



The Best Place on Earth

MAR 27 2008

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**BY FACSIMILE: 250 757-8370
AND
BY COURIER**

Robert Saunders
Island Scallops Ltd
5552 West Island Hwy
Qualicum Beach BC V9K 2C8

Dear Mr. Saunders:

I am writing to advise you of my decision regarding Island Scallops Ltd's application to amend the Aquaculture Licence to allow off-bottom culture of Japanese Scallops on a 125 hectare portion of your 375 hectare marine-water tenure near Bowser, British Columbia. Based on the information and considerations, I have decided to issue you an amended Aquaculture Licence. The rationale for this decision is outlined below, as are the Aquaculture Licence details.

1. Application

I am advised that the subject amended Shellfish Management Plan, related application documents, and appropriate application fees were received at the Ministry of Agriculture and Lands' Courtenay office on July 31, 2006.

2. Legislative Authority

Section 14 of the *Fisheries Act* (R.S.B.C. 1996, c. 149) authorizes the Minister responsible for the *Fisheries Act* to issue Aquaculture Licenses. Authority for the *Fisheries Act* rests with the Minister of Agriculture and Lands. As I was appointed Minister of Agriculture and Lands by the Lieutenant Governor on June 16, 2005, I have the authority to decide upon your licence application.

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3. Policy Guidelines and Other Considerations

In processing and assessing your licence application, I have been guided by the following considerations:

- The Ministry of Agriculture and Lands' policy document entitled "Land Use Operational Policy - Aquaculture", a copy of which is available at http://www.al.gov.bc.ca/clad/tenure_programs/programs/aquaculture/shellfish/index.html.
- Principles of fairness; transparency; efficiency; and accountability.
- Consideration of the public interest, having regard to:
 - protection of public health and safety;
 - protection of the environment; and,
 - sustainable economic development.
- Legal duty to consult with First Nations.
- Mutual Provincial-First Nations interest in developing a new relationship.

4. Information Considered

In reviewing this application I have considered:

- The application made by Island Scallops Ltd.
- The other documents in the Ministry licensing file Reference Number 1310 that are related to the above-mentioned application and that pertain to the review by the Ministry, including the Aquaculture Development Assessment Report and the Aboriginal Interest Consideration Report regarding the Island Scallops Ltd Shellfish Aquaculture Application.
- The many submissions from the public related to the application and in particular those from upland owners.
- Submissions from many industry and non-government organizations.
- The consultant G.S. Gislason and Associate's report "The Island Scallops Ltd. Tenure Application: Potential Economic Repercussions"
- Discussions with professional staff of the Ministry on their review of the merits of the application that took place March 11, 2008.

I am satisfied that the officials who conducted the review of the application have done a thorough and complete technical assessment. They have made findings based on this assessment and their expertise. I accept these findings and have taken their recommendations into account in making my decision.

5. Suitability of Proposed Operation

The application proposes a combination of deepwater bottom and off-bottom culture, using standard technology, for the culture of Japanese scallop. All structures not required as aids to navigation will be submerged at a depth of 10 meters. Staff conducted a comprehensive biological review of the proposal that assessed the technical feasibility of the proposal and the capability of the environment to support the activity. A staff biologist supported approval of the application on September 25, 2006.

6. Land Use and Zoning

I note that staff from the Integrated Land Management Bureau issued a 20-year Licence of Occupation (*Land Act*) for the site January 25, 2004. There is no application to change the tenure boundaries of that Licence of Occupation, associated with the current *Fisheries Act* licence amendment.

The upland area on the east side of Vancouver Island near this site is comprised largely of high-valued residential and recreational properties and Bed and Breakfasts. Numerous letters were received from community members and sector associations that expressed concern that the development of the site will affect property values, tourism, recreation and utilization of the area. Many of these concerns are mitigated by the siting of all farm structures a minimum of 1.1 kilometres off-shore, with no surface structures other than buoys required to ensure safe navigation. Additionally, the BC Assessment Authority has advised that there is no statistical evidence that offshore shellfish aquaculture operations affect upland property values.

The Bowser farm site is located in the Strait of Georgia in an area that the Regional District of Nanaimo advises is outside of their jurisdiction. The application is consistent with the zoning nearest the site.

7. First Nation Consultation

A total of 14 First Nations and First Nations organizations were consulted on the proposed amendment. The two First Nations nearest the site, K'omox and Qualicum, have expressed no objections to the application. I have reviewed a detailed summary of the consultation efforts and outcomes with the K'omox, Qualicum, Campbell River, Cape Mudge, Homalco, Sliammon, Halalt, Lake Cowichan, Chemainus, Cowichan, Penelakut, and Lyackson First Nations, and the Hamatla Treaty Society and Hul'qumi'num Treaty Group. I am satisfied that the Province has met its duty to these First Nations respecting this application.

