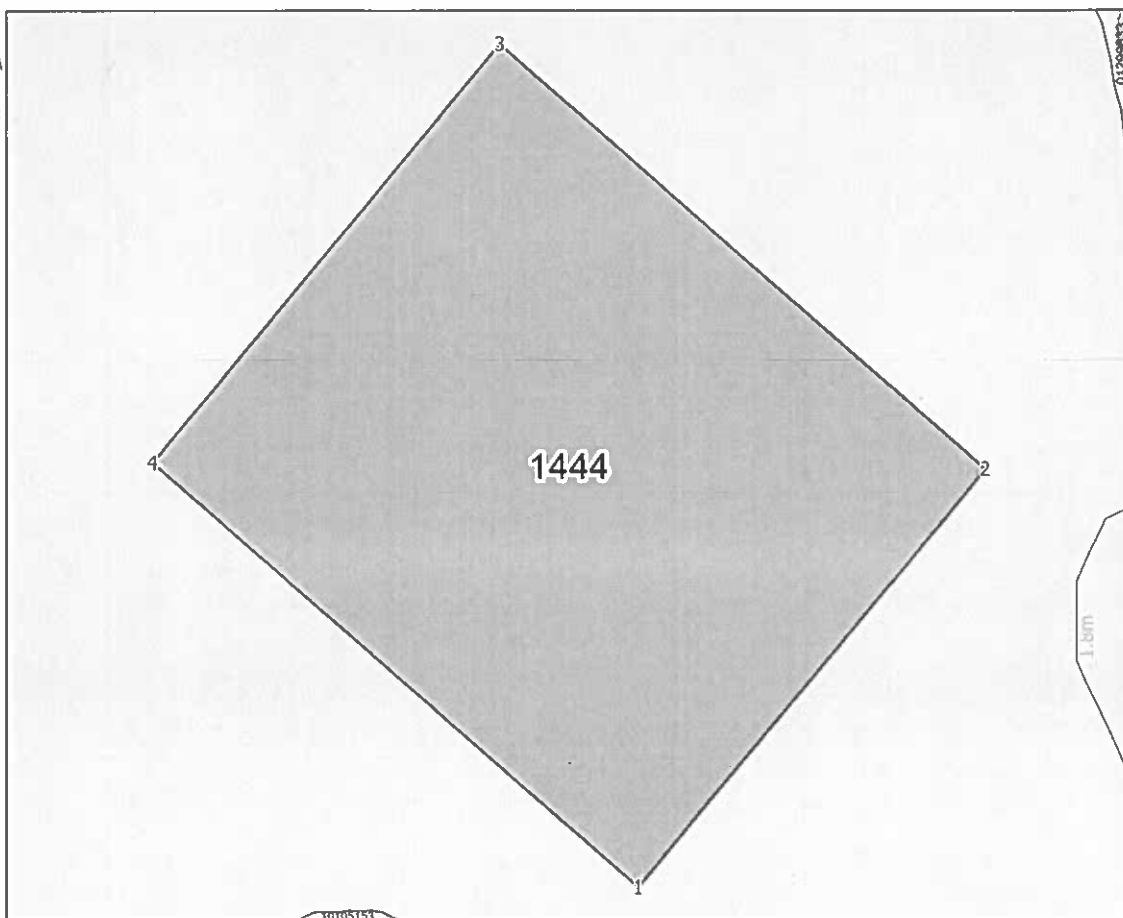
# SCHEDULE A



## Aquaculture Site 1444

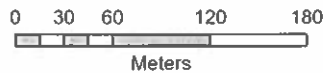
Corner	Latitude	Longitude
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 10 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

2014年10月25日  
星期二  
10月25日

January 8, 2021

Chief Wilbert Marshall  
Potlotek First Nation  
12004 Highway 4, RR# 1  
St. Peter's, Nova Scotia  
BOE 3B0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
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We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada



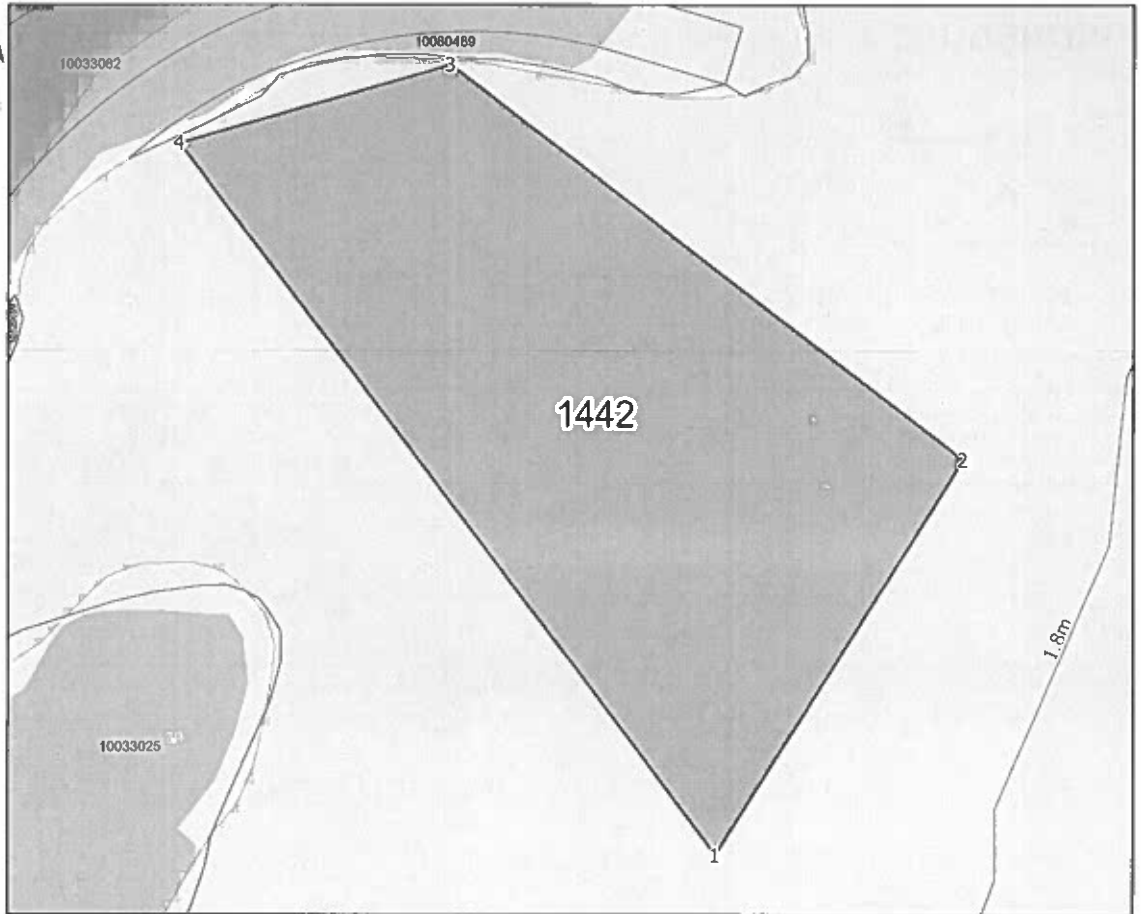
# SCHEDULE A



## Aquaculture Site 1442

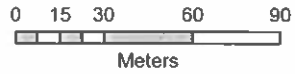
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2	45° 40' 18.680"	-61° 53' 30.840"
3	45° 40' 21.104"	-61° 53' 38.809"
4	45° 40' 20.280"	-61° 53' 43.080"
Centre	45° 40' 17.456"	-61° 53' 36.442"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date 2010-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, IAQ, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, MLTI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

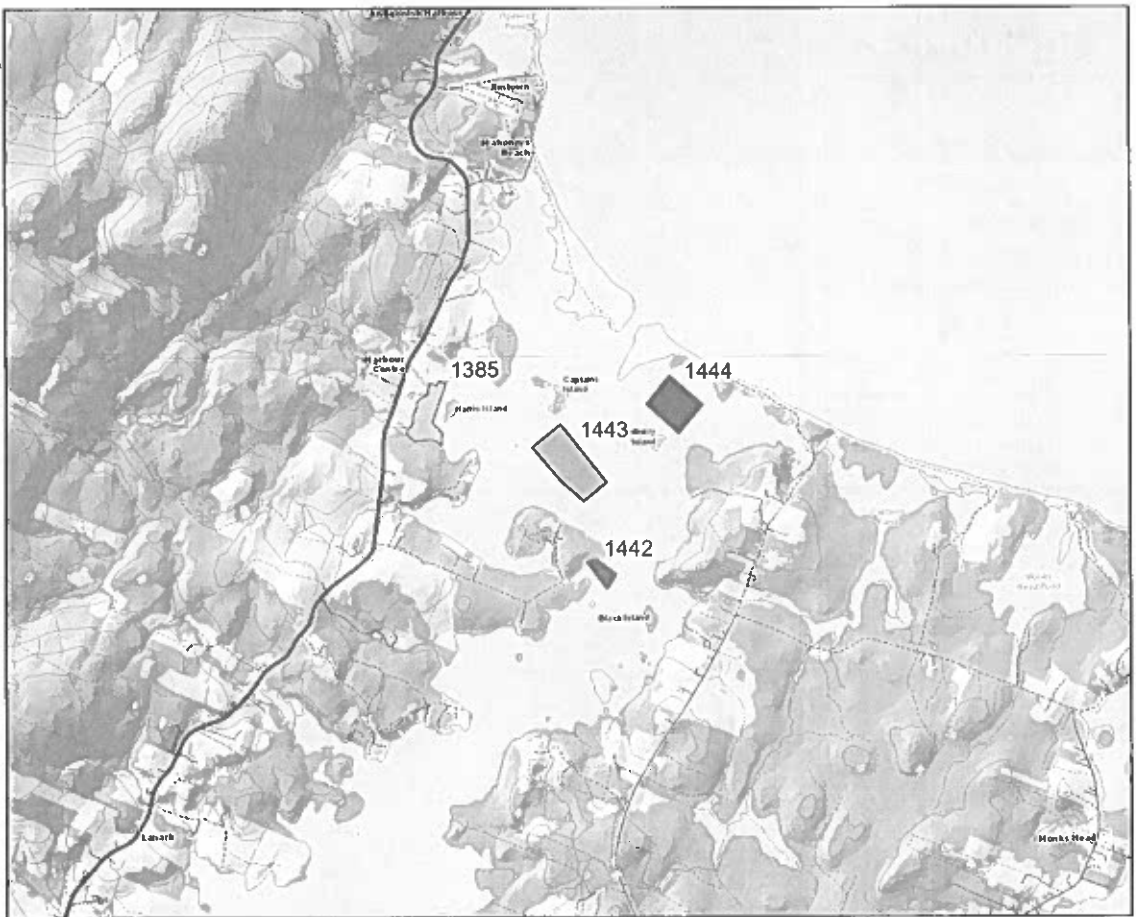
# SCHEDULE A



## Aquaculture Site 1443

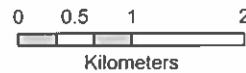
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2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

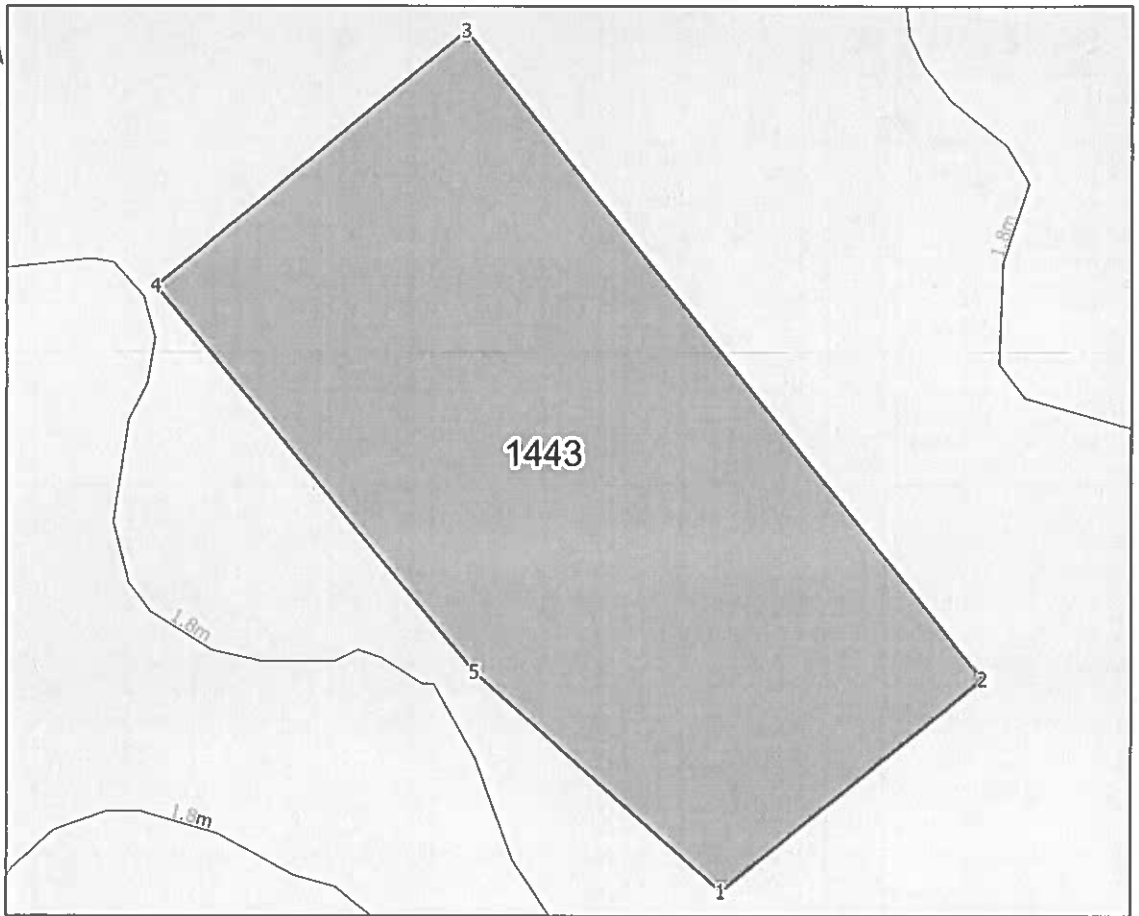
# SCHEDULE A



## Aquaculture Site 1443

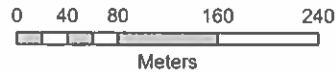
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Date 2020-04-08 Created By MK

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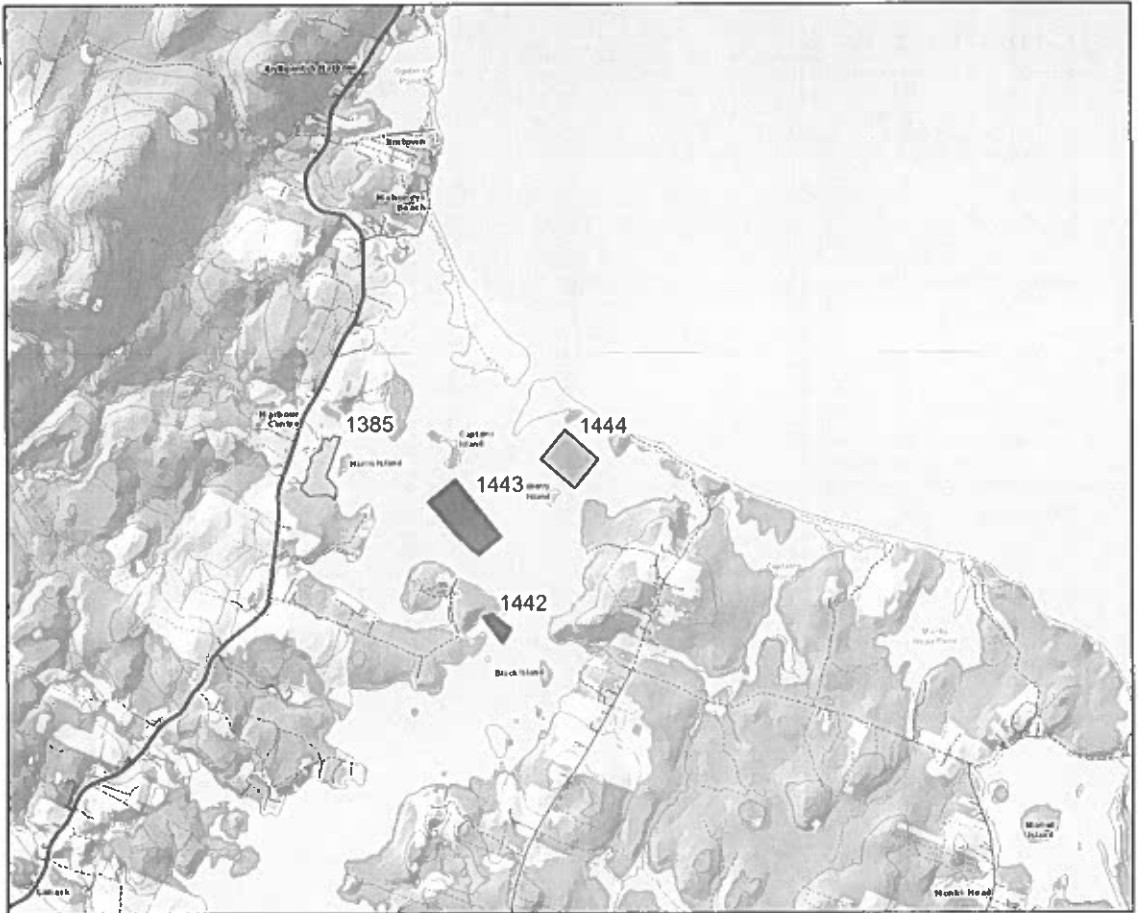
# SCHEDULE A



## Aquaculture Site 1444

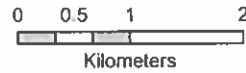
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1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

DATUM NAD 83 CSRS UTM Zone 20  
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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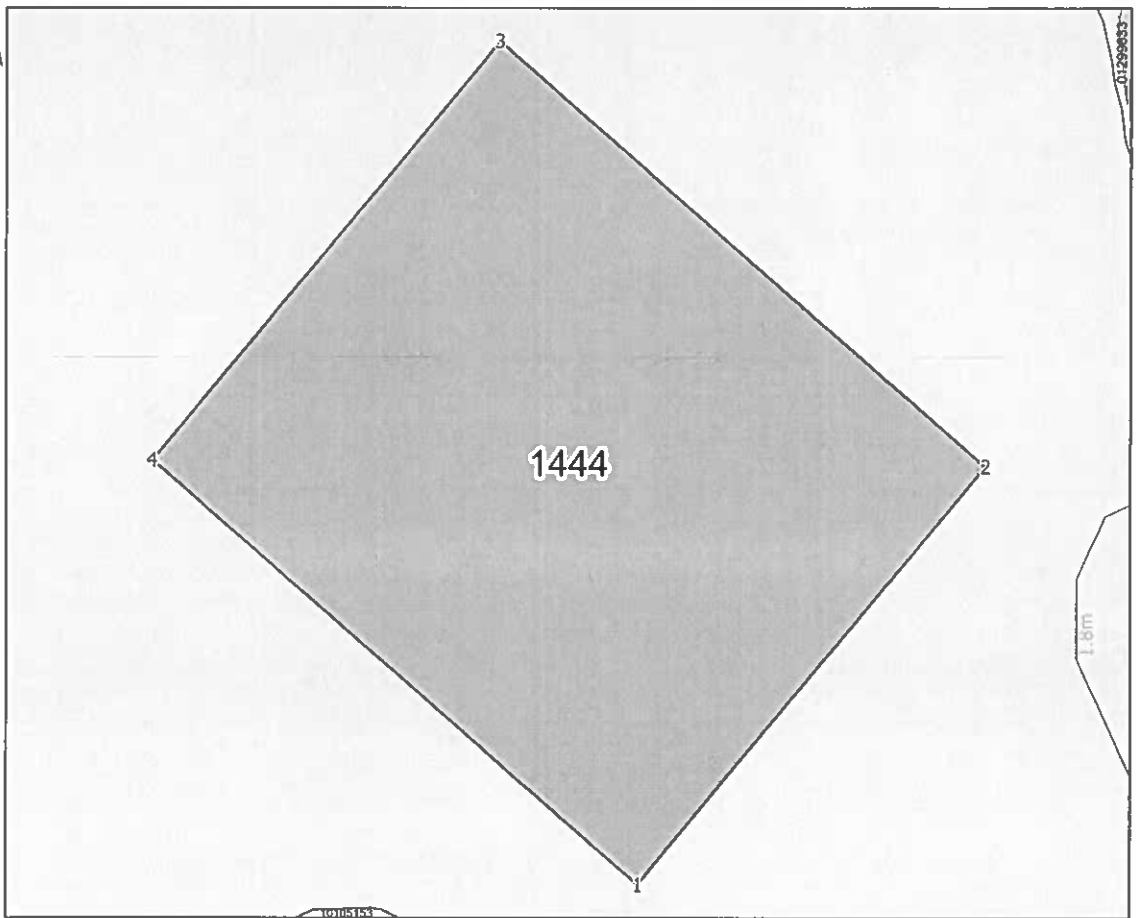
# SCHEDULE A



## Aquaculture Site 1444

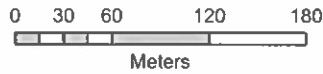
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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 11 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 2<sup>nd</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

100

100

100

January 8, 2021

Chief Michael P. Sack  
Sipekne'katik First Nation  
522 Church Street  
Indian Brook, Nova Scotia  
BON 1W0

Dear Chief Sack and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

**Description of the Project**

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, along with partnership of ShanDaph Oyster Farm have developed the BORB (Benefits of Being Round) system. These are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BROR system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BROR system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column. We have agreed to coordinate engagement and consultation, and any feedback received will be shared with Transport Canada.

