

First Nations Fisheries Council

P.O. Box 2606, #209 – 99 Tsakis Way

Port Hardy, V0N 2P0

Telephone: 250-902-8380

www.FNFisheriesCouncil.ca



FIRST NATIONS
FISHERIES COUNCIL

August 10, 2010

The Honourable Gail Shea, Minister of Fisheries and Oceans
House of Commons, Parliament Buildings, Wellington Street
Ottawa, Ontario, K1A 0A6

Dear Minister Shea;

We write to you today to outline a number of concerns related to the development of the Pacific Aquaculture Regulations and a new aquaculture management framework for British Columbia.

The British Columbia First Nations Fisheries Council has been working with Fisheries and Oceans Canada since December of 2009 in order to facilitate dialogue relating to the development of the B.C. Aquaculture Regulations and the new management framework. As part of this process, the FNFC and DFO collaborated on a series of nine community sessions with DFO around B.C. and a summary report of the meetings was subsequently produced, which has been useful to both First Nations and Canada.

In the community meetings and subsequent dialogue, an expectation was raised that the community meetings were the first step in what would be a mutually respectful and constructive dialogue between Canada and B.C. First Nations. The Fisheries Council feels that a number of issues related to this initiative need to be brought to your attention and dealt with in a timely manner by your Department.

At this point B.C. First Nations assert that there has been inadequate consultation with respect to both the draft Pacific Aquaculture Regulations and the development of the management framework that will flow from these Regulations. First Nations in B.C. have expressed to DFO that they assert rights and Title related to fisheries and marine areas, which will be impacted by the implementation of the new Regulations and management framework. They expect recognition of their rights and Title, or at a minimum a recognition of this assertion, and the corresponding opportunity for meaningful consultation and accommodation at the local Nation/community scale. First Nations in B.C. presume that accommodation will include a role for First Nations in management and decision-making on license issuance within their territories and involvement in decisions which may affect their resources, territories, rights and Title.

First Nations expect that Canada will deal with its obligation to deal with First Nations engagement in a timely and effective manner. Although Canada was aware in January 2009 that they needed to develop regulations for B.C. aquaculture, discussions with First Nations were not initiated until December of 2009,

SUPPORTING STEWARDSHIP OF FISHERIES RESOURCES FOR CURRENT AND FUTURE GENERATIONS



which left only about 8 weeks for detailed work to be completed. Likewise, although we are half-way through the comment period for the draft Regulations, DFO has not responded with respect to the possibility of co-hosting a meeting or meetings to engage B.C. First Nations in discussions related to the regulations as they have been published.

Although the Fisheries Council has been urging DFO to develop a strategy for engagement of First Nations with respect to the development of the new aquaculture management framework since January of 2010 (on issues of policy, guidelines, licenses, and the format and drafting of integrated aquaculture management plans), but no response from DFO on these issues has been forthcoming. A new framework must be in place by December 2010. It is the expectation of B.C. First Nations that they will be involved, from the outset, in discussions related to all aspects of the management framework for aquaculture, including the framing and development of Integrated Aquaculture Management Plans (IAMP), operational policies and guidelines, and licenses. First Nations expect to see some indication that DFO will deal with these issues in a timely manner.

Although Fisheries and Oceans Canada completed a Treasury Board Submission and obtained funding for the development and implementation of an aquaculture infrastructure within the Department, B.C. First Nations have been told that there is no funding available for consultation or to support the capacity of First Nations in B.C. to work collaboratively with DFO on the development or implementation of a new management structure. Considering the level of engagement and interest in this issue, the high likelihood that aquaculture will constitute an infringement of rights, the high burden of the Crown to consult and accommodate on these issues, and the knowledge of the Crown that First Nations expect to see accommodation with respect to aquaculture that will include co-management, this is a significant oversight for Canada which needs to be rectified immediately.

The Fisheries Council urges you to work to address these issues as soon as possible, and we look forward to continuing our work with your Department in order to support effective opportunities for collaborative engagement between B.C. First Nations and Fisheries and Oceans Canada. We look forward to discussing this matter with you in the near future and hope to be able to meet with you at your earliest convenience.

Sincerely,



Chief Allan Claxton
Chair, First Nations Fisheries Council

Cc: David Bevan, ADM Ecosystems and Fisheries Management
Susan Farlinger, RDG, Pacific Region
Andrew Thomson, DFO Director of Aquaculture Management, Pacific Region
DFO/First Nations Aquaculture Working Group members