8. Public Review by other government agencies and third parties

The application was referred to, or otherwise considered by, a number of organizations. These organizations and a summary of their comments are noted below:

1. Fisheries and Oceans Canada – provided input to the *Canadian Environmental Assessment Act (CEAA)* review – expressed no concerns with environmental effects if mitigation measures are implemented, requested that the Province give serious consideration to socio-economic considerations; particularly impacts on fishers.
2. Transport Canada – the *CEAA* review has now been completed. Transport Canada staff advise that the project is not likely to cause significant adverse environmental effects. A *Navigable Waters Protection Act* permit for the site has been approved.
3. Regional District of Nanaimo – advised that the proposal is outside of local government jurisdiction.
4. BC Pacific Salmon Forum – requested more information to assess potential effects on wild salmon stock recovery, but did not express opposition.

9. Past or Demonstrable Performance of the Applicant

Staff advise that a review of Island Scallops Ltd's past and demonstrable performance has been completed as part of this application process. Based on input and recommendations from Ministry personnel, I am satisfied that Island Scallops Ltd meets past or demonstrable performance requirements.

10. Economic and Employment Benefits and Costs

The projected total economic benefit to society from the conversion of the site to off-bottom culture is expected to be in the range of \$1.7 million to \$17.37 million annually, with job creation of 18 to 90 person years based on lowest and highest projected production figures. Many of these jobs will be created in a small coastal community.

I am aware that there may be an impact to commercial and sport fishing interests in the area as a result of this development. Some fishers may be displaced from the subject area, but those fishers will presumably have an opportunity to land their catch elsewhere. I have weighed these considerations against the potentially very significant benefits of the proposal. In making a determination in favour of this development, I have considered the analysis in the report of G.S. Gislason and Associates, "The Island Scallops Ltd. Tenure Application: Potential Economic Repercussions". This report concludes that the benefits of this proposal are likely to be significantly greater than any potential costs.

11. Decision

Based on the information and considerations described above, I am issuing an amended Aquaculture Licence under the *Fisheries Act* to operate an aquaculture facility at the Bowser site, to Island Scallops Ltd. The licence authorizes Island Scallops Ltd to culture Japanese scallop to a total maximum annual production of 6000 metric tonnes as per the Management Plan for the site recommended by Ministry biologists on September 25, 2006, and subject to the standard terms and conditions.

Your amended licence for the site is enclosed.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pat Bell', written in black ink.

Pat Bell
Minister

Enclosure

pc: Jim Russell
Fisheries and Aquaculture Licensing and Compliance



Ministry of Agriculture and Lands

AQUACULTURE LICENCE

This certifies that **Island Scallops Ltd.**
of **Qualicum Beach**, British Columbia
having made an application and paid the prescribed fee, is licensed
pursuant to Sections 13(5) and 14(2) of the Fisheries Act
(R.S.B.C. 1996, c. 149) to operate at the location described herein for
the purpose of the commercial culture of the species indicated below.
This licence is subject to the terms printed on the reverse, and
the Development or Management Plan(s) filed with and approved by
the Ministry of Agriculture and Lands.
This licence is also subject to any attached additional terms and conditions.

REFERENCE	LOCATION AND LEGAL DESCRIPTION
001310	Strait of Georgia, S. of Chrome Island UF Nanaimo District

PLAN : SF-MW-CL SPECIES: Japanese Scallop
BIO RECOMMEND : 2006-SEP-25 Patinopecten yessoensis

Effective date: March 25, 2008

Expiry date: March 24, 2009

Per 
Minister of Agriculture and Lands

ADDITIONAL TERMS AND CONDITIONS

The following term & condition is in addition to the general terms of

Aquaculture Licence # 001310

issued to: **Island Scallops Ltd.**

The holder of this shellfish licence shall:

- a) Confine all operations to within the boundaries of the licensed area.
- b) Not place any improvements or carry out any activity on the licensed area that impacts the riparian rights of a private upland owner without first obtaining that upland owner's permission to do so.
- c) Provide reasonable public access around and through the licensed area.
- d) Seek and obtain all required additional authorizations before any foreshore modification, fill (i.e. addition of sand or gravel), or dredging is undertaken.
- e) Maintain the farm site and infrastructure in a clean, safe and orderly state.
- f) Ensure that vehicle and vessel usage does not unduly damage marine vegetation, animals or their habitat.
- g) Restrict noise and light levels to those required to conduct culture and harvesting activities.
- h) Use sound suppression devices on machinery and ensure that these devices are well maintained.
- i) Employ operational practices that minimize farm odors.
- j) Ensure that released bio-fouling does not accumulate and impact the seabed.
- k) Not undertake destructive predator control without authorization from Fisheries and Oceans Canada.