

NSARB-2023-001-APP-007

EXHIBIT 7

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*By Nova Scotia Aquaculture Review Board at 9:53 pm, Aug 11, 2023*

# REPORT ON THE OUTCOMES OF THE PERFORMANCE REVIEW

AQ#1205

Submission to the Nova Scotia Aquaculture Review Board

Nova Scotia Department of Fisheries and Aquaculture

## Report on the Outcomes of the Performance Review

The following is a report on the outcomes of the performance review conducted under section 15 of the *Aquaculture Licence and Lease Regulations*.

### LICENSE/LEASE DETAILS:

#### LICENSING COORDINATOR:

**Reason for Performance Review:** Receipt of a proposal for an adjudicative boundary amendment of aquaculture licence and lease AQ#1205.

**Licence/Lease Number:** AQ#1205

**Licence/Lease Holder:** Kelly Cove Salmon Limited (KCS)

**Licence/Lease Location (Waterbody/Town/Municipality/County):** Liverpool Bay, Queens County

**Site Size:** 3.99 HA

**Species:** Atlantic salmon (*Salmo salar*) and rainbow trout (*Oncorhynchus mykiss*)

**Culture Method:** Suspended Marine Cage

#### **Current Licence/Lease Term (not applicable for assessment of sites before entering registry):**

Licence: April 1, 2020, to April 1, 2030

Lease: April 1, 2020, to April 1, 2040

**File History:** An aquaculture licence and lease for AQ#1205 were first issued in 2000 to Sun Salmon Ltd. In 2004 the licence and lease were assigned to Ocean Trout Farms Inc. then amended and restated in 2010 to correct the longitude of corner four (4) in the description in the Schedule "A". Ocean Trout Farms Inc. renewed the licence/lease in 2010 for a five-year term. In 2010 an amendment was also completed to the licence to change the wording in clause nine (9) related to reporting requirements. AQ#1205 was first operated by Kelly Cove Salmon Ltd. in 2011. The Nova Scotia Department of Fisheries and Aquaculture (DFA) confirmed with Kelly Cove Salmon Ltd. that there was a sub-lease agreement in 2011 with Ocean Trout (the then licence holder).

Kelly Cove Salmon Ltd. took over the licence and lease when it was assigned from Ocean Trout Farms Inc. in 2012. A Non-disturbance Agreement was issued in 2014 between Her Majesty the Queen in Right of the Province of Nova Scotia, Kelly Cove Salmon Ltd. and DNB Bank ASA, New York Branch and the licence and lease were issued to Kelly Cove Salmon Ltd. in 2015 for a five-year term. In 2020 the licence was issued for a twenty-year term (until April 1, 2040) and the lease was issued for a ten-year term (until April 1, 2030).

**Status of Security Bond:** Kelly Cove Salmon Ltd. currently has a security bond in place for site AQ#1205.

**NOVA SCOTIA ENVIRONMENT COMPLIANCE:** In 2016, the province identified that a portion of the infrastructure present on lease AQ#1205 was outside the bounds of the issued lease space. This is in contravention to Section 55(2)(b) of the Aquaculture Licence and Lease Regulations. Nova Scotia Environment (now Nova Scotia Environment and Climate Change) provided two options to Kelly Cove Salmon Ltd. to bring their operation into compliance regarding the said Regulation (see Appendix A). Kelly Cove Salmon Ltd. notified DFA of which option they would like to pursue to bring their operation into compliance. Kelly Cove Salmon Ltd. chose to pursue an adjudicative boundary amendment application for site AQ#1205 as required by Nova Scotia. This adjudicative amendment is to expand the currently issued lease space to encompass the site infrastructure and aquacultural produce currently in place. In addition, the boundary amendment is to increase the size of the lease from 3.99 hectares to 40.70 hectares to allow for the addition of six (6) cages.