#### Consultation with the Mi'kmaq of Nova Scotia

Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

James Michael, Legal Counsel  
Sipekne'katik First Nation

Jennifer Copage, Consultation Advisor  
Sipekne'katik First Nation

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Ed Parker, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

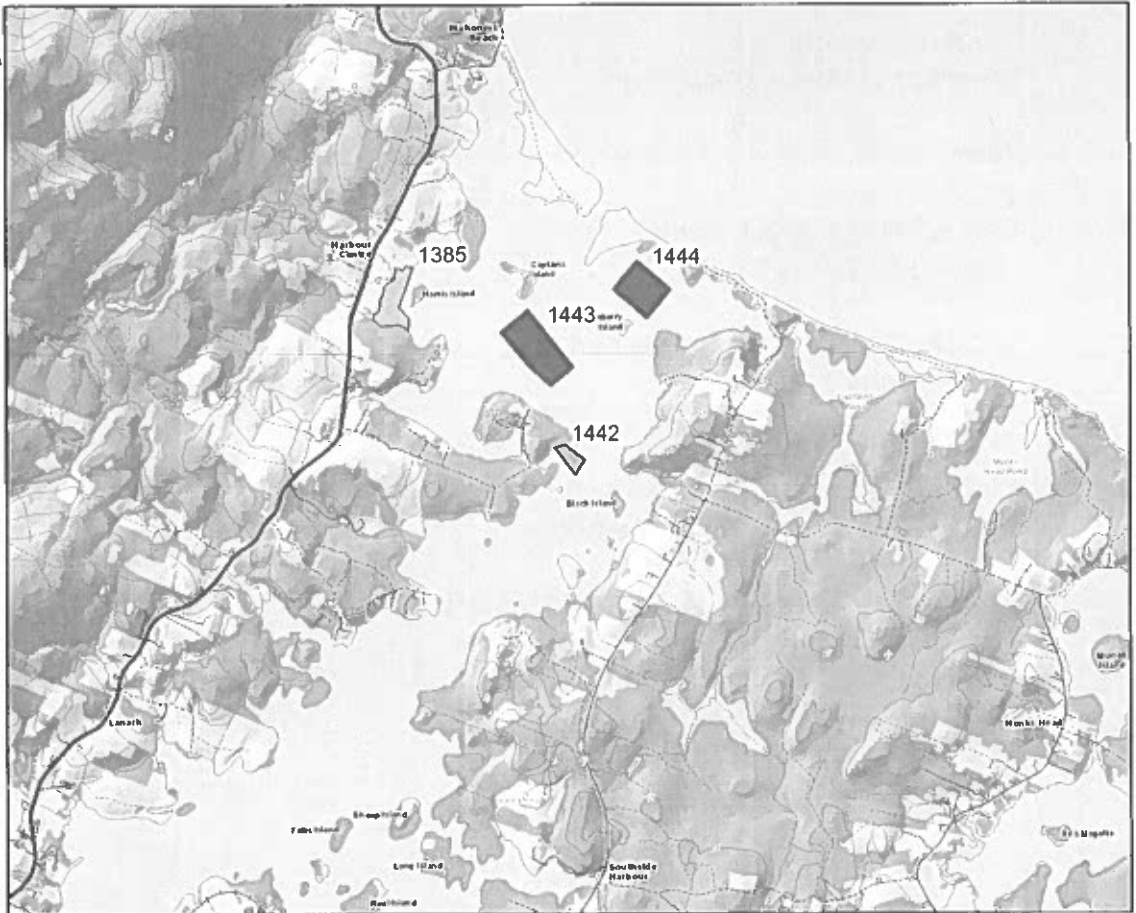
# SCHEDULE A



## Aquaculture Site 1442

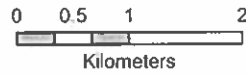
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2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
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Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-09 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

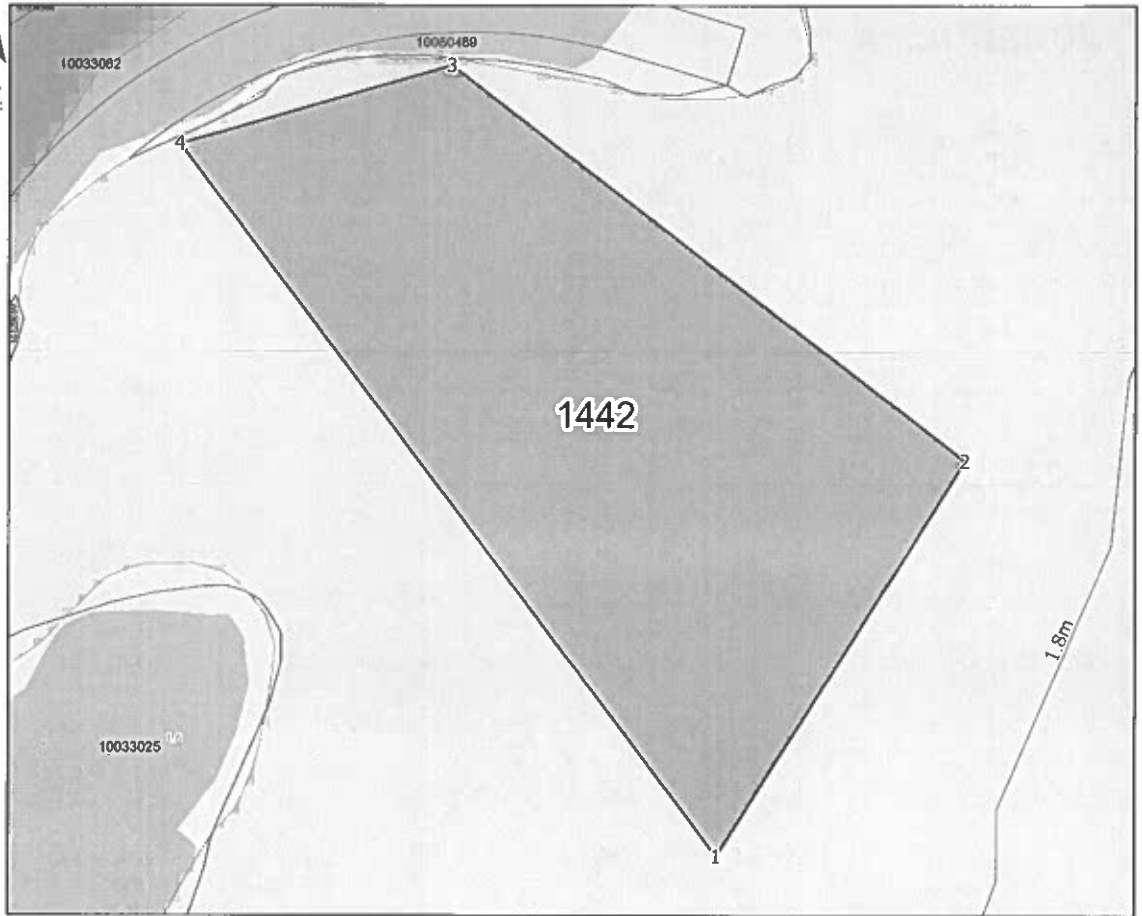
# SCHEDULE A



## Aquaculture Site 1442

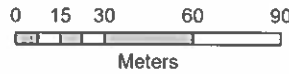
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

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- NS PIDs



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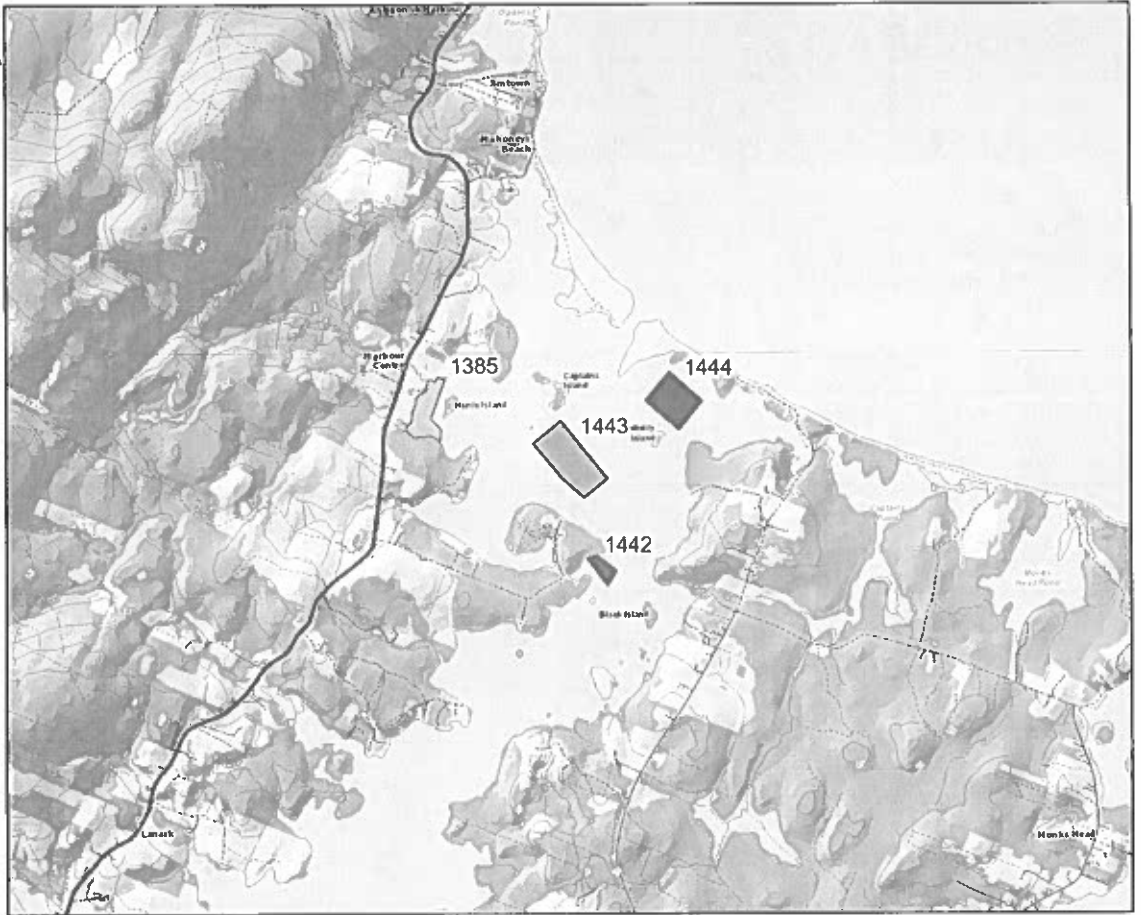
# SCHEDULE A



## Aquaculture Site 1443

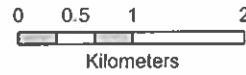
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3	45° 41' 0.240" -61° 53' 53.160"	
4	45° 40' 53.760" -61° 54' 4.680"	
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Centre	45° 40' 48.263" -61° 53' 49.213"	

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

	Proposed Application		Other Proposed Lease
	Other Issued Lease		



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Date: 2020-04-08 Created By: UK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCo, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services.



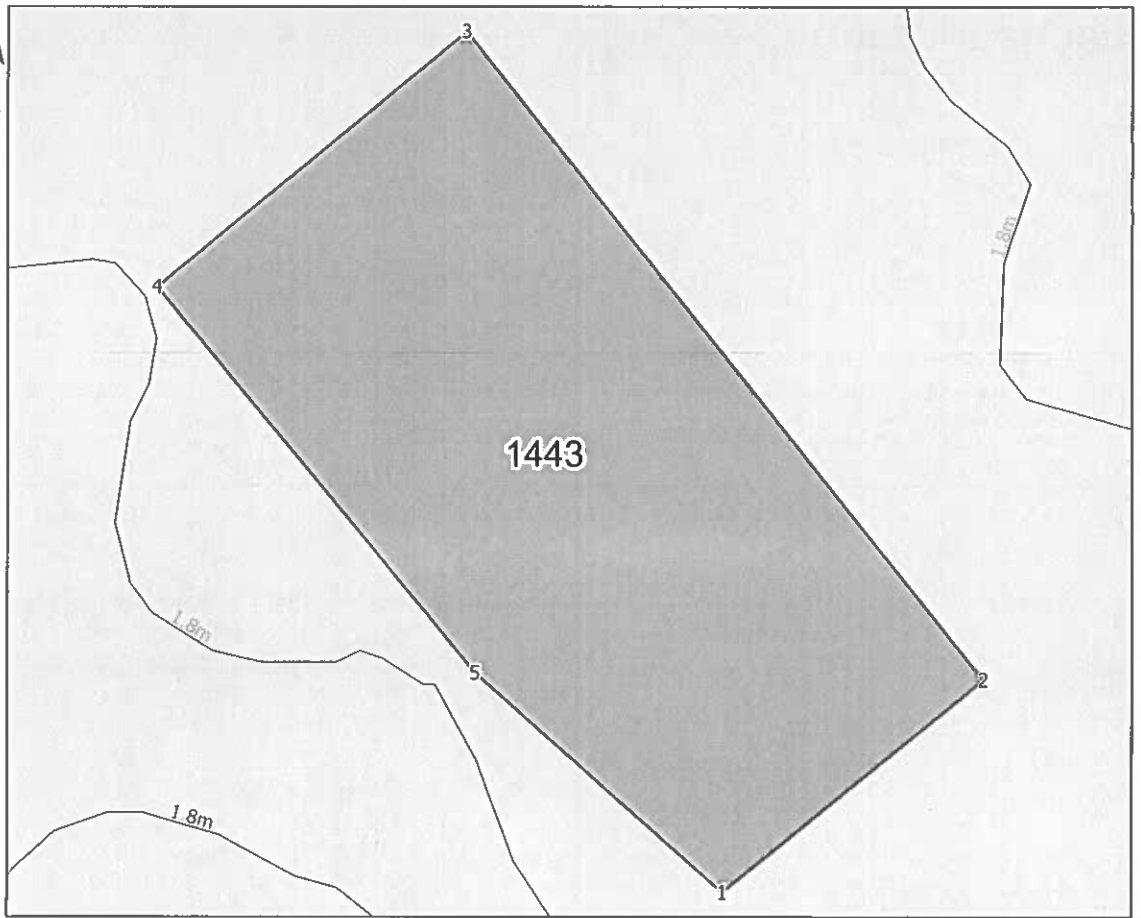
**SCHEDULE A**



**Aquaculture Site  
1443**

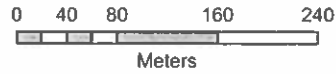
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

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Date: 2020-04-06 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

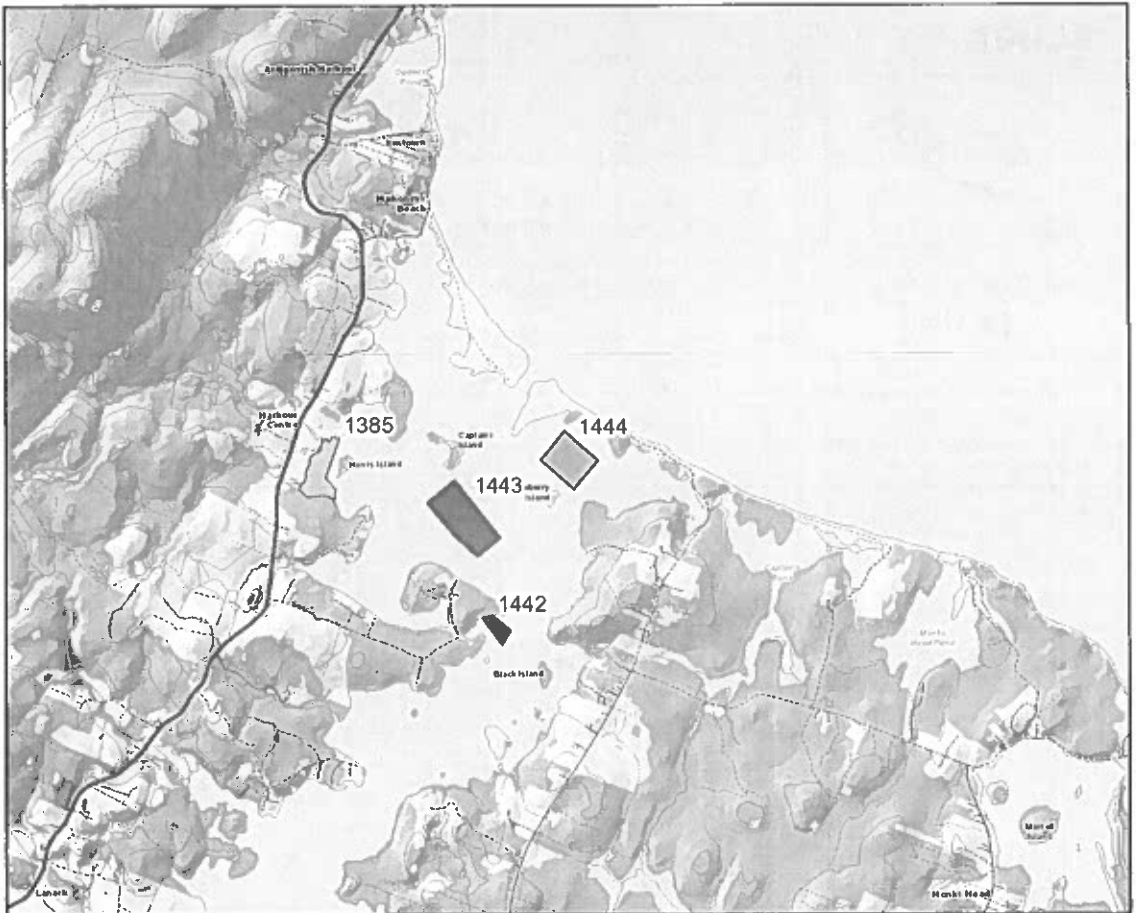
# SCHEDULE A



## Aquaculture Site 1444

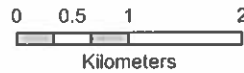
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

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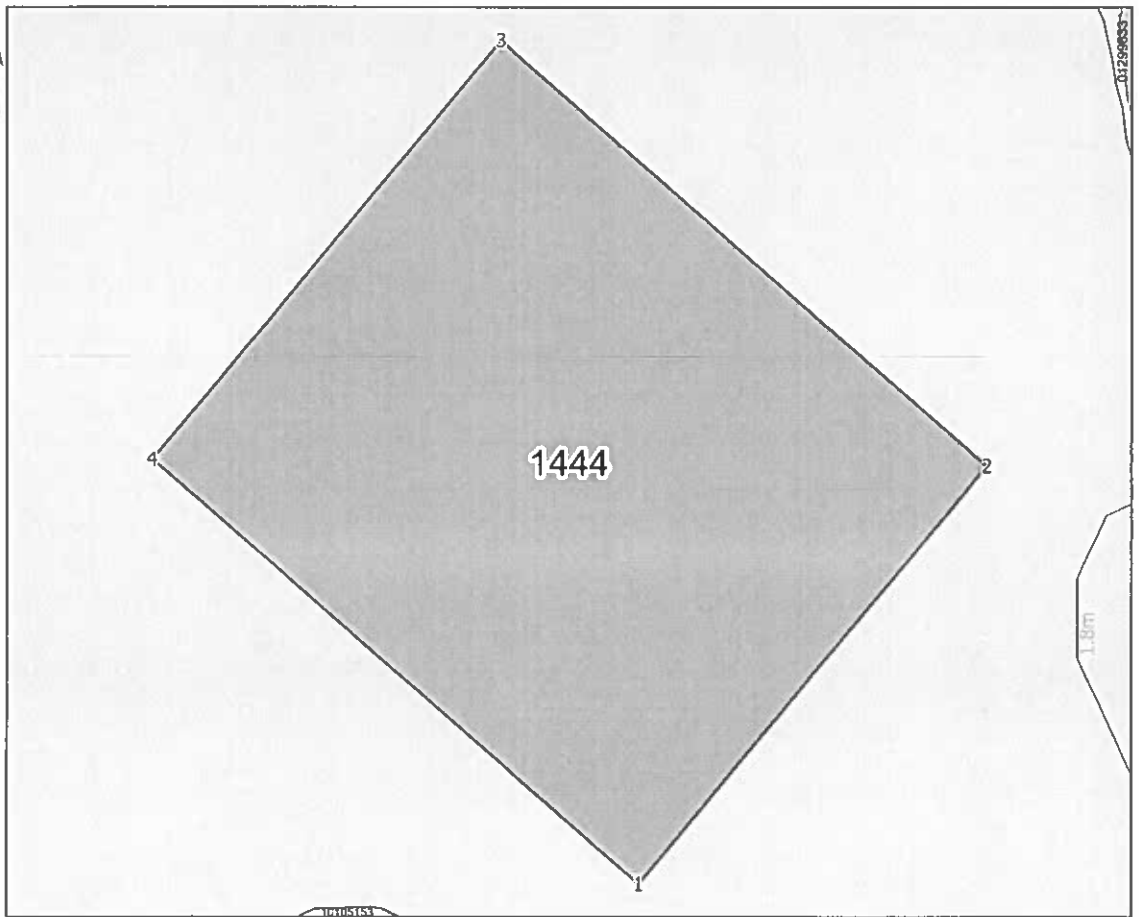
# SCHEDULE A



## Aquaculture Site 1444

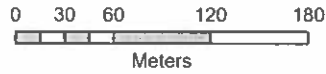
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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2022

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NSARB-2022-002

NSARB-2022-003

This is Exhibit 12 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 18<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



11 11 11

January 8, 2021

Chief Norman Bernard  
Wagmatcook First Nation  
P.O. Box 30001  
75 Humes Rear Road  
Wagmatcook, Nova Scotia  
BOE 3N0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

1. Description of the project
2. Summary of consultation screening
3. Provincial approval requirements
4. Consultation with the Mi'kmaq of Nova Scotia

Description of the Project

The applicant, Town Point Consulting Inc. has submitted three applications (1442, 1443, 1444) for the suspended cultivation of American oyster. The applicant, in partnership with ShanDaph Oyster Farm, have developed the Benefits of Being Round (BORB) system. This system consists of cages that are cylindrical in shape and measure 36cm in diameter and 106cm in length. BORB will be used in place of the traditional OysterGro system. Town Point Consulting Inc. will collect seed from the harbour using about five hundred spat collectors. The spat will be transferred to the land-based nursery (AQ#1422) to grow to optimal size prior to deploying to the marine sites. The combined footprint totals approximately 36.79 hectares of submerged Crown land.

