

## Report of the Performance Review of an Aquaculture Operation

The performance review is conducted by multiple sections within the Aquaculture Division. It is an assessment of the historical operation of the site from a technical perspective and if the operator is conducting the operation in compliance with the *Fisheries and Coastal Resources Act*, *Aquaculture Licence and Lease Regulations* and the *Aquaculture Management Regulations*. The following is a report of that review.

### LICENCE/LEASE DETAILS:

#### LICENSING COORDINATOR:

**Reason for Performance Review:** Receipt of a proposal for an adjudicative amendment of aquaculture licence and lease #1039.

**Licence/Lease Number:** AQ#1039

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

**Licence/Lease Location (Waterbody/Town/Municipality/County):** Annapolis Basin, Digby County

**Site Size:** 8.74 HA

**Species:** Atlantic salmon, Atlantic halibut, Atlantic cod, Rainbow trout, Haddock

**Culture Method:** Suspended Marine Cage

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

Licence: April 27, 2016 TO April 27, 2026

Lease: April 27, 2016 TO April 27, 2036

#### File History:

The start of aquaculture at this site began in 1994 as an experimental tenure. The first commercial tenure began in 1996 and continued over the years, through renewals and assignments from a number of companies until the lease and licence was assigned to Kelly Cove

Salmon Ltd. in 2004. Since KCS took over the site and began farming in 2004, they have applied and been granted three licence and lease renewals. Their current licence is valid until April 27, 2026 and their lease is valid until April 27, 2036.

**Status of security bond:** Kelly Cove Salmon Ltd. currently has a security bond in place for this site.

#### **NOVA SCOTIA ENVIRONMENT COMPLIANCE:**

The Province identified that a portion of the infrastructure present on lease #1039 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 (NSE) provided two options to KCS to bring their operation into compliance regarding the said Regulation (See Appendix A: NSE Letter). KCS notified NSDFA of which option they would like to pursue to bring their operation into compliance. KCS chose to pursue an adjudicative boundary amendment application for site #1039 as required by NSE. This adjudicative amendment is to expand the currently issued lease space to encompass the site infrastructure and aquacultural produce currently in place.

To NSDFA's knowledge, the site is in compliance and no complaints have 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 #1039.

#### **OTHER PERMIT CONSIDERATIONS:**

Transport Canada Navigation Protection Program (NPP) Number: 8200-94-3045, Rattling Beach (#1039) in place and approved. See Application Package - Development Plan.

### 1.0 SITE UTILIZATION

Kelly Cove Salmon Ltd. has consistently stocked this site since they took over the responsibility in 2004. The site performs very well and produces salmon on a consistent, routine production cycle. This site is fully utilized by KCS and is an integral part of their operations in Nova Scotia.

### 2.0 FARM MANAGEMENT PLAN STATUS

#### **OPERATIONS:**

Kelly Cove Salmon Ltd. has a Farm Management Plan in place for their current operations on lease #1039 that has been reviewed and approved for implementation by the Department. The Farm Management Plan will be re-reviewed after a decision is issued by the ARB to ensure the Farm Management Plan reflects their operation on lease #1039.

### 3.0 ADDITIONAL INFORMATION

#### **OPERATIONS:**

Atlantic salmon are currently stocked on lease #1039, with fish being introduced in the spring of 2020. The most recent Environmental Monitoring Program (EMP) sampling event was conducted on August 12, 2020. The analysis of this event resulted in the site being classified as oxidic. The primary Environmental Quality Objective (EQO) for the marine environment where an aquaculture operation occurs is to maintain oxidic sediment conditions. If oxidic sediment conditions cannot be maintained within a lease, operators must comply with the regulatory process that identifies steps required to improve onsite conditions. NSDFA reviewed the environmental performance of lease #1039 back to 2004, when first leased by KCS. The review showed that the site historically meets environmental regulatory requirements and only exceeded oxidic conditions during one production cycle. A mitigation plan was put in place and the site has continued to meet the requirements set out by the department. 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 in accordance with the *Aquaculture Management Regulations*. The operator has fully complied with the criteria set out by the department regarding containment management, 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 consistently productive. The operation of #1039 has been conducted in a manner that follows the regulatory processes as outlined in 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 KCS on lease #1039, has been consistently productive since KCS was assigned the lease and commenced farming operations on the site in 2004. 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, NSDFA has referred this adjudicative amendment application to the board for consideration and decision. NSDFA is satisfied with the historical performance of this site from a technical and regulatory perspective.

APPENDIX A – NOVA SCOTIA ENVIRONMENT LETTER

1039



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Halifax, Nova Scotia  
Canada B3J 2P8

(902) 424-2547 T.  
(902) 424-0501 F.  
www.novascotia.ca/nse

**Inspection, Compliance and Enforcement Division**

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Our File No.:

May 31, 2016

Michael Szemerda  
KELLY COVE SALMON LTD  
1 FUNDY BAY DRIVE  
ST. GEORGE NB E5C3E2

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.

## Site Marking Requirements

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

these applications and their review process is stipulated in the new *Aquaculture License and Lease Regulations*. DFA should be contacted for specific questions about these processes.

Please note that after October 26, 2016, any licence holders operating off-lease who have not provided a scheduled re-alignment plan to NSE for approval or an application for an adjudicative or administrative amendment to DFA will be considered non-compliant and in violation of the above Act and regulations and could face additional enforcement action.

The legal onus is on the licence holder to initiate these processes and ensure that the plan or application is submitted to the appropriate department on or before October 26, 2016.

NSE would like to thank you for your continued cooperation by ensuring the above items are addressed in accordance to the *Fisheries and Coastal Resources Act*, the *Aquaculture License and Lease Regulations* and the *Aquaculture Management Regulations*.

For your convenience, a list of contacts and more information about the regulations follows this letter. Also, complaints concerning aquaculture operations can be directed to 1-800-565-2224 for response by a Conservation Officer.

Yours truly,

Adrian Fuller  
Executive Director

## 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

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### Nova Scotia Environment

Inspections, Compliance and Enforcement Division

Regional Integration of Compliance & Operations Unit

#### Western Region East

Enforcement Coordinator, Terry Beck

Lunenburg, NS

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#### Western Region West

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#### Central Region East

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#### Central Region West

Enforcement Coordinator, Brian Mailman

Middle Musquodoboit, NS

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#### Eastern Region/Cape Breton

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Whycocomagh, NS

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