In 2021, a Compliance Information Request was submitted to Nova Scotia Environment's Inspection Compliance & Enforcement (NSE-ICE) Division (now under Natural Resources and Renewables (NRR)). As noted by NSE-ICE, there have been complaints filed against the licence/lease holder for site AQ#1205 since 2017, including debris from site washing up on shore and noise generated on the site (see Appendix B). In April 2023, a follow-up Compliance Information Request was submitted to NRR which noted a complaint about debris off site, which was cleaned up by the licence/lease holder (see Appendix B).

To DFA's knowledge, the site is in compliance and complaints have not resulted in an offence ticket or charges pursuant to the *Fisheries and Coastal Resources Act*, *Aquaculture Management Regulations*, or *Aquaculture Licence and Lease Regulations* specific to site AQ#1205.

**OTHER PERMIT CONSIDERATIONS:** An application to Transport Canada, File Number: 8200-93-3054, Liverpool Bay (AQ#1205) was submitted under the former Navigation Protection Act (NPA) (see Application Package - Development Plan, Appendix F). The updated File Number under the current Navigation Protection Program (NPP) is 1996-200265. An updated Transport Canada approval will be required following a decision from the Nova Scotia Aquaculture Review Board (NSARB).

## 1.0 SITE UTILIZATION

Kelly Cove Salmon Ltd. has operated on this site since acquiring it, reporting sales in their production reports to DFA for Atlantic salmon in 2013, 2016, 2018, and 2019 and for rainbow trout in 2011, making site AQ#1205 well utilized. The proposed expansion to site AQ#1205 in addition to the proposed two new sites in Liverpool Bay supports the applicant's plans to expand their operations in Nova Scotia.

## 2.0 FARM MANAGEMENT PLAN STATUS

**AQUACULTURE OPERATIONS:** Kelly Cove Salmon Ltd. has a Farm Management Plan (FMP) in place for their current operations on lease AQ#1205 that has been reviewed and approved for implementation by the Department. The FMP will be reviewed after a decision on the site application is issued by the NSARB to ensure the FMP reflects their operation on lease AQ#1205.

## 3.0 ADDITIONAL INFORMATION

**AQUACULTURE OPERATIONS:** Atlantic salmon will be restocked on lease AQ#1205 in Spring 2023. The most recent Environmental Monitoring Program (EMP) sampling event was conducted on August 15, 2022. The analysis of this event resulted in the site being classified as oxic. The primary Environmental Quality Objective (EQO) for the marine environment where an aquaculture operation occurs is to maintain oxic sediment conditions. If oxic sediment conditions cannot be maintained, operators must comply with the regulatory process that identifies steps required to improve seafloor conditions. DFA reviewed the environmental performance of site AQ#1205 back to 2012, when first leased by Kelly Cove Salmon Ltd. The review showed that the site historically meets environmental regulatory requirements and has been considered 'oxic' since 2012. In 2015, the site's average sulfide value exceeded oxic classifications using the present day EMP standard; however, the lease was classified yearly based on the most recent iteration of the Nova Scotia EMP requirements. At the time of this exceedance, the EMP requirements classified the lease as 'oxic'. The operator has fully participated in the EMP program as set out by the *Aquaculture Management Regulations*.

**AQUACULTURE DEVELOPMENT:** The site was reviewed for containment management practices in accordance with the *Aquaculture Management Regulations*. As a result of a suspected breach event that took place in June 2021 on lease AQ#1205, DFA requested the submission of the information required under the inventory control and reporting sections of the FMP for that current production cycle of AQ#1205. The requested information was provided to the Department and deemed satisfactory with no additional actions required. The operator has fully complied with the criteria set out by the department regarding the Containment Management

Framework, which supports the comprehensive and effective management of marine finfish farms to mitigate the risk of escapees.

**AQUATIC ANIMAL HEALTH:** Ongoing fish health surveillance and management has enabled this site to be productive. The operation of AQ#1205 has been conducted in a manner that follows the aquatic animal health regulatory processes as outlined within the *Aquaculture Management Regulations*. The Operator has fully participated in the Nova Scotia marine finfish surveillance program which involves regular veterinary site visits, sampling and diagnostics examining the on-site population. The management of fish health is overseen by a team of technical fish health staff and veterinarians, lead by a Supervising Veterinarian.