AQ#1442 has proposed size of 3.20 hectares and will not be a grow out site. This location will be for over winter storage of excess seed and marketable oysters. This will have no floating gear.

AQ#1443 has a proposed size of 20.21 hectares and has an intended production of two million oysters using BORB system. The intended scale of the operation is 141 lines with 100 cages.

AQ#1444 has a proposed size of 13.38 hectares and has an intended production of over one million oysters using BORB system. The intended scale of the operation is 90 lines with 100 cages.

The full development plan can be viewed on our website at: [https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

#### Summary of Consultation Screening

The province is contemplating a decision on whether or not to approve the creation a new aquaculture site for the suspended cultivation of American Oyster in Antigonish County. Based on the information available at this time, including the proposed size of the site and that three archeological sites of known Mi'kmaq origin are located within 1km of the proposed site location, the decision has been screened and found to trigger the duty to consult at the moderate level. The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

#### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals will be required for this project to proceed.

It is, however, anticipated that the Proponent may require Federal approvals:

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the leaseholder will be subject to the provisions of the Aquaculture Activity Regulations. The movement of any live fish will require a licence from Fisheries and Oceans Canada (e.g. Introductions and Transfers Licence) pursuant to the provisions of Sections 55 and 56 of the *Fishery (General) Regulations* of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act* and the *Species at Risk Act*.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

#### Consultation with the Mi'kmaq of Nova Scotia

We would like to point out that these current applications (1442, 1443 and 1444) are linked to another already approved application for landbased culture of American Oyster. On May 8, 2019, a notification letter on Aquaculture Application No. 1422 was sent by the Nova Scotia Department of Fisheries and Aquaculture to Paqtnkek First Nation and copied to Kwilmu'kw Maw'klusuaqn Negotiation Office (KMKNO). The notification letter provided information on an operation proposed by Town Point Consulting Inc. to provide seed to oyster growers using existing infrastructure on privately-owned land. We received no response from you at that time.

The Nova Scotia Department of Fisheries and Aquaculture will lead Aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved. While the Nova Scotia Office of Aboriginal Affairs (OAA) coordinates the overall consultation process, the department responsible for Aboriginal consultation may change based on the authorization being considered, in which case the Mi'kmaq of Nova Scotia will be kept informed.



The Nova Scotia Department of Fisheries and Aquaculture will keep DFO and TC apprised of the consultation on these files and can coordinate any meetings involving federal partners if required.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project/initiative. We would appreciate a response concerning this project/initiative by March 8, 2021. We have extended the standard 30-day response time to 60 days, as we understand that your capacity to respond may be impacted by the unanticipated COVID-19 pandemic. If you wish to discuss a further extension, please let us know.

Please note that Sipekne'katik First Nation and Millbrook First Nation have been informed about this project.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada



# SCHEDULE A



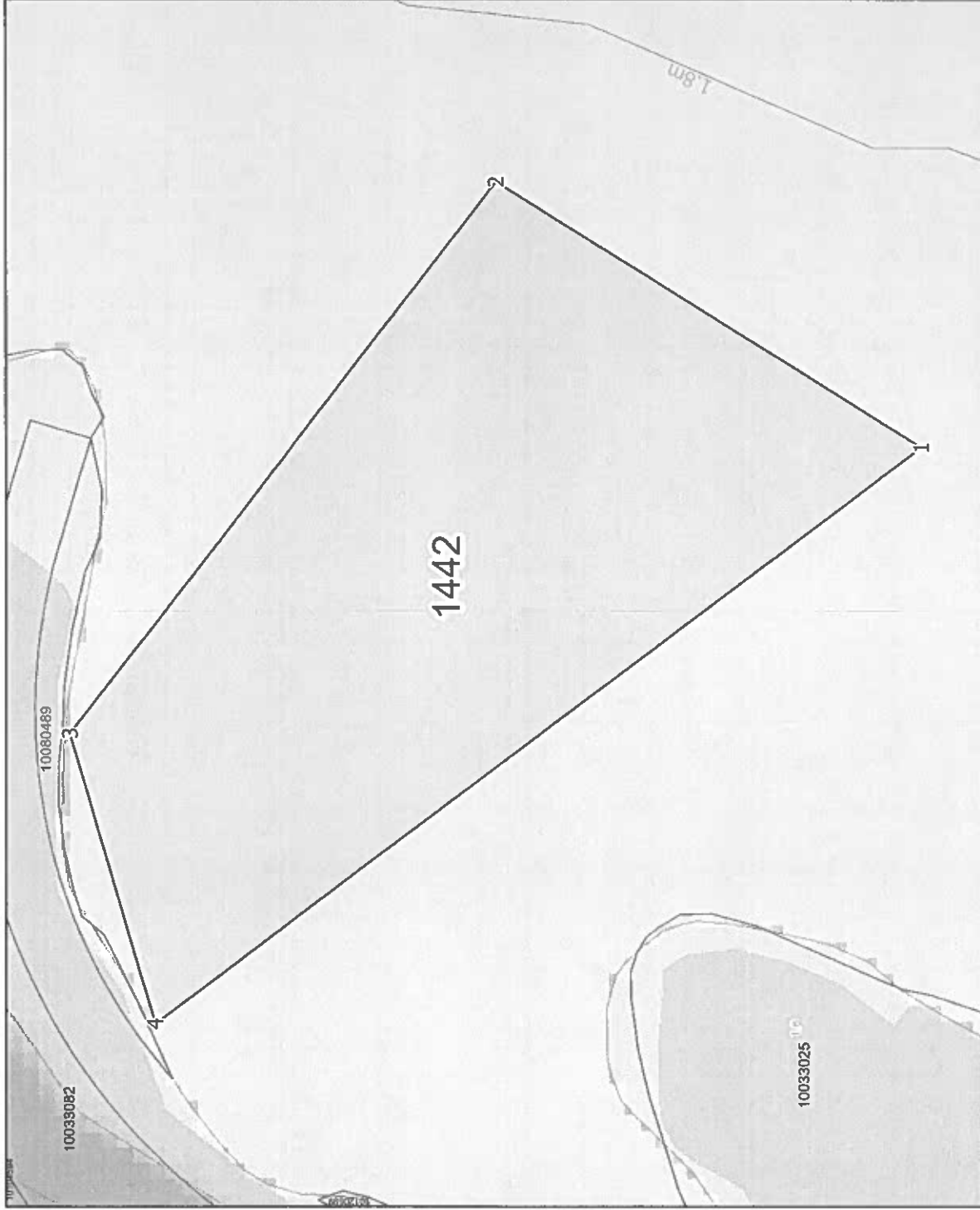
## Aquaculture Site

### 1442

Corner	Latitude	Longitude
1	45° 40' 12.360" -61° 53' 34.800"	
2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
4	45° 40' 20.280" -61° 53' 43.080"	
Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20

The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

Proposed Application     Other Proposed Lease     NS PIDs

Other Issued Lease

0 15 30 60 90 Meters

NOVA SCOTIA Fisheries and Aquaculture

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Date: 2020-04-08    Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geoplace, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

# SCHEDULE A

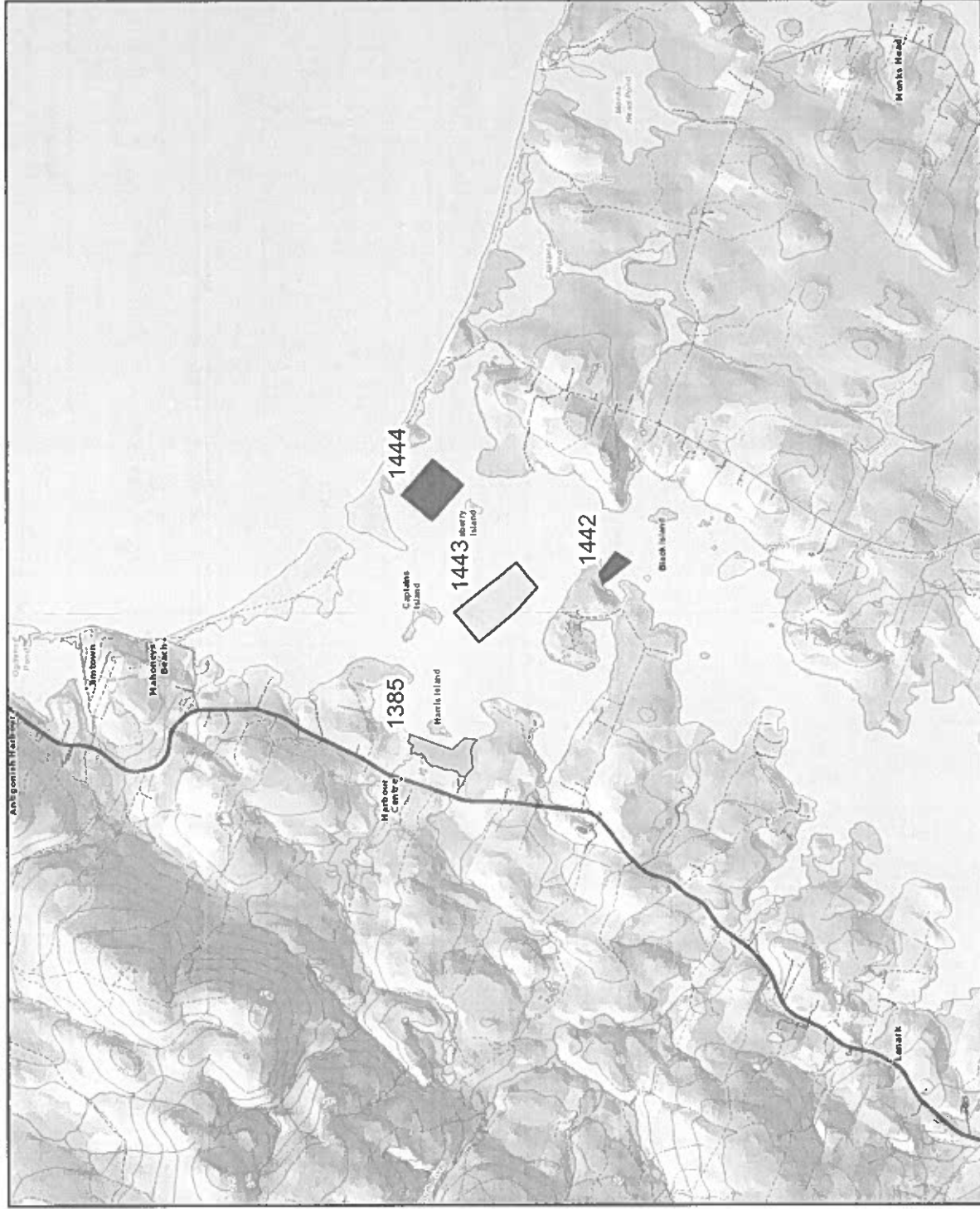


## Aquaculture Site

# 1443

Corner	Latitude	Longitude
1	45° 40' 37.920"	-61° 53' 44.160"
2	45° 40' 43.320"	-61° 53' 34.440"
3	45° 41' 0.240"	-61° 53' 53.160"
4	45° 40' 53.760"	-61° 54' 4.680"
5	45° 40' 43.680"	-61° 53' 53.160"
Centre	45° 40' 48.263"	-61° 53' 49.213"

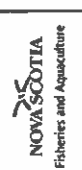
DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



<input checked="" type="checkbox"/>	Proposed Application	<input type="checkbox"/>	Other Proposed Lease
<input type="checkbox"/>	Other Issued Lease		

License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

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Data: 2020-04-08  
Created By: MK



# SCHEDULE A



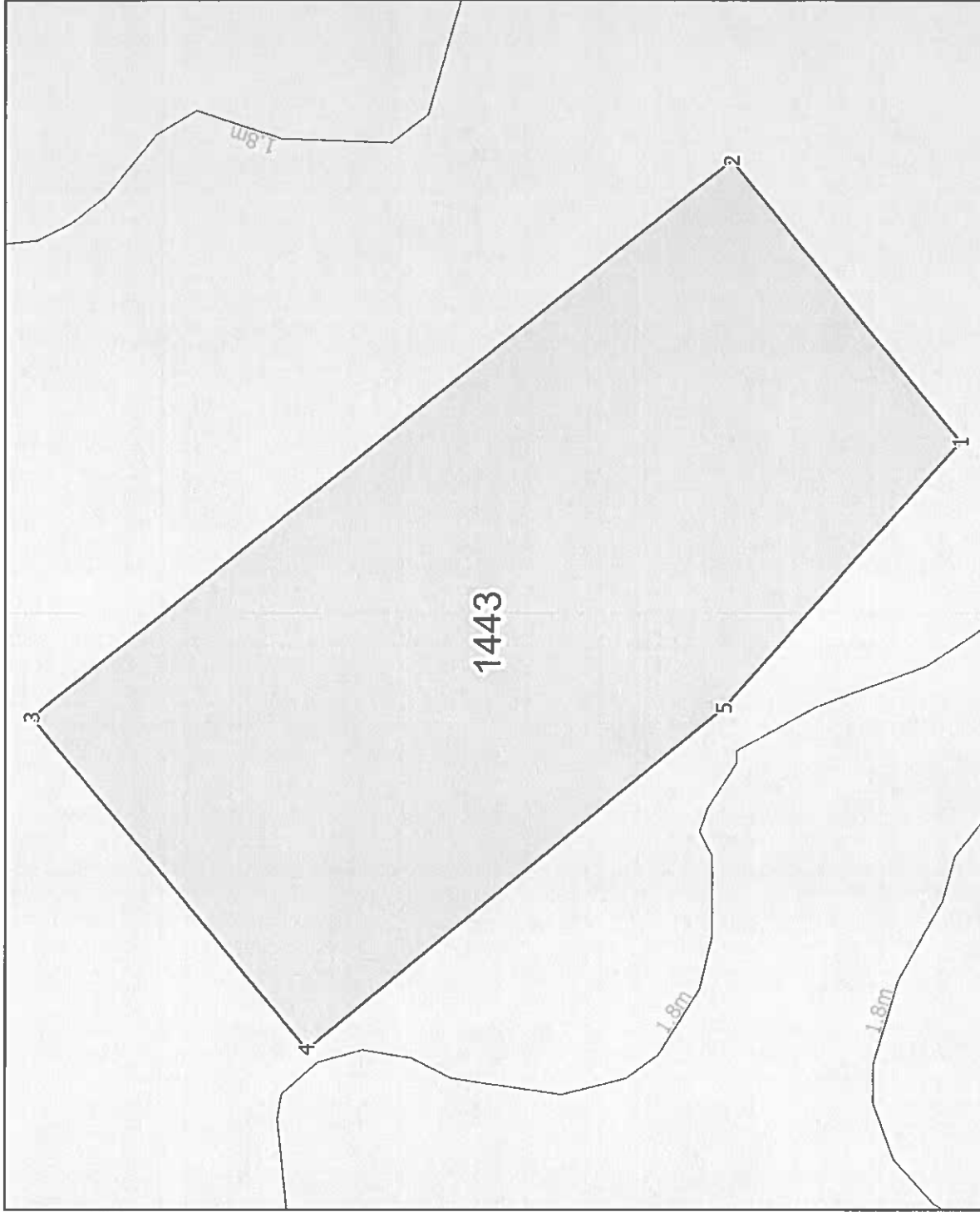
## Aquaculture Site

### 1443

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
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Proposed Application     Other Proposed Lease     NS PIDs

Other Issued Lease

**NOVA SCOTIA**  
 Fisheries and Aquaculture

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 Date: 2020-04-08    Created By: MK



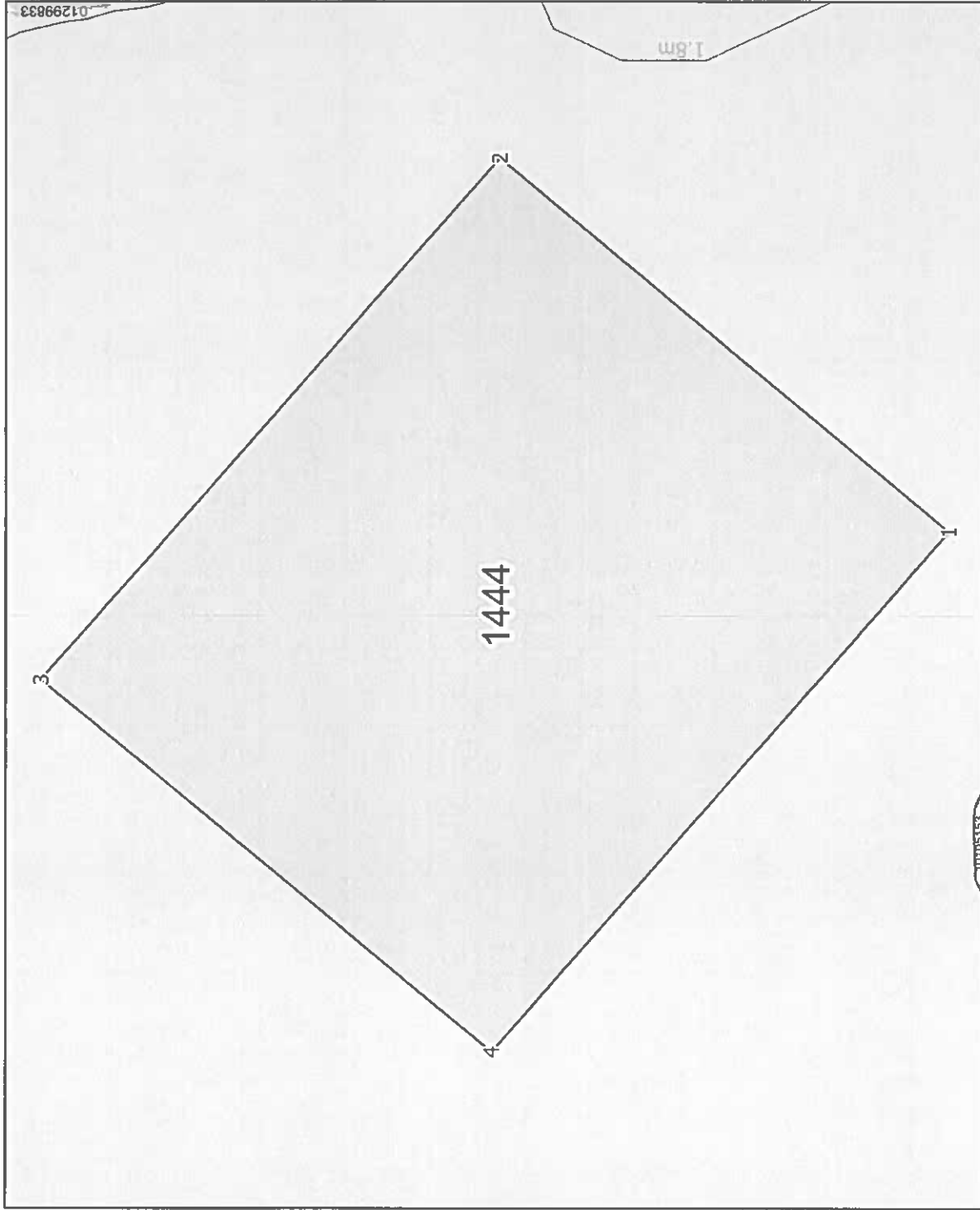
# SCHEDULE A



## Aquaculture Site 1444

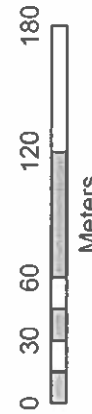
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
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Centre	45° 41' 5.289"	-61° 53' 5.986"

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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

Proposed Application [ - - ] Other Proposed Lease  
 Other Issued Lease  NS PIDs



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Date: 2020-04-06





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 13 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia



102

103

January 8, 2021

Chief Annie Bernard-Daisley  
We'koqma'q First Nation  
P.O. Box 149  
150 Reservation Road  
Waycobah, Nova Scotia  
BOE 3M0

Dear Chief and Council:

**RE: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County.**

I am writing to bring to your attention to three Aquaculture licence and lease applications submitted by Town Point Consulting Inc. for a new aquaculture site in Antigonish Harbour, Antigonish County.

