



Fisheries
and Oceans

Pêches
et Océans

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CONSERVATION
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Mr. Don Fast, Regional Director General
Environment Canada
Suite 200 - 401 Burrard Street
Vancouver, BC
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Dear Mr. Fast:

**SUBJECT: HABITAT MANAGEMENT'S ROLE IN SECTION 36 OF THE
FISHERIES ACT**

I am writing to you concerning the Fisheries and Oceans (DFO) Habitat Management role in Section 36 of the *Fisheries Act* in Pacific Region.

Over the years, Habitat Management has had a long-standing and productive working relationship with Environment Canada (EC) on the administration of S. 36 (prohibition against deposition of deleterious substances). This relationship has been necessitated in part because, although S. 36 is administered by EC on behalf of DFO, our Minister remains accountable to Parliament for the entire *Fisheries Act*, and because of the inextricable linkages between S. 36 and S. 35 (harmful alteration of fish habitat).

The 1985 DFO-EC Memorandum of Understanding (MOU) on S. 36 empowers EC to administer and enforce S.36 with the support of DFO, while the 1987 Pacific DFO-EC Regional Working Agreement (RWA) describes in more detail the roles and responsibilities of EC and DFO in this regard. While the RWA has provided essential direction to DFO-EC in the past, I believe that both EC and DFO in Pacific Region acknowledge that it is outdated.

Recently, DFO Pacific Region has lost considerable water quality expertise through attrition and program changes. The region is also facing severe financial pressures and is reducing its involvement in all regional programs. To this end, our S. 36 support role to EC is being reduced to a regional water quality coordinator function that will continue to provide advice on DFO's core habitat responsibilities. It is our understanding, based on initial discussions with EC, that your Department's primary

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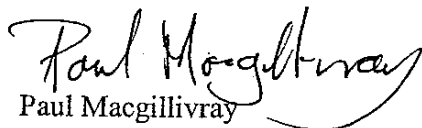
needs include: provision of information and advice regarding the presence and relative importance of fisheries resources and fish habitat; fish habitat protection requirements and priorities; and identification of situations where pollution is affecting DFO's ability to meet its conservation goals for the fisheries resource, including those of stock protection and management, and fish habitat protection. In addition to meeting these essential EC needs, DFO will continue to provide advice on matters where there are both S. 36 and S. 35 implications, and maintain some level of habitat involvement in Regional Environmental Emergencies planning and the management of contaminated fisheries.

I recognize that a reduced DFO Habitat Management role in S. 36 may have implications for various EC programs. Accordingly, I have asked the Manager, Habitat Management Division, to arrange a meeting with EC to communicate this decision and begin working with EC on a Transition Plan for this fiscal year. The plan may include establishment of a mechanism for identification and prioritization of water quality issues, improved communication between EC and DFO field staff, and joint DFO and EC water quality sampling programs.

While this decision is specific to the Habitat Management's role in S. 36, other branches (e.g., conservation and protection) will need to be considered during the development and implementation of the Transition Plan. It may also be necessary to revise our Department's role in S. 36 in the future, in accordance with national direction on the delivery of S. 36.

I remain optimistic that the Transition Plan and its products will render this a manageable decision for both Departments, and will contribute to the federal government's Smart Regulation initiative. I also appreciate your understanding of the very difficult restructuring decisions that our Region must implement in the upcoming years.

Yours sincerely,



Paul Macgillivray
A/Regional Director General
Pacific Region

cc: S. Farlinger, Regional Director, Oceans, Habitat & Enhancement
G. Savard, Regional Director, Conservation & Protection
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