#### 4.0 CONCLUSION

The overall performance review has shown that the farming of fish by Kelly Cove Salmon Ltd. on lease AQ#1205, has been generally productive since Kelly Cove Salmon Ltd. was assigned the lease and commenced farming operations on the site in 2012. The site has been reviewed for its technical feasibility for farming fish in this proposed leased space and for the operation and operator to be able to farm in a manner that meets the regulatory requirements laid out in the *Nova Scotia Fisheries and Coastal Resources Act*, the *Aquaculture Licence and Lease Regulations* and the *Aquaculture Management Regulations*. As a result of the review, DFA has referred this adjudicative boundary amendment application to the NSARB for consideration and decision. DFA is satisfied with the historical performance of this site from a technical and regulatory perspective.

APPENDIX A – NOVA SCOTIA ENVIRONMENT LETTER

**Inspection, Compliance and Enforcement Division**

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Our File No.:

May 31, 2016

Michael Szemerda  
KELLY COVE SALMON LTD  
[REDACTED]  
ST. GEORGE NB [REDACTED]

Dear Aquaculture Lease/Licence Holder:

Aquaculture Licence and Lease Regulations  
and the Aquaculture Management Regulations

Nova Scotia Environment (NSE), Inspection, Compliance and Enforcement Division, is responsible for enforcement of the *Fisheries and Coastal Resources Act* and its regulations, including the *Aquaculture License and Lease Regulations* and the *Aquaculture Management Regulations*.

On October 26, 2015, the Province released new regulations made pursuant to the Fisheries and Coastal Resources Act. These regulations, which are administered by the Department of Fisheries and Aquaculture (DFA), are *Aquaculture License and Lease Regulations* and the *Aquaculture Management Regulations*. These two new regulations provide the framework for how all Nova Scotian Aquaculture licence and lease holders must operate their aquaculture sites and established the process for amending any of the existing licences or leases.

NSE's Conservation Officers, which now include Fisheries Inspectors, are located at various government offices across the Province and will be enforcing this legislation. This will include conducting compliance checks and responding to complaints. NSE is committed to ensuring that all licence and lease holders are in compliance with the regulations.

NSE recognizes the importance for regulated parties to have information and guidance on the legal requirements of the new aquaculture legislation and how the Industry can comply. NSE would like to take this opportunity to mention a few of the compliance issues the department is working to address and ensure that you are aware of your legal obligation in these matters.

All lease and licence holders are to immediately ensure that their sites are marked in accordance with section 55(1) of the *Aquaculture License and Lease Regulations*:

*"An aquaculture licence holder must mark each of their sites in a manner determined by the Minister and keep each site marked during the term of their licence."*

As indicated in a letter to you from DFA dated May 18, 2016, the Minister of Fisheries and Aquaculture has determined that all sites will be marked as follows:

*"The holder of an aquaculture lease shall*

- (a) mark all corners of the leased site with cautionary yellow buoys of a minimum of 60 cm in diameter;*
- (b) mark all corners of the leased bottom with a cement block or similar device of a weight sufficient to ensure the cement block or device remains in place at all times; and*
- (c) display the licence or lease number at 1 corner of the licensed or leased area."*

NSE Conservation Officers will be conducting inspections this year. Part of their inspections will include, but will not be limited to, ensuring that all lease holders meet this regulatory requirement.

#### Operating Off-lease

The new *Aquaculture License and Lease Regulations* in section 55(2)(b) states the following:

*"55(2)(b) An aquaculture licence holder must ensure that equipment and aquacultural produce related to any of their sites remain within the geographic boundaries of that site."*

NSE Conservation Officers will enforce a deadline of October 26, 2016 for lease and licence holders to exercise one of the options below if their site is not in compliance with the licence issued by the Department of Fisheries and Aquaculture (DFA).