The purpose of this letter is to initiate consultation on the applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide the following information:

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Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Cc:

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

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Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

Chris Mills, Regional Manager  
Fisheries and Oceans Canada

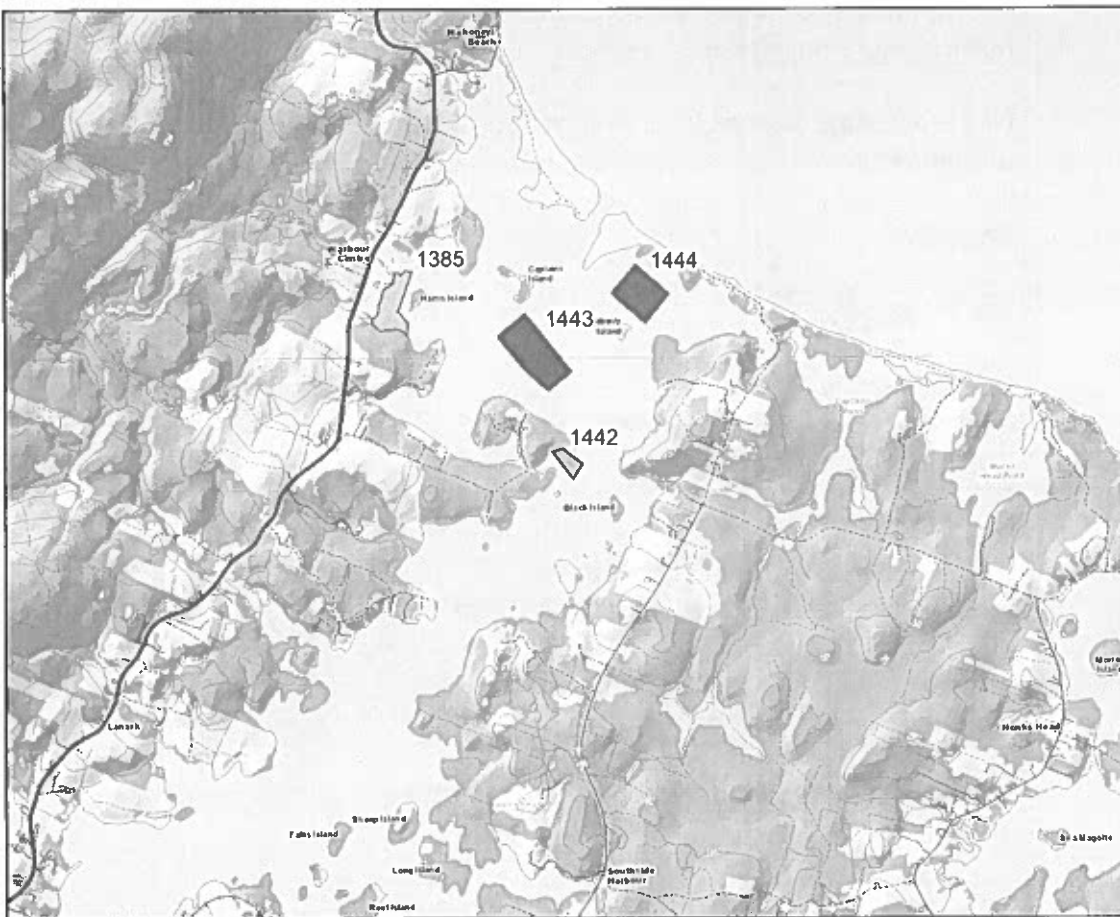
# SCHEDULE A



## Aquaculture Site 1442

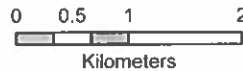
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2	45° 40' 16.680" -61° 53' 30.840"	
3	45° 40' 21.104" -61° 53' 38.809"	
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Centre	45° 40' 17.456" -61° 53' 36.442"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



NOVA SCOTIA  
Fisheries and Aquaculture

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Date: 2020-04-09 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

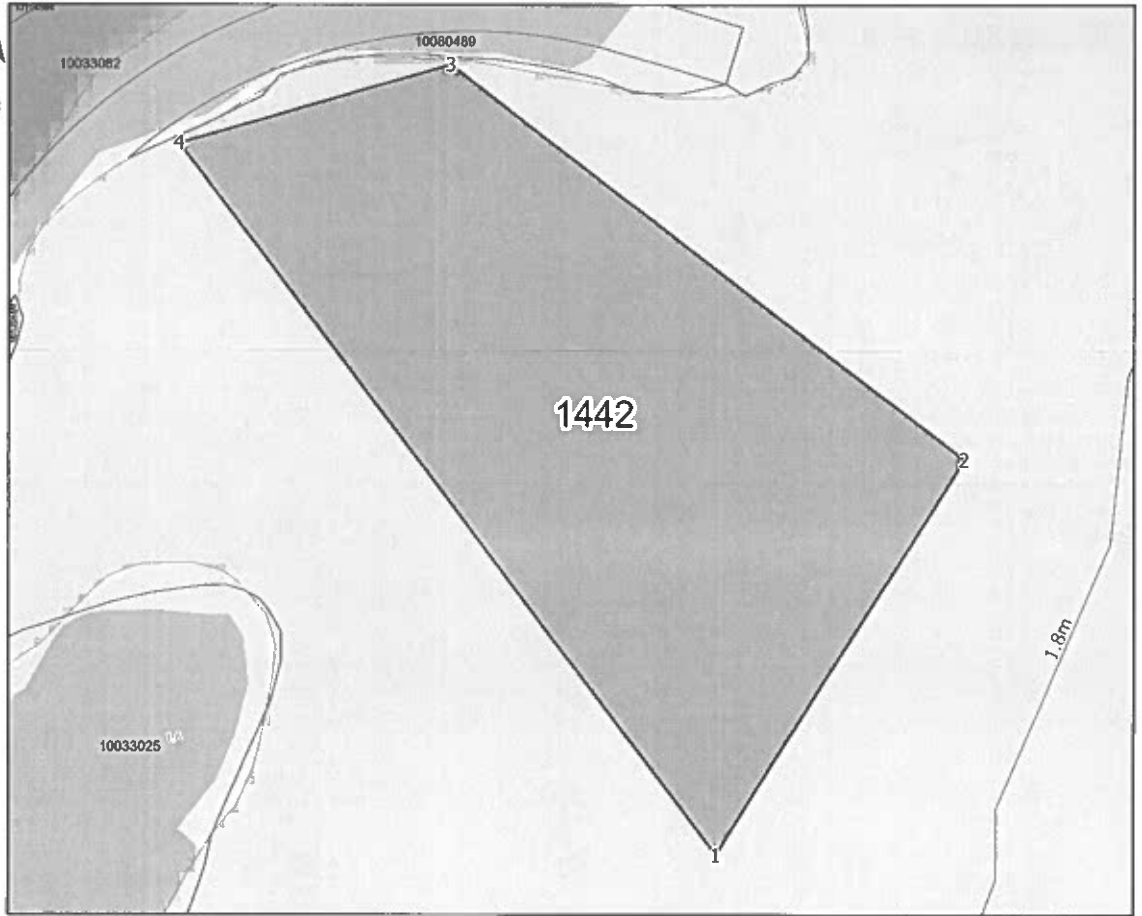
# SCHEDULE A



## Aquaculture Site 1442

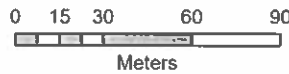
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	3.2	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



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Date 2020-04-05 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, TAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services

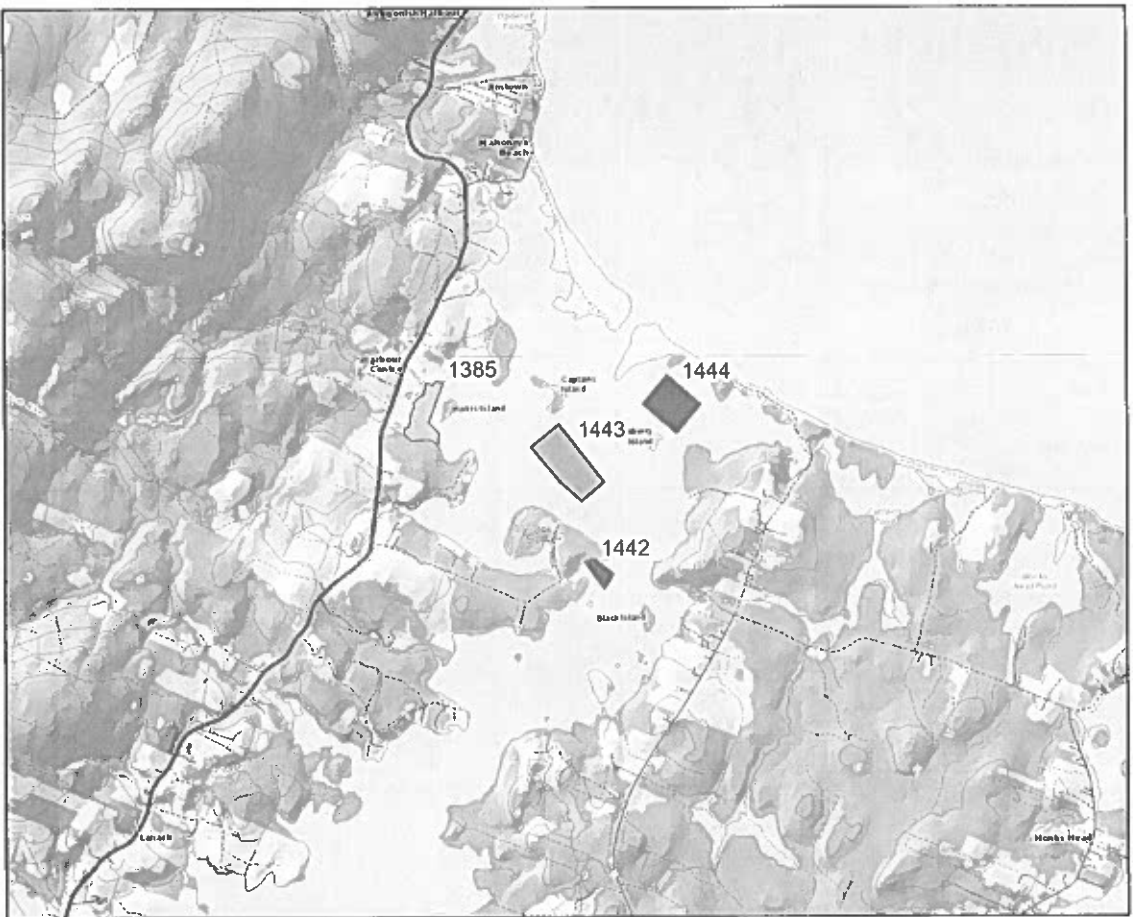
# SCHEDULE A



## Aquaculture Site 1443

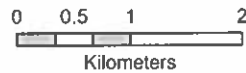
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2	45° 40' 43.320" -61° 53' 34.440"	
3	45° 41' 0.240" -61° 53' 53.160"	
4	45° 40' 53.760" -61° 54' 4.680"	
5	45° 40' 43.680" -61° 53' 53.160"	
Centre	45° 40' 48.263" -61° 53' 49.213"	

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease



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Date: 2020-04-09 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Service Nova Scotia and Internal Services



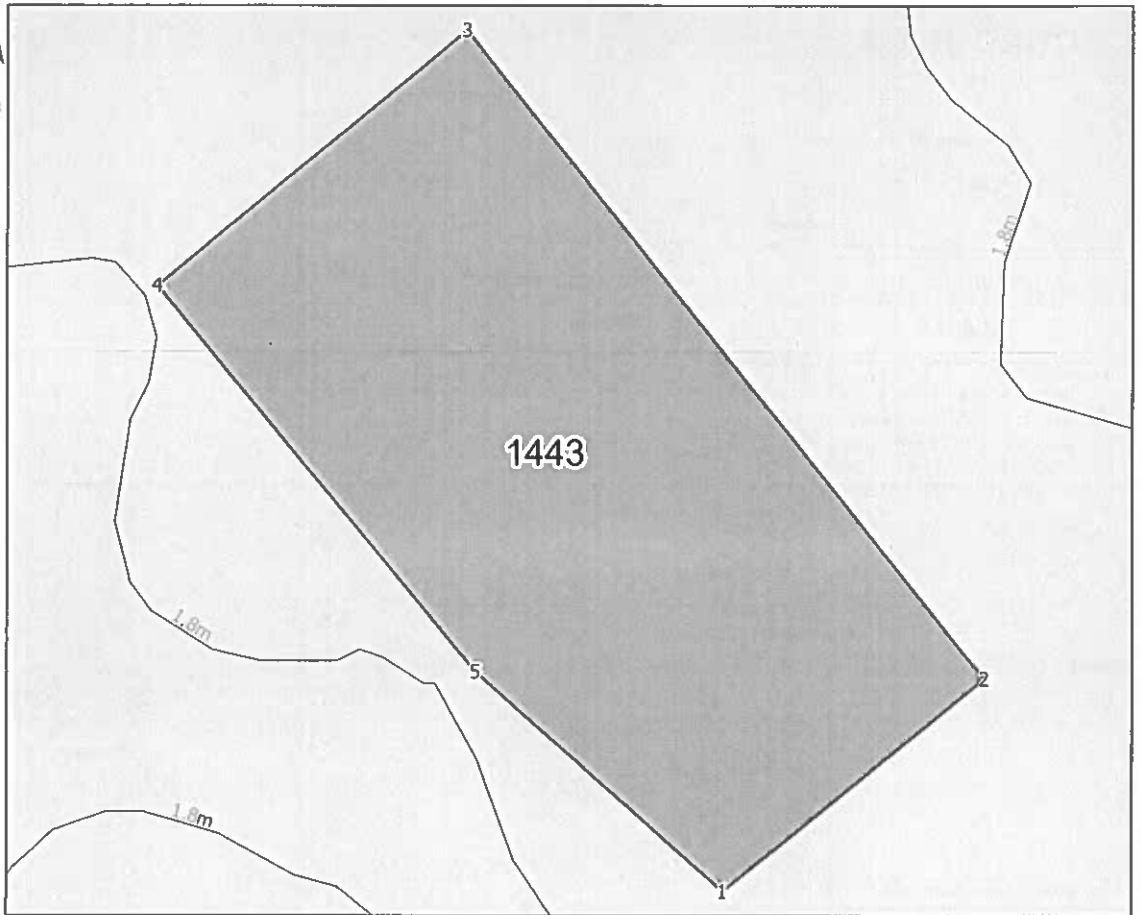
**SCHEDULE A**



**Aquaculture Site  
1443**

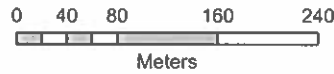
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Town Point Consulting Inc.	Antigonish	Antigonish Harbour	20.21	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Issued Lease
- Other Proposed Lease
- NS PIDs



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Date 2020-04-28 Created By MK

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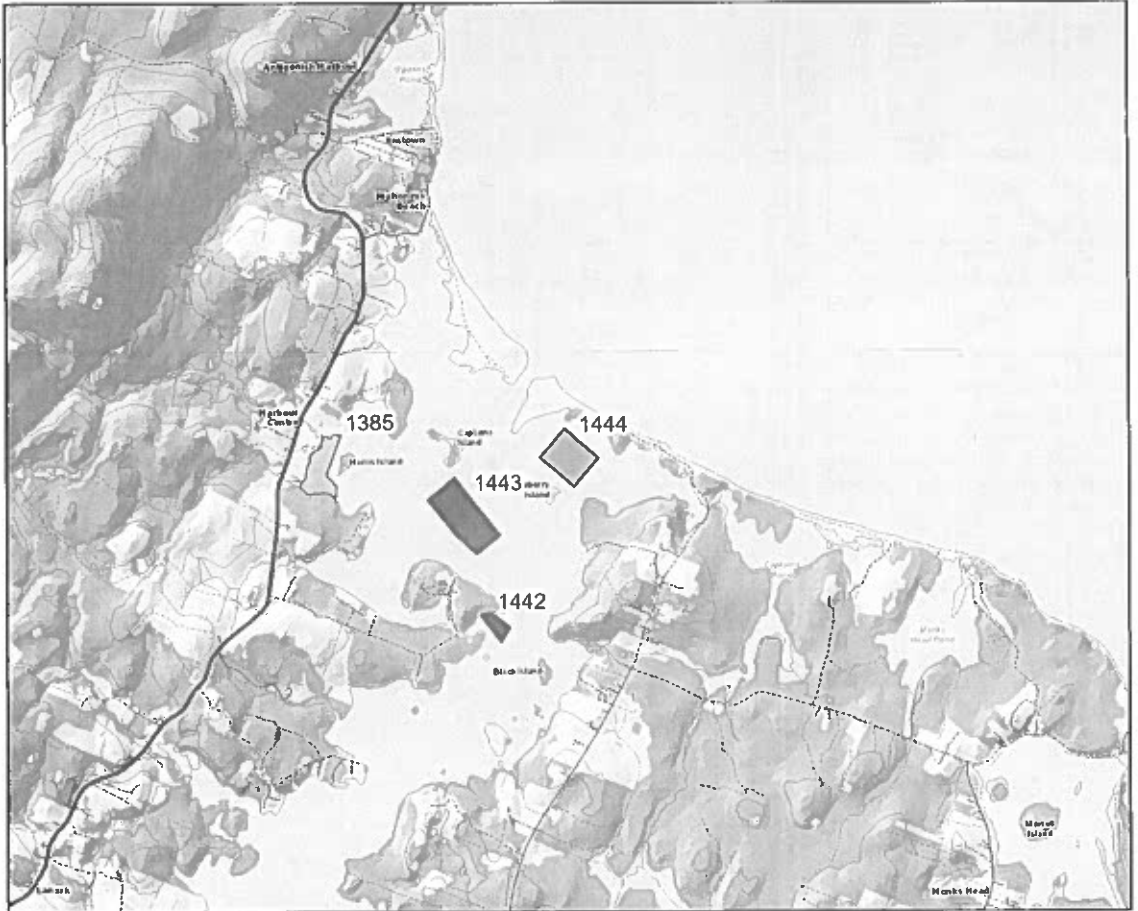
# SCHEDULE A