#### Options

1. Licence Holders shall submit a scheduled re-alignment plan on or before October 26, 2016 to Nova Scotia Environment. These scheduled re-alignment plans must receive approval from NSE and will be required to provide the detailed steps a licence holder plans to take to move all equipment and produce back within their lease boundaries and must also provide the proposed schedule for completion of these tasks; or
2. Licence holders shall submit an application for an adjudicative or administrative amendment on or before October 26, 2016 to DFA's Aquaculture Division. The format for



## Statutes and Regulation Website

NS Fisheries and Coastal Resources Act:

<http://nslegislature.ca/legc/statutes/fishand.htm>

Lease and Farm Management Regulations:

<http://www.novascotia.ca/just/regulations/regs/fcraqualiclease.htm>

<http://www.novascotia.ca/just/regulations/regs/fcraquamgmt.htm>

## Contact Information

### NS Department of Fisheries and Aquaculture

#### Aquaculture Division

1575 Lake Road, Floor 1 (NSCC Campus)

Shelburne, NS B0T1W0

Phone: (902) 875-7443

Email: [aquaculture@novascotia.ca](mailto:aquaculture@novascotia.ca)

Website: <http://novascotia.ca/fish/aquaculture>

### Nova Scotia Environment

#### Inspections, Compliance and Enforcement Division

#### Regional Integration of Compliance & Operations Unit

#### Western Region East

Enforcement Coordinator, Terry Beck

Lunenburg, NS

Phone: (902) 634-7530

Email: [Terry.Beck@novascotia.ca](mailto:Terry.Beck@novascotia.ca)

#### Western Region West

Enforcement Coordinator, Lee Nauss

Tusket, NS

Phone: (902) 648-3535

Email: [Lee.Nauss@novascotia.ca](mailto:Lee.Nauss@novascotia.ca)

#### Central Region East

Enforcement Coordinator, Dale Cashin

Bible Hill, NS

Phone: (902) 893-5620

Email: [Dale.Cashin@novascotia.ca](mailto:Dale.Cashin@novascotia.ca)

#### Central Region West

Enforcement Coordinator, Brian Mailman

Middle Musquodoboit, NS

Phone: (902) 384-2290

Email: [Brian.Mailman@novascotia.ca](mailto:Brian.Mailman@novascotia.ca)

#### Eastern Region/Cape Breton

Enforcement Coordinator, Dougald MacNeil

Whycocomagh, NS

Phone: (902) 756-2339

Email: [Dougald.MacNeil@novascotia.ca](mailto:Dougald.MacNeil@novascotia.ca)

APPENDIX B – COMPLIANCE INFORMATION REQUEST FORMS

**NOVA SCOTIA DEPARTMENT OF FISHERIES AND AQUACULTURE  
COMPLIANCE INFORMATION REQUEST FORM**

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Compliance information requested via this form pertains to the *Fisheries and Coastal Resources Act*, *Aquaculture Management Regulations*, *Aquaculture Licence and Lease Regulations* and any terms and conditions associated with an aquaculture licence or lease.

1.0 DETAILS OF INDIVIDUAL SUBMITTING REQUEST

**Name:** Lynn Winfield

**Title/Position:** Licensing Coordinator

**Telephone Number:** 902-875-7440

**Email:** Lynn.Winfield@novascotia.ca

**Date submitted to NSE:** 2021-08-31

**Date response requested by:** 2021-09-15

2.0 DETAILS OF LICENCE/LEASE

**Licence/Lease Holder:** Kelly Cove Salmon Ltd.

**Aquaculture Licence/Lease #:** AQ#1205

**Site Location:** Liverpool, Queens County

**Type of Culture:** Marine Finfish

**Species:** Atlantic salmon and Rainbow trout

**Lease/Licence Holder Contact Information:**

Name: Jeff Nickerson

Position: [Click or tap here to enter text.](#)

Telephone Number: XXXXXXXXXX

E-mail: jnickerson@cookeaqua.com

3.0 REQUEST FOR COMPLIANCE STATUS

**TO BE COMPLETED BY DFA:**

**Specific reason for request:** Amendment

**TO BE COMPLETED BY NSE CONSERVATION ENFORCEMENT:**

**REQUESTED INFORMATION:**

Has a complaint been filed with Nova Scotia Environment against the lease/license holder?