## Aquaculture Site 1444

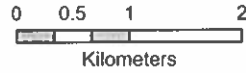
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
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3	45° 41' 13.920"	-61° 53' 7.800"
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License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
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Date 2020-04-08 Created By: MTT

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services

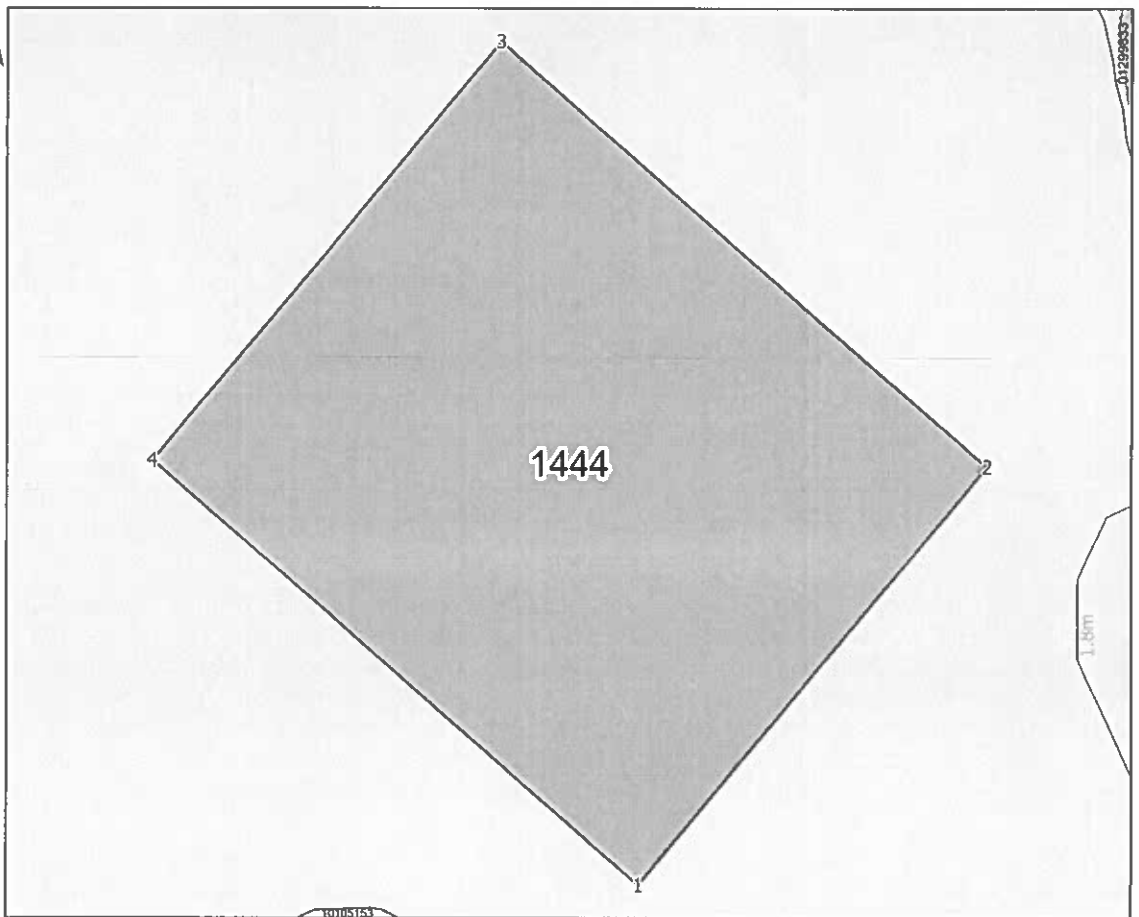
# SCHEDULE A



## Aquaculture Site 1444

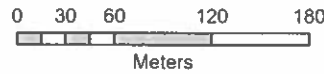
Corner	Latitude	Longitude
1	45° 40' 57.000"	-61° 53' 4.200"
2	45° 41' 5.280"	-61° 52' 54.120"
3	45° 41' 13.920"	-61° 53' 7.800"
4	45° 41' 5.640"	-61° 53' 17.880"
Centre	45° 41' 5.289"	-61° 53' 5.986"

DATUM NAD 83 CSRS UTM Zone 20  
The above coordinates are not from a legal survey



License/Lease Holder	County	Waterbody	Hectares	Species Type	Culture Type	Chart
Town Point Consulting Inc.	Antigonish	Antigonish Harbour	13.38	Shellfish	Suspended Culture	4446

- Proposed Application
- Other Proposed Lease
- Other Issued Lease
- NS PIDs



**Disclaimer**  
This map should not be used for navigation or legal purposes. It is intended for general reference use only.  
Date: 2020-04-08 Created By: MK

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community. Service Nova Scotia and Internal Services.



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 14 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



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WASHINGTON, D.C. 20547  
INTERNATIONAL BANKING AND FINANCE



Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

75 Treaty Trail  
Truro, NS B6L 1W3

**Tel** (902) 843 3880 **Fax** (902) 843 3882  
**Toll Free** 1 888 803 3880  
**Email** [info@mikmaqrights.com](mailto:info@mikmaqrights.com)  
**www.mikmaqrights.com**

**Our Rights. Our Future.**

March 8, 2021

Robert Ceschiutti  
Manager, Licensing and Leasing  
Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, NS B0T 1W0  
Email: [Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**Re: Consultation with the Mi'kmaq of Nova Scotia on Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

Mr. Ceschiutti,

I write to acknowledge your letter dated January 8, 2021, requesting consultation under the *Terms of Reference Mi'kmaq-Nova Scotia-Canada Consultation Process* as ratified on August 31, 2010 on the above noted. This will advise that the Mi'kmaq of Nova Scotia wish to proceed with consultation.

Further application is requested to better understand any impacts to the Piping Plover species. We must also highlight the need for underwater archaeology.

It is requested that all information and correspondence be forwarded to the Kwilmu'kw Maw-Klusuaqn Negotiation Office (KMKNO) to facilitate the flow of the process and communication. I will be the contact person for KMKNO and accordingly I will coordinate further consultation with regards to this project.

Yours in Recognition of Mi'kmaw Rights and Title.

Twila Gaudet, B.A., LL.B.  
Director of Consultation  
Kwilmu'kw Maw-Klusuaqn Negotiation Office

c.c.:

Claire Rillie, Nova Scotia Office of Aboriginal Affairs  
Linda LeBlanc-Babineau, Transport Canada  
Chris Mills, Fisheries and Oceans Canada





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 15 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

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of the nature

June 6, 2022

Kwilmu'kw Maw-klusuaqn Negotiation Office  
Attention: Twila Gaudet  
75 Treaty Trail  
Truro, NS  
B6L 1W3

Dear Ms. Gaudet;

**RE: Continuing Consultation with the Mi'kmaq of Nova Scotia on the Aquaculture Licence and Lease Application nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to continue consultation with the Mi'kmaq of Nova Scotia, under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, concerning three new aquaculture licence and lease applications (the "application") submitted by Town Point Consulting Inc. in connection with a new aquaculture site in Antigonish Harbour, Antigonish County. More particularly, this letter provides information about:

1. Regulatory requirements
2. Consultation with the Mi'kmaq of Nova Scotia

Regulatory Requirements

Below is an update on the status of all the anticipated provincial and federal authorizations.

The application is currently under final evaluation by the Nova Scotia Department of Fisheries and Aquaculture (the "Department"). The outcomes of the review will be provided to the Aquaculture Review Board, as part of the decision-making process. The full development plan can be viewed on our website at:

[https://novascotia.ca/fish/aquaculture/Application-AQ\\_1442\\_1443\\_1444-2020.09.04.pdf](https://novascotia.ca/fish/aquaculture/Application-AQ_1442_1443_1444-2020.09.04.pdf)

A link to the Development Plan has been provided to the following federal and provincial agencies: Canadian Food Inspection Agency; Environment and Climate Change Canada; Nova Scotia Environment; Fisheries and Oceans Canada; Nova Scotia Department of Agriculture; Nova Scotia Communities, Culture and Heritage, Nova Scotia Natural Resources and Renewables and Nova Scotia Municipal Affairs.

Transport Canada has been informed of these applications, as site-specific approvals under the *Canadian Navigable Waters Act* will be required for the placement of works in the water column.

Consultation with the Mi'kmaq of Nova Scotia

As a follow-up to your letter of March 8, 2021, the Department has the following information to share.

In your previous correspondence, you indicated that "Further application is requested to better understand any impacts to the Piping Plover species." Enclosed with this letter is a copy of a response to

the Nova Scotia Department of Natural Resources and Renewables ("NRR") from the applicant, which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. If you have any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, please provide the Department with that information, as well as indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities.

Also, in your previous correspondence, you indicated that "We must also highlight the need for underwater archaeology." These applications were sent to Nova Scotia Communities, Culture and Heritage ("CCH") for network review for feedback. The following is the response received from CCH on November 25, 2020:

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

If you have any additional information to indicate that the proposed aquacultural activities set out in the application - which will employ suspended culture methods only - could impact Mi'kmaw Aboriginal and Treaty rights related to underwater archaeology in the area of the proposed aquacultural activities, please provide the Department with that information.

Please provide the Department with a response to the foregoing by July 6, 2022. If no response is received by that date, please be advised that the Department intends to continue with the application review process.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing

Encl.

Cc.

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw-klusuaqn Negotiation Office

Claire Rillie, Nova Scotia Office of Aboriginal Affairs

Ed Parker, Senior Advisor, Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer, Transport Canada

## Network Agency Review of an Aquaculture Application

Agency	Lands and Forestry
Division (if applicable)	Policy Division on behalf of the Department Lands and Forestry
Date	Dec. 7 <sup>th</sup> 2020
File No.	AQ 1442 1443 1444
Type of application	New Marine Shellfish-
Information Provided	Subsequent biology package submitted April 2021

Please provide comments, concerns, recommendations, or requirements on the above stated application for a marine aquaculture license. Please include the criterion /criteria within your jurisdiction or mandate that your feedback is based upon. Similarly, if additional information is required to make a determination, please include the criterion /criteria within your jurisdiction or mandate that your request is based upon.

- No concerns regarding the proposed development
- Concerns with development are expressed below
- Request modifications to the proposed development (described below)
- Required or recommended conditions (described below)
- Request additional information (described below)
- Request meeting with applicant and NSDFA (described below)
- No comments on the application

Comments, concerns, recommendations, and/or required conditions including the criterion /criteria within your jurisdiction or mandate that your feedback is based upon. (Attach comments if preferred, or add additional pages, as required.):

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The Department of Lands and Forestry has the following comments:

**UPDATE May 27, 2021:** On April 12<sup>th</sup>, 2021 Town Point Consulting (TPC) provided a response (through the Department of Fisheries and Aquaculture- NSDFA) to Lands and Forestry's comments/concerns entitled: "Response re NSDLAS concerns March 26, 2021". NSDFA provided a series of PDF documents to support this document with scientific literature. This information was reviewed, and comments are provided below in *italics* in response to each of Lands and Forestry's initial concerns.

### **Crown Land:**

According to the records on file at the Crown Land Information Management Centre, the subject area is considered ungranted Crown land with no encumbrances.

**Parks and Beaches Act:**

The Department has the following concerns:

1. The proposed lease is adjacent to a pending provincial park: Dunns Provincial Park Reserve. Recreation is a mandate of the Department under the Parks and Beaches Act. The area is known for recreational activities such as boating, fishing, and kayaking. Meaningful consultation with recreational users to better understand recreational values needs to take place to address concerns and mitigate impacts.

**Wildlife/Wildlife Habitat:****Request for Additional Information:**

The Department does not have sufficient information to complete a fulsome review of this application. The Department has concerns regarding the lack of evidence in the document including but not limited to baseline data, scientific references or evidence, and lack of mitigation for wildlife issues. There is no evidence that this project will not contribute to negative impacts to the local ecosystem and wildlife. There are only a few instances of the proponent outlining a possible negative impact of the project and providing mitigation. More information is needed to determine if there will be more negative impacts resulting from this project and if more mitigation is needed.

*Update May 27, 2021: In response to L&F's request for additional information in its original review in dated March 26, 2021, and following review of the additional information provided, Lands and Forestry is satisfied that the proposed oyster lease will not pose undue negative impact to the ecosystem. The additional information thoroughly outlines the potential impacts to the local ecosystem including eelgrass. See below for detailed comments.*

**Comments on the Application Document**

1. The Department is concerned that the application document indicates that there will be some changes to the local environment (negative or positive) but does not clearly identify those changes. It is also a concern that potential negative impacts are not considered or dismissed and that no mitigation is put forward for these potential impacts.

*UPDATE May 27, 2021: Lands and Forestry (L&F) response- Upon receipt and review of the information provided by both NSDFA and TPC, Lands and Forestry has sufficient evidence to determine that the wildlife/habitat concerns previously raised have been addressed to support the application. The data package provides both the potential impacts and mitigation to ensure no undue ecosystem level impacts will occur. The proposed development incorporates appropriate mitigations (i.e. spacing, stocking density etc.).*

2. There is an overall lack of baseline data which is necessary to monitor the project going forward. Since this project does not provide baseline data, mitigation, or data to support the safety of this project, it can not be determined if this oyster farm could cause harm

to Species at Risk and other species protected through the *NS Wildlife Act* and the *Migratory Birds Convention Act*.

**Update May 27, 2021:** *L&F response- Upon receipt and review of the information provided by both NSDFA and TPC, Lands and Forestry now has a clear understanding of the necessary monitoring procedures to be put in place along with the potential risks. Because of the overall low impact of the project and the monitoring that is to be conducted, Lands and Forestry is satisfied with the proposed mitigation and baseline data collected to date.*

3. The document relies on repetitious data, individual opinions, and anecdotes. Rather, it relies on assertions made by individuals, many whose names are redacted and without supporting evidence. The document provides almost no evidence for its assertions on wildlife. The Piping Plover report is an exception and provides adequate detail on the species and how mitigation was incorporated. The overall quality of the document does not meet the information needs of the Department, and lack structure making it difficult to navigate (no table of contents, page numbers, references, many repetitions, and no background data/preamble). There are many instances indicating that literature reviews were completed but the report fails to provide evidence of this work.

**Update May 27, 2021:** *L&F response- the response document provided by TPC was well organized, provided adequate support and proper references to address the environmental considerations of the project and outlined potential risks and mitigations. Upon review of the supporting documents, Lands and Forestry is satisfied that proper due diligence has been conducted by the proponent and management techniques that will lessen ecological impact have been/will be employed.*

4. The report is largely void of biological data, evidence, or baseline data (other than Piping Plover) necessary to assess the environmental impact.

**Update May 27, 2021:** *L&F response- See above*

### **Recommendations**

The Department does not have sufficient information to fully assess this proposal and provide recommendations for mitigation measures concerning the potential biodiversity impacts. Specifically, the Department requires:

1. Base line data and analysis that identifies the potential negative impacts on the ecosystem due to the increased load of shellfish. Ecosystem level impacts include negative impacts that could potentially harm the aquatic ecosystem and species (vegetation, benthic species etc.) and have consequent impacts on the food chain

**Update May 27, 2021:** L&F response- the information package provided thoroughly outlines these potential impacts and provides sufficient evidence to conclude that the environmental impacts have been considered and mitigated. No ecosystem level/food chain impacts are anticipated.

2. A comprehensive wildlife management plan that identifies impacts on birds is required. This was identified as a potential issue in the application. The plan must identify which species could be impacted, how these impacts can be mitigated and how to monitor for incidental impacts (entanglement, disturbance during resting periods, noise issues etc.). A thorough risk assessment is required to create this wildlife management plan.

**Update May 27, 2021:** L&F response- TPC and DFA have provided more information on the potential impacts to wildlife, including birds. Due to the nature of the project, it is not anticipated that there will be undue negative effects to avifauna. Furthermore, the proponent has outlined how they will conduct operations to further reduce any human wildlife conflict.

3. Baseline data for benthic invertebrates, vegetation, water quality etc. This is necessary to ensure the long-term sustainability of the project and harbour ecosystem. This data should be collected, and a monitoring plan should be created to adequately monitor environmental impacts; positive or negative.

**Update May 27, 2021:** L&F response- A monitoring plan is in place that provides for partnering with NSDFA, DFO and other non-government agencies. This monitoring is acceptable to Lands and Forestry and the department will defer aquatic monitoring to DFO.

4. Information (literature review, pre-disturbance data etc.) collected or collated on the following issues:
  - a. Effects of de-fouling on the local water quality, species etc.
  - b. Noise from farm- effects on birds and any other potentially impacted wildlife (A literature review may suffice).
  - c. Impacts for birds etc. where potential impacts may be caused by suspended oysters, noise, and the effects bird waste has on oyster quality if nearby.
  - d. Possible effects on eelgrass and baseline data on current extent of eelgrass.

**Update May 27, 2021:** L&F response- The potential effects and monitoring of impact to eelgrass beds have been thoroughly discussed. The proponent will continue to monitor any impacts to eel grass and has adopted management techniques to reduce these impacts. Water quality issues, if any, are deemed to be localized, and are not anticipated to occur for this project. The proposed lease occupies less than 2% of the harbour and due to natural and historical eutrophication of the harbour it is anticipated that the operation may increase habitat suitability. Furthermore, historic oyster concentration



*exceeds the levels in the proposal. The impacts to birds for this type of project is low as per the information included in the package. Noise from the operation may pose an issue but this is not well studied, and the proponent has outlined ways in which they have worked to lessen this potential impact.*

***Lands and Forestry is satisfied with the proposal upon review of the additional information.***

### **Recommended Conditions of Approval**

The proponent must develop a wildlife management plan that is acceptable to the Department of Lands and Forestry. The proponent is required to implement the wildlife management plan as approved.

***Update May 27, 2021: L&F response- a wildlife management plan is no longer deemed necessary by Lands and Forestry as a condition after review of the additional data packages provided. Appropriate buffer/setback has been included to reduce disturbance to SAR species (i.e. Piping Plover).***

### **The proponent must:**

1. Not disturb, harass, or chase congregated birds (waterfowl, geese, cormorants etc.), especially during January – March.
2. Not perform any work on Captains Island.
3. Remove any gear/equipment that is washed ashore/deposited on any Crown land at their expense.
4. Report all wildlife mortalities (entanglements etc.) to the Department of Lands and Forestry Regional Biologist and any other appropriate agency (if a marine mammal, Species at Risk etc.) within 5 business days.

***Update May 27, 2021: L&F response- TPC/the proponent has and must continue to include mitigation technics for all operations.***

### **Public Notice and Disclosure**

As part of the process for deciding on an application, it may be necessary for the Nova Scotia Department of Fisheries and Aquaculture (“Fisheries and Aquaculture”) to disclose the collected network review information to the applicant and other government bodies, including, if applicable, the Nova Scotia Aquaculture Review Board for use at an adjudicative hearing relating to the application in question.

In accordance with departmental policy, which seeks to promote public involvement in the process for deciding on aquaculture applications, Fisheries and Aquaculture will disclose aquaculture application information, including network review information, on the departmental website.

## **Privacy Statement**

***The network review information collected as part of an aquaculture application will only be used or disclosed by Fisheries and Aquaculture for the purpose of deciding on the application.***

All application information collected is subject to the Freedom of Information and Protection of Privacy Act ("FOIPOP") and will only be used or disclosed in accordance with FOIPOP.

March 26, 2021

NS Department of Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, NS  
B0T 1W0

Attention; Nathaniel Fiendel, Lewis Clancey

Re: AQ1442,1443,1444

Please see below our reply to the Network Agency Review received from Dept of Lands and Forestry with respect to the referenced lease applications.

### **Lands and Forestry**

#### **Parks and Beaches Act Concern 1**

None of the three proposed leases will interfere with access or use of Dunn's beach by the public. As described in the application the lease boundary is 230 m. from the beach, allowing for navigation between the lease site and the shore. The entirety of the three proposed lease areas comprise approximately 2% of the area of Antigonish Harbour. This leaves 98% of the harbour for other users and other uses.

### **DLF Recommendations**

#### **1) Draft Wildlife Management Plan**

Antigonish Harbour is a vibrant and valuable ecosystem that provides important habitat for many species of wildlife. It is a known stopover point for migratory birds, numerous species of shore birds forage and nest on the adjacent beaches, salmon and salmonoids as well as other finfish and crustaceans transit through the harbour on their way to and from the tributary rivers to mention just a few functions this estuary provides, (Wall, C.C., et al; (p.1262-1263)2010; Spares, A.D. et al, 2014 (p.622-624)) This estuary is typical of the "drowned riverbed estuaries found along the south west shore of the Gulf of St Lawrence. They are shallow water systems (mostly 1-5m) with sand dune barrier beaches and with soft-bottom communities typically dominated by *Zostera marina* L." (Watt, Garbary & Longtin 2010, p.2)

Given the ecological value of these estuaries it is important to ensure that activities within them can be conducted without serious disruption of those species' dependant on the estuaries for their reproduction, feeding, and other life cycle functions. While there has been no prior study of Antigonish Harbour related to the interaction of oyster aquaculture operations and wildlife the following study is relevant and applies to a similar estuary in the gulf region.

**Habitat Management Qualitative Risk Assessment: water Column Oyster Aquaculture in New Brunswick.** (Daigle, Hardy & Robichaud, 2007).

“An Ecological Risk Assessment and a Net Ecological Benefit Analysis are used to make determinations as to the effects and functions, respectively, of water column oyster aquaculture in gulf NB. Using the risk assessment, we conclude that the overall “scale of potential negative effects” of water column oyster aquaculture and the “sensitivity of fish and fish habitat” correspond to low-risk activity which is not likely to significantly harm the productive capacity or the ecological integrity of fish habitat. Moreover, our analysis suggests that oysters in aquaculture can potentially be of significant benefit to these estuaries and can help to restore many important ecological functions which were reduced following the historical decline of natural populations.” (p.vi)

“The geographic area for which the risk assessment was needed in Gulf New Brunswick (N.B.), but could also apply to Prince Edward Island (P.E.I.) and gulf Nova Scotia (N.S.)” (p.4).

This study is lengthy but essentially it concludes that off-bottom oyster aquaculture operations do not impose significant negative impacts on fish and fish habitat. Reasons for this include the following.

“Some authors have proposed that the aquaculture equipment itself, and other structures, may contribute to estuarine productivity by creating hard substrate...”, (p.45) “Aquaculture gear increased habitat complexity and supported higher abundances of organisms than non-vegetated seabed: this was determined to be particularly beneficial to recreational and commercial fish and invertebrate species in their early life stages, (DeAlteris et al. 2004, p.873). The authors concluded that “the relative habitat value of aquaculture gear is at least equivalent to submerged aquatic vegetation.”

After studying a range of gear types, locations, and aquaculture farm scales along the western shore of Chesapeake Bay in Virginia, we found no evidence of biologically significant negative impacts on benthic macrofauna community structure or water quality. (Kellogg, Turner, Dreyer, 2018, p.12)

The above referenced studies, plus the following sources: (B. Dumbauld, etal,2009; Bastien-Daigle, etal,2007; Muething K.A, etal, 2020), convincingly address concerns related to fish, aquatic plants, and invertebrates, in relation to floating oyster aquaculture.

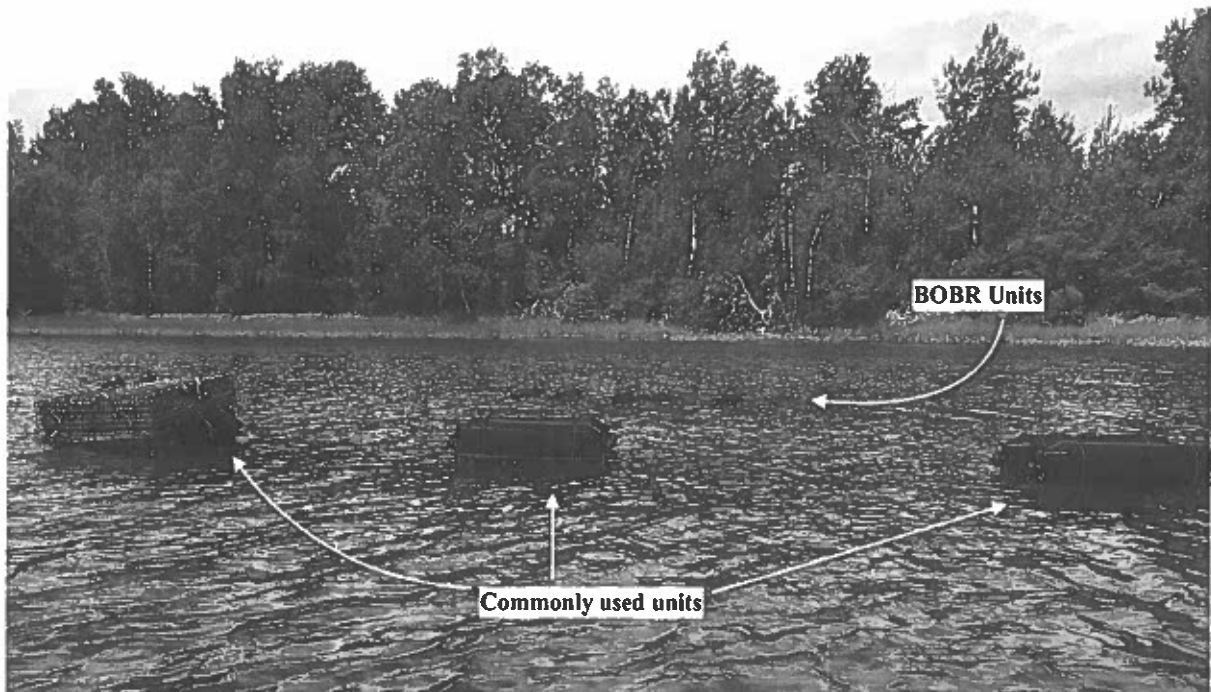
Potential impacts of suspended oyster aquaculture on seabirds and shore birds has been less studied, perhaps because these species have not demonstrated significant impact from suspended oyster aquaculture. Available studies reference intertidal, stationary, raised trestle type gear, which presents quite different conditions. In any case, the study titled **Bivalve aquaculture in estuaries: Review and synthesis of oyster culture effects**, (Forrest et al, 2009, p.7) it is stated, “In contrast, the few other published studies directly investigating interactions between elevated oyster culture and birds provide little evidence for significant adverse effects. ...Together with the creation of novel habitat, such changes may benefit some fish and bird species and provide a range of other beneficial ecosystem services such as local enhancement of biodiversity.”

Another study, **Assessing conservation conflict: Does intertidal oyster aquaculture inhibit foraging behaviour of migratory shorebirds** states “the study showed foraging rates were mostly influenced by environmental conditions, especially the presence of gulls or other shorebirds, and the foraging substrate None of the four bird species of concern substantially altered their foraging behavior due to the presence of tended or untended oyster aquaculture.”, (p.8). Given that this study only considered intertidal operations and the proposed farm is suspended and not intertidal, the proposed farm would have much greater separation from foraging shorebirds so logically the impact would be far less or possibly non-existent.

## \***Town Point Consulting Inc.**

The greatest opportunity for interaction between birds and the proposed farm is a result of roosting on the floating growth units and associated buoys, (Comeau, L.A., et al, 2009, p.87,93). The issue of birds roosting on growth units is a concern from a farm operation perspective because as they roost, they defecate onto the oysters below. This is a potential food safety issue and it presents a public perception challenge for the farmer and the industry. Our development of the BOBR growth unit, which can be seen elsewhere in the application, addresses this problem in the design. BOBR growth units are almost neutrally buoyant and cylindrical in shape. This combination results in a very unstable perch for birds and insufficient buoyancy to support heavy birds such as cormorants. In seventeen months of trials at ShanDaph Oyster farm in Merigomish Harbour with BOBR deployed adjacent to Oyster Gro and other cage types, no cormorants were observed roosting on BOBR units while they commonly roosted on the adjacent gear. Furthermore, the negative image of accumulated bird feces cannot happen on BOBR because the entire unit is always within the splash zone so if a bird were to roost on BOBR it would not result in the unsightly accumulation of feces that leads to this aspect of poor perception.

We believe the use of BOBR growth units largely mitigates the problem of interaction between seabirds and floating growth units. As for the possibility of entanglements or predation of stock by birds we consulted Robin Stewart, aquaculture consultant to First nations groups locally and in Cape Breton. He confirmed to us that in his experience, there have been no known instances of bird entanglement associated with suspended oyster aquaculture operations during his 40 years of industry involvement. When asked why he said, "they cannot access the oysters through the "Vexar bags" which are used in BOBR and Oyster Gro cages. The problem with birds seeking a food source at shellfish aquaculture sites relates to mussels not oysters.



Dr. Tony Miller, professor emeritus from St FX came to our site on Wednesday Feb. 24, 2021. Tony is a biology prof who studied Antigonish Harbour extensively for many decades and frequently canoes there to study birds.

Tony came to our property on Wednesday for the afternoon and we spent three and a half hours discussing our farm plan and its potential impact on birds.

Points of note from this discussion are as follows;

1) Regarding Plovers on Dunn's Beach, Dr. Miller agrees that plovers use the ocean side not the harbour side of the beach and he did not see any problem with the proposed operation relative to plovers. He identified the area used by Terns which is near the western tip of the beach, also sufficiently away from the lease sites.

2) Regarding the Captain's Island site, Dr. Miller had no concerns. He brought up geese repeatedly but always pointed out that they use the area between Captain's Island and Mahoney's Beach. Dr. Miller said several times that he sees no reason our plan would present a problem for birds that use the estuary.

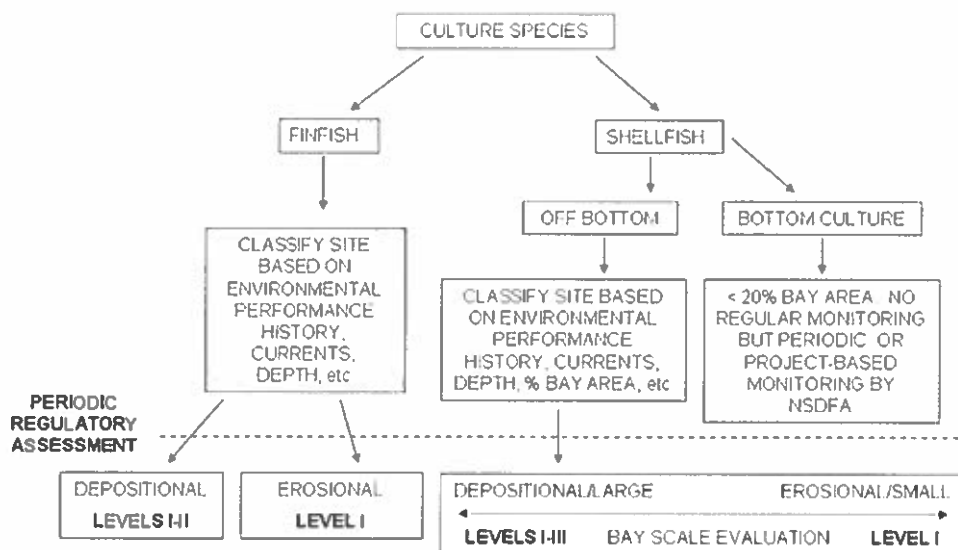
Regarding disturbance during resting periods, farm operations are daytime only. Only during an emergency or some other unusual circumstance would farm boats be present on the lease sites after dark. As for noise issues, we have revised the design of the farm service vessel to remove the hydraulic system associated with the tumble function and now rely only on the much quieter outboard motor to provide the mechanical effort for this function. There will be a small HP motor to service the water pump necessary for washdown functions. It will be enclosed, well muffled, four stroke and operated only when water supply is necessary. The outboard motor will be well muffled, four stroke, and all motors will be maintained to ensure mufflers are properly functioning. Crews will be instructed not to rapidly approach congregations of seabirds and not to chase or harass birds.

Other wildlife management plan items intended to mitigate possible negative impacts on wildlife in or near the proposed lease areas are as follows.

- Ensure no litter, including food scraps, is left or deposited in the coastal area.
- Ensure staff are aware of the importance of avoiding female eiders with brooding chicks, groups of moulting eiders or flocks of staging or wintering birds. Vessels will reduce speed when in the vicinity of flocks of birds.
- Ensure staff are well versed in the requirements of the Migratory Birds Convention Act and associated regulations.
- Staff will be instructed not to disturb, harass, or chase congregated birds (waterfowl, geese, cormorants, etc.) especially during January – March.
- No work will be performed on land on Dunn's Beach and any of the corresponding parkland. Report all wildlife mortalities associated with the proposed operation to the Department Lands and Forestry regional biologist, Harrison Moore, and any other appropriate agency within 5 business days.
- Place lines and configure units so that long lines run parallel to tidal currents and prevailing winds to avoid overlap with the same area of vegetation especially eelgrass. See farm layout drawings included in the application.

- The line spacing of growth units is based on the DFO NB study regarding the effects of shading on benthic vegetation.
- Locate off-bottom aquaculture structure away from high density (meadow) areas of eelgrass cover. The study called **Methods for Mapping and Monitoring Japanese Eelgrass habitat in British Columbia (2004, p.4,5,8)**, describes assessing the density of eelgrass coverage. Dr. Barrell with DFO told us during a site visit the areas we have proposed are not a meadow because the shoot density is in the 10's/m<sup>2</sup>. Please contact him to discuss or access his report ...we don't have it to share.
- Respect environmental and social standards as demonstrated by the "Best Aquaculture Practices Certification Standards, Guidelines for growing sites in Nova Scotia."
- Minimize sedimentation of the waterbody during all phases of the installation, operation, and maintenance of the aquaculture facility.
- Design and install structures to maximize openings to increase light penetration.
- Develop and implement a response plan to avoid a spill of deleterious substance.
- Identify aquatic invasive species of concern and report any sightings to DFO.
- Carry out a post monitoring survey (1,3 and 5 years) including photos and video and characterization of eelgrass vegetation within the aquaculture lease boundary and at a reference site outside of the lease boundary. This will be done as part of the StFX study.

Below are excerpts from the Environmental monitoring program, standard operating procedures document, available online. At <https://novascotia.ca/fish/documents/ns-emp-framework.pdf>



**STANDARD OPERATING PROCEDURES FOR THE ENVIRONMENTAL MONITORING OF MARINE AQUACULTURE IN NOVA SCOTIA**

**7.1.2 Shellfish Requirements**

The majority of marine shellfish sites in Nova Scotia have historically posed minimal environmental risk and, therefore, warrant a reduced level of baseline monitoring. For a typical marine shellfish site, baseline monitoring will consist of the following:

- Video collection at each vertex of the proposed lease boundary
- Video collection at the center of the proposed lease boundary
- Video collection at a reference station located between 100 and 300 meters from the proposed lease boundary in the direction of the dominant current
- Video collection along a transect running through the centre of the entire length of the proposed lease, or centre of the proposed expansion area.

7.1.2 Shellfish Requirements The majority of marine shellfish sites in Nova Scotia have historically posed minimal environmental risk and, therefore, warrant a reduced level of baseline monitoring. For a typical marine shellfish site, baseline monitoring will consist of the following: • Video collection at each vertex of the proposed lease boundary • Video collection at the center of the proposed lease boundary • Video collection at a reference station located between 100 and 300 meters from the proposed lease boundary in the direction of the dominant current • Video collection along a transect running through the centre of the entire length of the proposed lease, or centre of the proposed expansion area.

## **2) Baseline data for benthic invertebrates, vegetation, water quality etc.**

As was required by NSDFA, we collected baseline data in the form of underwater video including a 360 degree clip at each lease site corner and a continuous underwater video transect of each proposed lease site. If this was not included in information shared with NSDLAF by NSDFA we will be glad to provide a copy. Temperature and salinity data were collected and included and available in the application. Collection of other water quality parameters were not, to our knowledge, a requirement of the application process. This information should be available through DFO. The feedback from DFO did not contain any concerns about water quality, nor did they require any more data to be collected by the applicant. DFO accessed relevant research data on their own which they referenced in their network response. Their comments and recommendations expressed no specific concerns about the proposed operation, only that the standard acceptable measures be followed in order to avoid and/or mitigate potential effects on fish, fish habitat and the environment.

The Community Aquatic Monitoring Program (CAMP) was established to “help determine the ecological health of estuaries and coastal shorelines in the southern Gulf of St. Lawrence, (Weldon, J., etal, 2007, p.vii). The primary goal of CAMP was to provide an outreach program for DFO to interact with community environmental groups. The monitoring aspect developed from this partnership was to test the hypothesis that a relationship exists between the health of an estuary or coastal shoreline and the diversity and abundance of finfish and crustacean species which inhabit the littoral or near shore zone.” (Weldon, Courtenay, & Garbary 2007, p.vii)

The CAMP program has been successful in establishing interaction between DFO and local community groups and in collection of significant abundance of data which could be very valuable when analyzed in a comprehensive manner. With respect to Antigonish Harbour, the study has confirmed the finfish and crustacean species expected to exist in such an estuary are in fact present.

One principal parameter used in this program to indicate a preliminary measure of relative health one estuary to another is Species Richness Index. On this metric in the 2007 report, which addresses the



2005 data set, Antigonish harbour ranks 7<sup>th</sup> out of 19. This suggests it is around the middle of the pack relative to the 19 estuaries included that year. Tracadie ranked lowest (had the least species richness) and St. Louis de Kent highest.

These rankings are relative without consideration of optimum or pre-disturbance baseline so in effect the comparisons are simply indicating which estuaries seem to be more impacted or less impacted not which ones are or are not impacted. The addition of suspended oyster aquaculture, based on the research we have done, is likely to have minimal if any negative effects on the benthic invertebrates, vegetation and water quality. Moreover, the effects are likely to have a benign or positive effect on these profiles. (Daigle, Hardy & Robichaud, 2007; DeAlteris et al. 2004; Kellogg, Turner, Dreyer, 2018; B. Dumbauld, et al, 2009; Bastien-Daigle, et al, 2007; Muething K.A, et al, 2020)

Water quality and the benthic environment and their relation to floating suspended oyster aquaculture are considered in the following papers;

**Suspended versus bottom oyster culture in eastern Canada: Comparing stocking densities and clearance rates (Comeau, L.A. 2013)** Moreover, floating bags or cages in Atlantic Canada contain native oysters that were historically thriving in pre-colonial times (Kirby, 2004; Kirby and Miller, 2005), but have since been decimated by disease, overfishing, and deteriorating bottom habitats. There is compelling evidence that oysters improve estuarine water quality by filtering suspended particulate matter from the water column (Forrest et al., 2009); they may also serve as a top-down control of phytoplankton blooms in eutrophic systems. Such positive services are vital to the ecological integrity of estuaries and provide the impetus for oyster restoration projects worldwide. (p.64)

**Impact of suspended and off-bottom Eastern oyster culture on the benthic environment in eastern Canada (Mallet, A.L., et al, 2006)** "In conclusion, the study suggested that the level of oyster culture (8 kg m<sup>2</sup>) currently practiced in this dynamic shallow water environment is not sufficient to negatively impact the sediment biochemistry or the associated benthic community. With increasing culture activity, however, continued environmental monitoring is important to ensure that the overall health of the ecosystem is maintained." (p.371)

We have been working with Dr. Garbary, head of the Aquatic Resources program at St FX to address this issue of estuarian baseline data in a broad and comprehensive manner. Below is the proposed study program we plan to implement in order to quantify several parameters related to potential environmental concerns. Essentially the study involves a pre-farm survey to establish pre-farm conditions and then a three-year follow-up program to confirm actual impacts, positive and negative. This is valuable science that will contribute to the knowledge base related to environmental impacts of oyster aquaculture. Our involvement in the study will enable real-time awareness of impacts allowing timely mitigation measures should the need arise.

The initial outline of this collaborative study between StFX, Town Point Oysters and potentially Paqtnkek first Nation is as follows;



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DEPARTMENT OF BIOLOGY

Feb. 11, 2021

## **Impact of Oyster Aquaculture on ecological sustainability of Antigonish and Pomquet Harbours**

David Garbary  
Professor of Biology, St. Francis Xavier University  
[dgarbary@gmail.com](mailto:dgarbary@gmail.com)

The project will start in 2021 and continue for four years. The primary objective will be to evaluate the impact of two proposed Oyster aquaculture developments proposed for Antigonish Harbour (Town Point Oysters) and in Pomquet Harbour (Paqtnkek Mi'Kmaq Nation). The former is a moderate scale oyster farm with a footprint of 90 acres (= 2% of the harbour), and the latter a smaller scale commercial development.

The objective of the research is to provide a state-of-the-art analysis of the impact of the oyster farm facilities on the eelgrass and invertebrate communities that comprise one (Antigonish Harbour alone) or both estuarine systems in light of the development of oyster aquaculture.

Estuaries are ecosystems that integrate across diverse ecological habitats and biotas. On the North Shore of Nova Scotia these systems are anchored by several key species or groups of species: (1) eelgrass (and associated marine macroalgae); (2) shellfish (bivalves including oysters, mussels and clams); (3) crustaceans (shrimp and crab); and (4) finfish (primarily sticklebacks, mummichogs, and silversides). Most of these organisms live and grow either in the water column or on the surface of the of the sediment and associated rocks. One assemblage of organisms not included in the above are the animals associated with the sediments themselves (i.e. infauna). A problematic assemblage of organisms is the non-native 'invaders', e.g. tunicates, green crabs and *Codium* (a green seaweed). All three are known from Pomquet Harbour, although only the first two have been found so far in Antigonish.