**YES**       **NO**

If yes, please provide details and any follow up action taken:

**2017**-complaint (Off Lease), **2018**-Two complaints (debris from site washed up on shore), **2020**-Two complaints (Off lease), **2021**-complaint (noise coming from site for extended periods). All complaints from the public were investigated, warnings and/or charges were not warranted.

Has the licence/lease holder been issued a written warning pursuant to the *Fisheries and Coastal Resources Act*, Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?

**YES**       **NO**

If yes, please provide details and any follow up action taken: [Click or tap here to enter text.](#)

Has the licence/lease holder been issued a summary offence ticket or been charged with an offence pursuant to the *Fisheries and Coastal Resources Act*, Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?

**YES**       **NO**

If yes, please provide details and any follow up action taken: [Click or tap here to enter text.](#)

Has the licence/lease holder been convicted of an offence pursuant to the *Fisheries and Coastal Resources Act*, Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?

**YES**       **NO**

If yes, please provide details and any follow up action taken: [Click or tap here to enter text.](#)



# Compliance Information Request Form

Compliance information requested via this form pertains to the *Fisheries and Coastal Resources Act*, *Aquaculture Management Regulations*, *Aquaculture Licence and Lease Regulations* and any terms and conditions associated with an aquaculture licence or lease.

## Section 1 (to be completed by the Department of Fisheries and Aquaculture)

Details of individual submitting request	
Name	Lynn Winfield
Title / Position	<input checked="" type="checkbox"/> Licence Coordinator <input type="checkbox"/> Other:
Telephone #	902-875-7440
Email	Lynn.winfield@novascotia.ca
Date Submitted to DNRR-CO	April 26, 2023
Requested Response Date	ASAP

Details of Licence / Lease	
Licence / Lease Holder	Kelly Cove Salmon ltd.
Licence / Lease #	1205
Site Location	Liverpool, Queens County
Site Coordinates	<input checked="" type="checkbox"/> Map Attached
Method(s) of Cultivation (select all that apply)	<input type="checkbox"/> Bottom without Gear <input type="checkbox"/> Suspended
	<input type="checkbox"/> Bottom with Gear <input checked="" type="checkbox"/> Marine Cage
	<input type="checkbox"/> Other:
Species	Atlantic salmon and Rainbow Trout

Lease / Licence Holder Contact Information	
Contact Name	Jeff Nickerson
Title / Position	
Phone #	██████████
email	jnickerson@cookaqua.com

Request for Compliance Status	
Reason for Request	Amendment
Comments	

**Section 2** (to be completed by the Department of Natural Resources and Renewables)

Details of individual completing request	
Name	
Title / Position	<input type="checkbox"/> Regional Enforcement Manager <input checked="" type="checkbox"/> Conservation Officer <input type="checkbox"/> Other:
Date Completed	April 26/2023

Compliance Information Results
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#1: Has a complaint been filed with Nova Scotia Natural Resources and Renewables against the lease/license holder?	
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
If yes, please provide details and any follow up action taken: Equipment off sites 55(2) ( bouys or debris and made to clean up)	

#2: Has the licence/lease holder been issued a written warning pursuant to the <i>Fisheries and Coastal Resources Act</i> , Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?	
<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
If yes, please provide details and any follow up action taken:	

#3: Has the licence/lease holder been issued a summary offence ticket or been charged with an offence pursuant to the <i>Fisheries and Coastal Resources Act</i> , Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?	
<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
If yes, please provide details and any follow up action taken:	

#4: Has the licence/lease holder been convicted of an offence pursuant to the <i>Fisheries and Coastal Resources Act</i> , Aquaculture Management Regulations, Aquaculture Licence and Lease Regulations or any terms and conditions associated with an aquaculture licence or lease?	
<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
If yes, please provide details and any follow up action taken:	

Please return this completed form to the individual submitting the request