These natural inhabitants of the local estuaries will be impacted by the development of oyster cultivation. The fundamental question that needs to be addressed is:

Will the development of oyster aquaculture have a serious negative impact both within the limits of the farm itself and on the surrounding area. Alternatively, what is the ecological footprint of the oyster farm?

The extent to which negative effects will occur needs to be understood. Only by defining the impacts can one then make appropriate farm management decisions, e.g. to mitigate impacts, or to accept these impacts as minor perturbations of the local ecology.

It is also possible that oyster aquaculture will have positive impacts on the estuarine ecosystems. Some of these potential benefits include the following:

- (1) creating habitat diversity in and around the oyster cages;
- (2) water clarification than can increase the overall production of eelgrass; and
- (3) removal of a major eelgrass pathogen EWD (a slime mold) that destroyed eelgrass populations in the 1930s.

The fact that Paqtneq Mi'Kmaq Nation will be using a combination of traditional oyster grow cages and the new technology (BOBR growth units) devised by DockPort Ltd, a sister company to Town Point Oysters, provides a unique research opportunity. Thus, this research program will compare the impacts of the two technologies in one estuary (i.e. Pomquet Harbour) and then provide a realistic comparison of oyster cultivation in two adjacent estuaries of St. Georges Bay: Antigonish and Pomquet Harbour. The proposed Town Point farm will use only BOBR growth units.

This proposal is for a four-year study to evaluate an ecosystem prior to the start of oyster cultivation, to evaluate it during the ramping up of oyster cultivation, and then to evaluate the ecosystem at full production. Over this time period we will:

- 1) Evaluate the state of the eelgrass beds and associated macroalgae within the farm areas and in adjacent areas (up to six sites in each harbour). This will require studies of growth and reproduction of eelgrass at the various sites. We will monitor both above-ground and below-ground biomass of the eelgrass. This evaluation will determine the extent of negative impact to eelgrass within the farm sites, the extent of positive impact beyond the farm sites and an assessment of the net benefit to the estuary relative to eelgrass.
- 2) Monitor eelgrass wasting disease to determine if oyster cultivation has a positive impact by reducing the impact of the systemic parasite that causes the disease.
- 3) Examine the state of invertebrate fauna (i.e. shrimp, crabs, snails, etc.) at the study sites along with animals that live in the sediments.
- 4) Quantify the distribution and abundance of invasive tunicates, green crabs and *Codium* in the both harbours.
- 5) Compare the impacts of two different oyster grow technologies; and
- 6) Conduct water sampling for turbidity, chlorophyll, to determine if farm operations provide a positive impact on water quality.

Draft budget:

- 1) Funding of undergraduate students for the period May to August @ \$6000 per student.  
Total \$12,000 per year for four years = \$48,000.
  - 2) Funding for graduate student support @ \$20,000 per year per student beginning in year two. Ideally two graduate students will be involved, one to focus on the eelgrass and seaweed side of the research; the second to focus on the animal side of the research.  
\$40,000 per for three years = \$120,000
  - 3) Travel will include trips to Antigonish Harbour and Pomquet Harbour at least twice per week during summer @\$1500 per year for four years = \$6,000
  - 4) Collecting equipment and preservation of samples, \$1000 per year = \$4,000
  - 5) YSI Chlorophyll/turbidity/temperature meter = \$13,692
  - 6) Subtotal = \$191,692
  - 7) Farm operator general cost for fuel, boat use, support labour 10% of above = \$19,169
  - 8) University overhead @ 25% of the above = \$52,715
- Total = \$263,576 @\$68,594 per year.**

Note 1.

This is potentially a stand-alone project involving only Antigonish Harbour. The addition of Pomquet Harbour would represent the hiring of an additional undergraduate student in each year. Funding would be similar regardless of whether one or both estuaries were studied. The addition of Pomquet Harbour would require an additional undergraduate student for sampling that would be funding through other sources. Thus, some of these undergraduates or graduate students might be acquiring financial support from other agencies, e.g. NSERC, StFX scholarships, etc. This would allow for hiring additional undergraduates.

I anticipate a research team of 2 undergraduates in year 1. In years 2, 3, and 4 there would be 2 undergraduate students and two graduate students.

Note 2.

Some infrastructure would be required for the field sampling. I am presuming that access to a small boat (with motor) would be provided by Town Point Oysters for Antigonish Harbour and that some space bench with shelter would be provided at Town Point for initial processing of samples. For the Pomquet Harbour sampling I would like to arrange similar facilities with the farm management. Involvement of individuals from Paqtnkek Mi'Kmaq Nation would have to be covered on an hourly basis.

Note 3.

While I will be the lead on this, Dr. Russell Wyeth will be involved in supervising students who are involved in the animal side of the analysis.

**3) Information**

**a) Effects of de-fouling on local water quality, species etc.**

TPO does not intend to use chemical de-fouling, only natural processes such as desiccation or heated seawater dipping for de-fouling growth units and stock. Therefore, only materials from the harbour will be returned to the harbour through de-fouling operations.

It is our plan to enable more frequent de-fouling of BOBR units than is practical with Oyster Gro or similar systems by using our service vessel called "Oyster-Matic" which is part of the BOBR growth system developed by our sister company DockPort Ltd. This system mechanizes the common husbandry tasks of tumbling, sorting, de-fouling, harvesting, sinking, and raising the BOBR growth units. Because

the time and cost associated with each of these tasks will be comparatively much lower than the same tasks with competing systems frequency of operations may be increased without adversely effecting the input production costs. More frequent de-fouling and tumbling will produce a superior product that should get to market more quickly.

The de-fouling process will involve pressure washing and a 12 second heat dip. This operation will be conducted on the lease sites without the need for removing bags from the lines.

The removed fouling organisms will be returned to the water as is the case with Oyster Gro and most other systems. Regarding the impact of this returned material on the benthic environment, species etc. the following article addresses the matter.

**The effect of floating bag management strategies on biofouling, oyster growth and biodeposition levels.** (Mallet, A. et al, 2008, p.322)

This study states "Overall, there was no indication that floating bag oyster culture, even in cases where the bags were heavily fouled, significantly increased biodeposition levels relative to the reference sites."

The study titled **Habitat Management Qualitative Risk Assessment: Water Column Oyster Aquaculture in New Brunswick** (Daigle, Robichaud & Hardy, 2007) states the following on page 40.

"In the case of water column aquaculture, studies on sedimentation rates in St. Simon Bay N.B. showed that deposition rates increased at culture sites possibly from the oysters, fouling organisms and hydrodynamic effects of equipment (Mallet et al 2006). However, the mean organic content of the sediment deposited at the oyster table site (20.2%) was not significantly different from the Floating Bag (21.8%) or the Reference sites (21.8%) (Mallet et al 2006). The authors suggest that the lack of enrichment of the sediments indicated that the organic matter in the bio deposits was not being incorporated into the sediments and was either washed away and/or rapidly processed by the benthos community."

On page 41 "Therefore, there is no indication to date of significant or adverse effects associated with the increase in biodeposition under water column oyster aquaculture sites in N.B."

Regarding the effect of de-fouling operations on local water quality, no studies specific to this topic were found, perhaps because it has not been identified as a serious concern. This particular task is occasional not continuous, however the ongoing beneficial effect from oysters throughout the farm filtering and clarifying the water may be considered to be more substantial than the occasional and isolated effect of the de-fouling process. The following article refers to these effects beneficial to water quality.

**Modelling carrying capacity of bivalve aquaculture: a review of definitions and methods,** (Filgueira et al, 2015.p.5)

"For example, it is predicted that the increase of water clarity from bivalve aquaculture and/or oyster restoration may lead to an increased biomass of submerged aquatic vegetation (Newell and Koch 2004; Cerco and Noel 2007; Wall et al. 2008). A recent study conducted in Atlantic Canada showed a positive relationship between farmed oyster biomass and eelgrass (*Zostera marina*) biomass (Andrea Locke, personal communication). In addition to the direct effect on benthic habitat caused by the proliferation of submerged aquatic vegetation, a reduction of phytoplankton production in the water column is expected, due to the direct competition for nutrients (Souchu et al. 2001; Newell 2004; Porter et al. 2004)."

**b) Noise from farm – effects on birds and any other potentially impacted wildlife.**

The proposed operation is a low intensity operation where the vast majority of operational time involves very slow speed (walking speed or slower) boat travel and typically one boat per lease area. Transiting to and from lease sites to shore involves normal travel speed, however our BOBR growth system allows husbandry tasks to be conducted on the lease sites without moving bags of product to shore. So far fewer shore trips than most farms.

**c) Effect on birds. See above**

**d) Possible effects on eelgrass and baseline data on current extent of eelgrass.**

Any loss of eelgrass in Antigonish Harbour would be considered a negative impact. (Hanson, AR 2004). An on-site eelgrass survey was conducted by Department of Fisheries and Oceans (DFO) scientists. A DFO scientist (Dr Jeffrey Barrell), noted that the oyster farm will likely have a positive impact on the overall health of the eelgrass in the harbour due to reduced turbidity of the water. There is potential for reduced growth directly under the BOBR growth units due to shading; however, feedback from this DFO scientist noted that the net effect more broadly is likely to be beneficial. Additionally, the design of the growth units TPO will use minimizes the shading of sunlight on the eelgrass below growth units. TPO's growth units will cover only 0.1% of the harbour surface area. TPO will deploy lines in accordance with DFO recommendations suggesting sufficient line slack to allow growth unit drift which will reduce possible negative shading effect.

Antigonish Harbour is 4,400 acres. TPO's proposed lease sites comprise 90.3 acres which is 2% of the harbour. However, the growth units occupy less than 4% of lease areas. Therefore, the portion of Antigonish Harbour covered by growth units will be about 0.1%.

An article cited below asserts that eelgrass can benefit from co-culture with oysters, as this co-culture was shown to reduce the severity of Eelgrass Wasting Disease (EWD) by filtering out pathogens that cause EWD. According to this article, operations such as the proposed farm may reduce the chance of disease outbreak by filtering more of the pathogens that cause EWD. EWD is caused by a pathogenic slime mold, "Labyrinthula", which is present in Antigonish Harbour. This pathogen was responsible for the decimation of eelgrass in the 1930's. Subsequently, stocks rebounded until the early 2000's when the arrival of the Green Crab, led to another decimation.

"Oysters and eelgrass: potential partners in a high pCO2 ocean" Ecology, (Groner, M.L.etal, 2018)

"In conclusion, our study provides preliminary evidence to suggest that eelgrass and possibly oysters could benefit from co-culture under projected pCO2 conditions"

"Effects of Bivalve Aquaculture on the Environment and Their Possible Mitigation: A Review" Fisheries and Aquaculture Journal, (Gallardi, D, 2014)

"The functions of water clarification and bio deposition that characterize filter-feeding bivalves are valuable providers of ecological services to shallow water ecosystems. Bivalves help buffer estuaries and coastal ocean waters against excessive phytoplankton blooms in response to anthropogenic loading of

nitrogen, counteracting the symptoms of eutrophication; they also remove inorganic sediments from suspension, counteracting coastal water turbidity. The biodeposition created by mussels and oysters, through the creation of sediment anoxic microzones where denitrifying bacteria are promoted, induce denitrification, which also help to counteract eutrophication by returning nitrogen into the atmosphere as inert nitrogen gas [3,8,9,39,40]. Moreover, the enhancement of water clarity due to filtration allows deeper light penetration and therefore can increase the growth of seagrasses that are important nursery habitat for many fish, crustaceans and molluscs; bivalves are therefore capable of enhancing estuarine nursery habitats [9,40,41]. These natural functions of bivalves can be employed in aquaculture not only to mitigate the environmental effects of the culture, but also to create added value and services for the surrounding environment.”

“Bivalve aquaculture and eelgrass: A global meta-analysis” Aquaculture, (Ferriss, B.E, etal 2018)

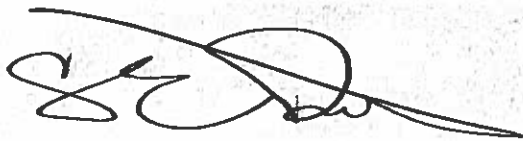
“These analyses suggest the response of eelgrass to bivalve aquaculture varies depending on eelgrass characteristics, grow-out approaches, and harvesting methods, with potential regionally specific relationships. Questions remain, regarding how this dynamic relationship between eelgrass and aquaculture habitat relates to ecological functions and services in the nearshore environment.”

The recently published study titled “Managing Aquaculture and Eelgrass Interactions in Nova scotia” by Howarth et al 2021 states on page 17 “Conversely, there is some evidence that suspended oyster aquaculture can increase eelgrass growth by improving water clarity, reducing epiphyte loads, and providing more nutrients to eelgrass.” Sections 7.3 and 7.4 on page 29 will also be of interest.

In addition to “works cited”, we have consulted over 40 other publications as part of our literature review - most of which are from peer reviewed scientific journal articles. While this represents a large volume of material, we will provide a copy upon request should there be interest in access to more relevant subject matter.

As discussed, we would welcome a meeting with NSDLF to discuss the concerns they have expressed and to explore ways to mitigate these concerns.

Best regards,  
Ernie Porter, P.Eng., President



Town Point Consulting Inc.



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STANDARD OPERATING PROCEDURES FOR THE ENVIRONMENTAL MONITORING OF MARINE AQUACULTURE IN NOVA SCOTIA  
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**Town Point Consulting Inc.**

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2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 16 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

1. 10/10/10  
2. 10/10/10  
3. 10/10/10



Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

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**Toll Free** 1 888 803 3880

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**Our Rights. Our Future.**

July 13, 2022

Robert Ceschiutti  
Manager, Licensing and Leasing  
Fisheries and Aquaculture  
1575 Lake Road  
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Email: [Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**RE: Continuing Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on Aquaculture Licence and Lease Nos. AQ#1442, 1443, & 1444.**

Mr. Ceschiutti,

I write to acknowledge your letter dated June 6, 2022, on the above noted.

Communities, Culture, Tourism & Heritage (CCTH) has noted "this is an area of elevated archaeological potential" this is also indicative of elevated archaeological potential for Precontact Mi'kmaw cultural heritage.

Archaeological sites are a non-renewable resource and physical impacts have the potential to damage or disturb buried cultural remains. Impacts to Mi'kmaw archaeological heritage, including loss, disturbance or a lack of detection has the potential to negatively impact Mi'kmaw Rights and Title. Therefore, it is strongly recommended that a full Archaeological Resource Impact Assessment (ARIA) be completed for all relevant areas prior to approval of licence and lease application.

Cultural practices, or the practice of rights are not always visible or constant and change and/or skip a generation. If an area doesn't appear to be used by the Mi'kmaw it may still hold great significance.

These are concerns we hope the department will consider while in the review process.

Yours in Recognition of Mi'kmaw Rights and Title.

Twila Gaudet, BA, LL. B.,  
Director of Consultation  
Kwilmu'kw Maw-Klusuaqn Negotiation Office

**c.c.:**

**Claire Rillie, Consultation Advisor, Nova Scotia Office of L'nu Affairs**

**Linda Babineau-LeBlanc, Consultation Officer, Transport Canada**

**Ed Parker, Department of Fisheries and Oceans Canada**



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 17 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL.**  
A Commissioner of the Supreme  
Court of Nova Scotia

1. 10. 1994  
2. 11. 1994  
3. 12. 1994

September 28, 2022

Twila Gaudet, Director of Consultation  
Assembly of Nova Scotia Mi'kmaw Chiefs  
Kwilmu'kw Maw-klusuaqn Negotiation Office  
75 Treaty Trail,  
Millbrook, NS  
B6L 1W3

Dear Ms. Gaudet:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

### How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

#### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

#### **Impacts to submerged Mi'kmaw Archaeological Resources**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with the response received from Nova Scotia Communities, Culture, Tourism and Heritage / CCTH (Previously known as Communities, Culture and Heritage / CCH).

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

In the June 6, 2022 letter NSDFA also invited the KMKNO to further explain how the proposed aquacultural activities which will employ suspended culture methods only - could impact Mi'kmaw Aboriginal and Treaty rights related to underwater archaeology in the area of the proposed aquacultural activities. A response was requested by July 6, 2022.

A response to NSDFA's June 6, 2022 letter was received from the KMKNO on July 13, 2022. The response arrived a week after the requested response date and did not provide an explanation for how the specifically proposed suspended culture activities could impact rights related to underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 18 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 21<sup>st</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia





September 28, 2022

Chief Deborah Robinson  
Acadia First Nation  
10526 Highway #3  
Yarmouth, Nova Scotia B5A 5J7

Dear Chief Robinson and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

### **Impacts to submerged Mi'kmaw Archaeological Resources**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with the response received from Nova Scotia Communities, Culture, Tourism and Heritage / CCTH (Previously known as Communities, Culture and Heritage / CCH).

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

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A response to NSDFA's June 6, 2022 letter was received from the KMKNO on July 13, 2022. The response arrived a week after the requested response date and did not provide an explanation for how the specifically proposed suspended culture activities could impact rights related to

underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 19 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



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September 28, 2022

Chief Gerald (Jerry) Toney  
Annapolis Valley First Nation  
29 Toney Blvd  
Cambridge Station, Nova Scotia B0P 1G0

Dear Chief Toney and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

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- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

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underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

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Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

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Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 20 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 10<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



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September 28, 2022

Chief Carol Dee Potter  
L'sitkuk (Bear River)  
130 Reservation Road  
Bear River, Nova Scotia B0S 1B0

Dear Chief Potter and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

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On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

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underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

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Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 21 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

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September 28, 2022

Chief Leroy D.C. Denny  
Eskasoni First Nation  
P.O. Box 7040  
63 Mini Mall Drive  
Eskasoni, Nova Scotia B1W 1A1

Dear Chief Denny and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

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### **Impacts to submerged Mi'kmaw Archaeological Resources**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with the response received from Nova Scotia Communities, Culture, Tourism and Heritage / CCTH (Previously known as Communities, Culture and Heritage / CCH).

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

In the June 6, 2022 letter NSDFA also invited the KMKNO to further explain how the proposed aquacultural activities which will employ suspended culture methods only - could impact Mi'kmaw Aboriginal and Treaty rights related to underwater archaeology in the area of the proposed aquacultural activities. A response was requested by July 6, 2022.

A response to NSDFA's June 6, 2022 letter was received from the KMKNO on July 13, 2022. The response arrived a week after the requested response date and did not provide an explanation for how the specifically proposed suspended culture activities could impact rights related to

underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 22 referred to in the Affidavit of Robert Ceschiutti affirmed before me this <sup>17<sup>th</sup></sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

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September 28, 2022

Chief Sidney Peters  
Glooscap First Nation  
159 Smith Road  
Hantsport, Nova Scotia B0P 1P0

Dear Chief Peters and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

### **Impacts to submerged Mi'kmaw Archaeological Resources**

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*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

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underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaq archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaq Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

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Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 23 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 1<sup>st</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



September 28, 2022

Paqtnkek Mi'kmaw Nation  
7 Dillon Street  
Afton Station, Nova Scotia B0A 1A0

Dear Chief and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

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The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

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Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 24 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

W. H. RAY  
1834-1904

September 28, 2022

Chief Andrea Paul  
Pictou Landing First Nation  
6533 Pictou Landing Road  
Fisher's Grant, NS B0K 1X0

Dear Chief Paul and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

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- Impacts to submerged Mi'kmaw archaeological resources.

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underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
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Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 25 referred to in the Affidavit of Robert Ceschiutti affirmed before me this <sup>12<sup>th</sup></sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

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September 28, 2022

Chief Wilbert Marshall  
Potlotek First Nation  
PO Box 538, 12004 Highway 4  
St. Peter's, Nova Scotia B0E 3B0

Dear Chief Marshall and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

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underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

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Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 26 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia





September 28, 2022

Chief Norman Bernard  
Wagmatcook First Nation  
P.O. Box 30001  
75 Humes Rear Road  
Wagmatcook, Nova Scotia B0E 3N0

Dear Chief Bernard and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

### **Impacts to submerged Mi'kmaw Archaeological Resources**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with the response received from Nova Scotia Communities, Culture, Tourism and Heritage / CCTH (Previously known as Communities, Culture and Heritage / CCH).

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

In the June 6, 2022 letter NSDFA also invited the KMKNO to further explain how the proposed aquacultural activities which will employ suspended culture methods only - could impact Mi'kmaw Aboriginal and Treaty rights related to underwater archaeology in the area of the proposed aquacultural activities. A response was requested by July 6, 2022.

A response to NSDFA's June 6, 2022 letter was received from the KMKNO on July 13, 2022. The response arrived a week after the requested response date and did not provide an explanation for how the specifically proposed suspended culture activities could impact rights related to

underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaw archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 27 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

10-10-1135 1 22 1  
2-1-100-100-100 10 10  
100-100 100-100

September 28, 2022

Chief Annie Bernard-Daisley  
We'koqma'q First Nation  
P.O. Box 149  
150 Reservation Road  
Waycobah, Nova Scotia B0E 3M0

Dear Chief Bernard-Daisley and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs and KMKNO. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On March 8, 2021, a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation. The KMKNO noted concerns regarding impacts to Piping Plover species and the need for underwater archaeology.

On June 6, 2022, the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided an update, described regulatory requirements and included a response to the concerns the KMKMO raised in the letter date March 8, 2021. The NSDFA asked to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs by July 6, 2022 about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by the sites 1442, 1443 and 1444 applications.

On July 13, 2022, one week after a response was requested, a reply was received from KMKNO recommending that a full Archaeological Resource Impact Assessment (ARIA) be completed.

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

In the letter to the NSDFA on March 8, 2021, the KMKNO identified the following concerns on the part of the Mi'kmaq with respect to the sites 1442, 1443 and 1444 applications:

- Impacts to the Piping Plover species
- Impacts to submerged Mi'kmaw archaeological resources.

### **Impacts to the Piping Plover Species**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with a copy of the response from the Nova Scotia Department of Natural Resources and Renewables ("NRR"), which provides additional information related to the potential impact to wildlife. To summarize, having taken into account additional information from the Department and the applicant, NRR indicated that it did not anticipate any "undue negative effects on avifauna" resulting from the proposed aquacultural activities. The NSDFA requested from the KMKNO any additional information to indicate that the proposed aquacultural activities set out in the application could negatively affect Piping Plover, and indicate how those negative effects could adversely impact the practice of Mi'kmaw Aboriginal and Treaty rights in the area of the proposed aquacultural activities. A response was requested by July 6, 2022. No response was received on this topic regarding the letter dated June 6, 2022.

### **Impacts to submerged Mi'kmaw Archaeological Resources**

In the letter to the KMKNO on June 6, 2022, the NSDFA responded to the concerns raised by the KMKNO. The NSDFA provided the KMKNO with the response received from Nova Scotia Communities, Culture, Tourism and Heritage / CCTH (Previously known as Communities, Culture and Heritage / CCH).

*"This is an area of elevated archaeological potential. Given this is a suspended culture set up, immediate archaeology concerns are minimal. However, please communicate to the license operator, that if at any time artifacts are encountered during operations, the Coordinator of Special Places, John Cormier should be contacted immediately."*

In the June 6, 2022 letter NSDFA also invited the KMKNO to further explain how the proposed aquacultural activities which will employ suspended culture methods only - could impact Mi'kmaw Aboriginal and Treaty rights related to underwater archaeology in the area of the proposed aquacultural activities. A response was requested by July 6, 2022.

A response to NSDFA's June 6, 2022 letter was received from the KMKNO on July 13, 2022. The response arrived a week after the requested response date and did not provide an explanation for how the specifically proposed suspended culture activities could impact rights related to



underwater archaeology in the project area. The KMKNO did, however, recommend a full Archaeological Resource Impact Assessment (ARIA) be undertaken.

The Department has made the decision to proceed with processing this application. In the absence of further information from the Mi'kmaq of Nova Scotia on how the proposed suspended culture activities associated with this application could impact Mi'kmaq archaeological resources, we have decided to follow the advice of the provincial regulator, CCTH, in requesting that the applicant contacts the Coordinator of Special Places in the event any archaeological artifacts are encountered. We trust this is an appropriate mitigation measure given the minimal potential impacts to under water archaeology associated with suspended culture. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that Membertou First Nation, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

9 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaq Chiefs

Twila Gaudet, Director of Consultation  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Gerard Francis, Consultation Project Support Officer  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada



2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 28 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia



**SIPEKNE'KATIK**  
522 Church Street  
Indian Brook, NS  
B0N 2H0

Tel: 902.758.2049  
Fax: 902.758.2017



## SIPEKNE'KATIK GOVERNANCE INITIATIVE – CONSULTATIONS

January 7, 2022

Robert Ceschuitti  
Manager of Licensing and Leasing  
Nova Scotia Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, NS B0T 1W0

Received

18 JAN. 2022

Fisheries and Aquaculture  
Shelburne, NS

Dear Mr. Ceschuitti:

**RE: Your request to engage the Sipekne'katik Band regarding the License and Lease Application nos. 1442, 1443, 1444 located in Antigonish County**

The Band has developed and established a consultation protocol that centers around potential impacts to Treaty and Aboriginal Rights, including Aboriginal Title. This self-governing Consultation Process serves as the governing Protocol for consultations with the Band and was developed by Sipekne'katik through extensive community involvement and engagement with band members. This will serve as the Band's approach to Rights-based consultation regarding projects that may have an impact on our rights and title.

Therefore, I would like to direct you to the SGI protocol and our six -phase process for consultations. Please find attached an information brochure and application form to begin the formal process. There is a modest application fee that will get your project thru the first four stages of our process. Applications will be accepted until February 11, 2022.

The formal legal consultation process with community engagement requires adequate capacity and the cost of the consultation with community is not included in the initial application fee structure, but will be negotiated after a preliminary assessment based upon the project size, scope and impact to rights.

Our team will be available on an appointment basis to go over any questions you may have on the new process.

On behalf of the Sipekne'katik Governance Initiative Secretariat.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl Maloney".

Cheryl Maloney, Consultation Lead  
Sipekne'katik Governance Initiative - Consultations

ENCL.

# Sipekne'katik Governance Initiative: Six Phases to Consultation

## Considerations for capacity needs for project:

The proposed workplan and implementation may include or consider the following:

- Any specialized studies, community use, ecological inventory, baseline data, science, marine, archaeological, etc.
- Identify any indigenous expertise required
- Level of community engagement required
- Level of governance engagement required
- Human resource/staff needs
- Interpretation needs
- Historical records/archive research
- Communications/print
- Legal review
- Cost of plebiscite or referendum for consent-based decision making when appropriate.
- IT needs
- Logistical cost of space, printing, meals and hospitality, and support staff
- Budgetary considerations

## Phase 6: Outcome based

### In support:

Upon completion of community consultations, the results in support of a project and process will proceed and may include letters of support, development of partnership agreements, negotiations of impact benefit agreements, compensation, etc.

### Not in support:

Return to governance and community for next steps. Possible options include: courts processes, negotiations for alternative process with minimal impairment, fair compensation, community actions, International and legal options.

Projects may need adjustments and accommodations which may restart the consultation process.



## For more Information

### Sipekne'katik Governance Initiative Secretariate

Phone: 902 835-2869

Fax: 902 758 -

Email: [consultation@sipeknekatik.ca](mailto:consultation@sipeknekatik.ca)

522 Church Street,

Indian Brook 14,

N.S., B0N 2H0

Conduct the formal community consultation process.

The Sipeknekatik governance initiative Protocol-Navigating a new path forward (SGI) has been established by the community of Sipeknekatik on how they want to be engaged and consulted on regarding matters which impact their Aboriginal rights, treaty rights and Miikmaq title lands. The consultation protocol was enacted into law in the summer of 2020.

The Sipeknekatik Chief and council understand the duties owed to its members when acting on behalf of the community. The SGI protocol respects the fiduciary duties owed to its members by the Chief and council under the Indian Act, but also, recognizes and respects the duties owed to rights holders in regards to matters affecting the treaty rights, Aboriginal rights and title lands of the Sipeknekatik Miikmaq.

Whereas, the Sipeknekatik governance Initiative protocol is based on impacts to rights and with the legal and fiduciary duties owed to its members in mind, the following six phase approach has been adapted as the self-governing regulatory process for dealing with consultations.

**Phase 1: Application stage/fee structure:**

Application forms for each project must be completed with the applicable application fee.

The application process will introduce each project, outline the scope in size, legal jurisdiction and relevant legislation of each project.

Upon completion of the application and receipt of the application fee, the application will proceed to the electronic records department and an electronic file number will be assigned to each project.

The administrative fee is to cover the cost on establishing a legal electronic record, assign a project file number and to obtain all pertinent information for the project to enter into Phase two: The Strength of claim and the potential impact to rights phase.



**Phase 2: Strength of claim/assessment stage.**

With all relevant information available, the applicant/crown must outline the potential impact to rights and risk of their project.

The SGI Strength of claim process will determine and outline any preliminary issues regarding the existing rights of the Miikmaq and the potential impact to:

- i. Established treaty rights of the Miikmaq
- ii. Aboriginal rights held by the Miikmaq
- iii. Aboriginal title of the Miikmaq to the project area.

Based upon the strength of claim process, a report for each project will proceed to the community governance review stage in regards to the determination of the level of consultation required by the community, by the Sipeknekatik government and the potential cost of formal community consultation.

**Phase 3: Review stage**

- The Strength of claim report will proceed to a three-part review process consisting of:
  - I. In house legal review
  - II. Community Experts/committee review
  - III. Governance review

After the review process, the project file will proceed to negotiations regarding the scope of consultations needed and the cost for capacity for community process.

**Phase 4: Negotiations: Scope and cost of consultation**

Consideration for negotiations will include:

- Level of engagement needed (based upon phase two assessments).
- Cost of consultations, interpretation, science and experts needed, cost to gather community input, community consultation, level of governance engagement referendum, materials, communication, print, admin etc.
- Negotiations will be based upon evolving case law regarding the capacity of community and the reasonable cost of consultations.

**Phase 5: Community Consultation process**

**Part I**

Development of consultation workshop:

A project based workshop will be developed for each project to ensure community capacity needs are met, determine the scope of project and potential impact to rights and enter the best available information be provided in a manner appropriate for community consideration.

**Part 2**

Implementation of the workshop:

The formal community consultation process will follow the approved workshop and timeline established under the SGI process. The depth of consultation and scope must be consistent with the nation to nation-based relationship.

# Sipekne'katik Governance Initiative: Six Phases to Consultation

## Consultation process application form:

Please ensure all sections are filled out and application fee is included. Incomplete applications will be returned.

**Make Payable to: Sipekne'katik First Nation**

*Re: Consultations- Name of Department and project.*

### **PART I**

Federal or Provincial Crown:

Name: \_\_\_\_\_ Project name: \_\_\_\_\_

Lead department or contact: \_\_\_\_\_

Government Department: \_\_\_\_\_

Federal Environment and Climate Change  Provincial  Proponent  Other

Relevant statute, acts, regulations or governing bodies. \_\_\_\_\_

List: \_\_\_\_\_

Legislation/overlaps/jurisdiction/Statutes etc. \_\_\_\_\_

### **PART II**

About the Project: \_\_\_\_\_

Location: \_\_\_\_\_

Size: \_\_\_\_\_

Scope: \_\_\_\_\_

Jurisdiction status: \_\_\_\_\_

Time line for completion. \_\_\_\_\_



**Part III**

Application fee:

Payable to Sipekne'katik Band: Re: SGI project name/department application fee ( ie: DFO - Tusket dam)

Upon completion of the application and fee, the application will proceed to electronic records department and an electronic file # will be assigned to each project before proceeding to the Strength of claim/impact to rights and review stage.

Upon completion of the application process and review stage the file will be returning to the appropriate department with the following:

- Preliminary issues regarding the Impact to the established Treaty Rights, the Aboriginal title of the Mi'kmaq and the impact to Aboriginal title of the Mi'kmaq.
- Level of consultation required to community/government.
- Level of capacity needed for formal consultations
- Cost of consultation negotiations for formal consultation process with community rights holders.

Further considerations will include the scope and cost of consultations in regards to

- Level of community engagement (based upon phase two assessments)
- Cost of consultation, interpretation, science and experts needed, cost to gather community input, community consultation, level of governance engagement, referendum, materials, communication, print, admin etc.
- Cost of Lnu governments participation. Chief, council, Elders council and Grand council.

---

**For more Information**

Sipekne'katik Governance Initiative  
Secretariate

Phone: 902 835-2869

Fax: 902 758-

Email: [consultation@sipeknekatik.ca](mailto:consultation@sipeknekatik.ca)

522 Church Street,

Indian Brook 14,

N.S., BONZHO



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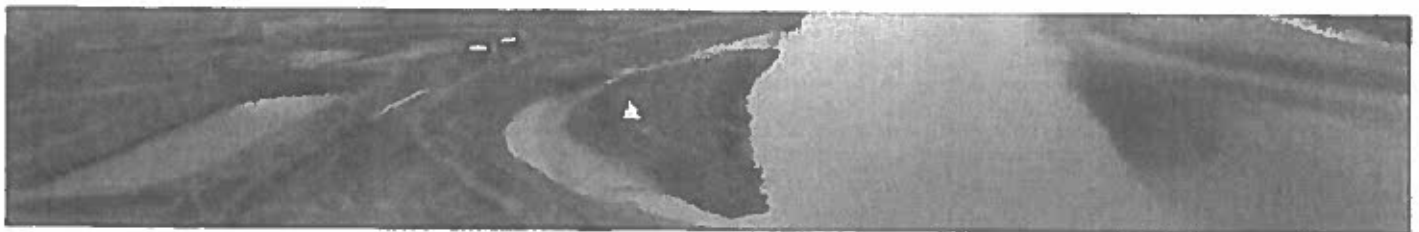
**For office use only**

Date received: \_\_\_\_\_

Assessment number: \_\_\_\_\_

Assessment start date: \_\_\_\_\_

Assessment Phase: \_\_\_\_\_





2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 29 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

1. 2 existing in  
1978 - 1980  
1981 - 1982



Sipekne'katik Governance Initiative  
522 Church Street  
Indian Brook, Nova Scotia B0N 1W0

**Nova Scotia Fisheries & Aquaculture**

1575 Lake Road  
Shelburne, NS  
B0T 1W0

**RE: Consultation Requests**

To the Department of Fisheries & Aquaculture,

In July 2020, Sipekne'katik enacted into law the *Sipekne'katik Governance Initiative Protocol* ("the SGI Protocol"), a community-based consultation process that must be relied upon whenever the Crown and/or proponent contemplates conduct that could adversely impact Mi'kmaq rights. Sipekne'katik is no longer a party to the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference since exiting from the Assembly of Nova Scotia Mi'kmaq Chiefs in 2013. We expect that all projects which have the potential to impact Mi'kmaq rights will proceed under the SGI Protocol consultation process.

We understand that the position of the Office of L'nu Affairs is that it has full authority and discretion to create and define the consultation process, subject to the process being reasonable. However, Sipekne'katik has the right to participate in decision-making in matters which could affect our member's rights and interests in accordance with our *own procedures* and to develop our *own decision-making institutions*, in accordance with Mi'kmaq law, Canadian law, and international law. The Government of Nova Scotia's "Policy and Guidelines: Consultation with the Mi'kmaq of Nova Scotia" (April 2015) recognizes the importance of Mi'kmaq self-governance and internal deliberations. We are enclosing our correspondence with the Office of L'nu Affairs regarding this matter for your review.

To address any correspondence relating to legal consultation, all projects must go through the SGI Protocol process. We expect your department to complete the enclosed SGI Application Form in relation to the following projects:



1. New Experimental Aquaculture Application No.5011
2. License & Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour

Please complete the SGI Application Form for any other current and future projects not listed above.

The Sipekne'katik Governance initiative staff will be happy to arrange a time to meet to answer any questions and to discuss a path forward with your department or project leads. We look forward to collaborating with you in a manner consistent with the Nation-to-Nation treaty relationship.

Please ensure that you copy [consultationclerk@sipeknekatik.ca](mailto:consultationclerk@sipeknekatik.ca) in all communications with the Sipekne'katik Governance Initiative.

Sincerely,

Cheryl Maloney, Consultation Coordinator  
Sipekne'katik Governance Initiative  
[consultation@sipeknekatik.ca](mailto:consultation@sipeknekatik.ca)  
(902) 835-2869

Encl.

CC:  
[consultationclerk@sipeknekatik.ca](mailto:consultationclerk@sipeknekatik.ca)  
[directorofoperations@sipeknekatik.ca](mailto:directorofoperations@sipeknekatik.ca)  
[cheryl.maloney0077@gmail.com](mailto:cheryl.maloney0077@gmail.com)

2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 30 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 17<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

10

11



October 12, 2022

Chief Michael P. Sack  
Sipekne'katik First Nation  
522 Church Street  
Indian Brook, Nova Scotia B0N 1W0

Dear Chief Sack and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444 (the "Applications") and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent an Offer to Consult letter to Sipekne'katik First Nation. NSDFA described the Applications, noted that the Province had screened the Applications for Aboriginal consultation purposes, and found them to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts that the applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

On January 7, 2022 – one year following the initial offer to consult - a letter was sent from Sipekne'katik First Nation to NSDFA. The letter directed the NSDFA to the Sipekne'katik Governance Initiative protocol and its six-phase process for consultations. In the letter, Sipekne'katik First Nation requested an application form to be completed, along with an application fee, to be accepted until February 11, 2022.

On August 26, 2022, a letter was sent from Sipekne'katik First Nation to NSDFA. Copies of prior correspondence between OLA and Sipekne'katik First Nation were included with the letter. The letter again requested that the Applications be made subject to the six-phase process set out in the Sipekne'katik Governance Initiative protocol.

How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

No issues have been raised by Sipekne'katik First Nation regarding potential adverse impacts to Aboriginal and treaty rights in connection with the Applications.

With regards to your January 7, 2022 and August 26, 2022 requests that NSDFA submit the Applications under Sipekne'katik's new Sipekne'katik Governance Initiative protocol, I remind you that, as described in previous letters from the Province to Sipekne'katik, the Province has concerns with Sipekne'katik's consultation protocol. That said, the Province remains committed to a meaningful and reciprocal dialogue about consultation with Sipekne'katik, and to exploring, through collaboration, the development of a reasonable consultation approach that meets the needs of the Province and Sipekne'katik.

The Province sought to consult with Sipekne'katik with respect to the Applications in accordance with the common law duty to consult and consistent with the Government of Nova Scotia Policy and Guidelines: Consultation with the Mi'kmaq of Nova Scotia. In the absence of a response from Sipekne'katik First Nation outlining potential adverse impacts to your Aboriginal and treaty rights, we will now be proceeding with the application process. The final decision regarding these Applications will be made by the Aquaculture Review Board and posted to the NSDFA's website.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs, Millbrook First Nation and Membertou First Nation have been informed of this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

Cheryl Maloney, Consultation Coordinator  
Sipekne'katik First Nation

Claire Rillie, Senior Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada

2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 31 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia

Handwritten text, possibly a signature or date, located in the lower-left quadrant of the page.

September 28, 2022

Chief Robert Gloade  
Millbrook First Nation  
P.O. Box 634  
820 Willow Street  
Truro, Nova Scotia B2N 5E5

Dear Chief Gloade and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent an Offer to Consult letter to Millbrook First Nation. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

No response was received from Millbrook First Nation.

How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

No issues were raised by Millbrook First Nation.

The Department has made the decision to proceed with processing this application. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs, Sipekne'katik First Nation and Membertou First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

Gerald Gloade, Consultation Coordinator  
Millbrook First Nation

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada

2022

NSARB-2022-001

NSARB-2022-002

NSARB-2022-003

This is Exhibit 32 referred to in the Affidavit of Robert Ceschiutti affirmed before me this 12<sup>th</sup> day of May, 2023.



Alison W. Campbell

A Barrister of the Supreme Court of Nova Scotia

**ALISON CAMPBELL**  
A Commissioner of the Supreme  
Court of Nova Scotia





September 28, 2022

Chief Terrance J. Paul  
Membertou First Nation  
47 Maillard Street  
Membertou, Nova Scotia B1S 2P5

Dear Chief Paul and Council:

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. 1442, 1443, 1444 located in Antigonish Harbour, Antigonish County**

The purpose of this letter is to inform you of a decision that has been made on the aquaculture licence and lease application Nos 1442, 1443 and 1444; and to provide the following information:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On January 8, 2021, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent an Offer to Consult letter to Membertou First Nation. NSDFA described the sites 1442, 1443 and 1444 Applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the sites 1442, 1443 and 1444 Applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before March 8, 2021.

No response was received from Membertou First Nation.

How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

No issues were raised by Membertou First Nation.

The Department has made the decision to proceed with processing this application. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs, Sipekne'katik First Nation and Millbrook First Nation have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager, Licensing & Leasing

Cc:

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Sandra Comeau, Regional Manager, Aquaculture Management  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada