

Trevor Rhodes,  
Director of Aquaculture Operations  
2500 Cliffe Ave  
Courtenay, BC V9N 5M6

April 20, 2010

Dear Sir,

With respect, I come to your office to question the practices and procedures followed for water tenures in BC. The navigability of our waterways is of critical importance to the potential for any community development of the coast. The consequences of our choices for water uses will have a profound impact on the economic future of our island coastline. Accessibility to land, water sources and safe havens are historic common law rights and are necessary for any coastal community settlements. You are in violation of depriving mariners of their safety when licenses of occupation are issued for private fisheries in safe havens and at water sources. View my photos online: <http://www.flickr.com/photos/whitedragonpics/sets/72157623779948927/>. Aquaculture policies have actually prevented any potential community or residential development at sites by commandeering necessary boat havens and water sources for exclusive private use. One by one, an industrial wasteland is being created at all potential sites that would support coastal settlement. It takes people to bring prosperity.

Water is not land. This fundamental difference was not given the due consideration it deserved. The extent of the consequences does not fit into simple check forms or standard crown land application methods. Every nook and cranny of the coast looks the same on a map. Intimate marine knowledge is needed for vessel safety considerations. Knowledge about current and tidal conditions, weather exposure, water sources, bottom depths and contours, anchor holding capabilities, weather forecasts; these are all considerations for marine safety. Our charts have been rendered useless by the inability to catch up to the aquaculture blockages and hazards to navigation present in coastal haven locations.

Approvals were given minimal investigation and the responsibility for follow up enforcement had few financial resources. Site drawings submitted seldom indicated the true marine nature of a location, often difficult to tell if the site was even land or water. Information was too obscure and the locations were too remote for inspection. The job was simply too large for the process created and the flaws are glaring. We trusted the over-worked Land agencies to be responsible for respecting Canadian Marine laws. We were quiet because we were an entity that was conveniently invisible. We did not fit into the established guidelines, procedures and "official" organizations; therefore we were not adequately consulted in the processes that have given small vessel operators the most consequences. Little attempt was made to notify coastal mariners of proposed sites. Time frames were suited to expedite the proponent's interests, not solicit the opinions of the marine highway users. No coastal advertising required to solicit marine feedback ensured a marine lack of response. *Lack of response was considered a positive response to the application.*

Land applications have impacts that are primarily local. They do not often threaten our entire economy, our navigational common law rights, our tourism industry, our wild fish, our whales, bears and eagles. The water leases have an enormous negative factor which has not been recognized in current policies and not respected adequately in water tenure applications. Who really owns the water and aquatic lands? Is it not the people of BC? Why have our navigational, anchoring and fishing rights been so conveniently overlooked in the bureaucratic process? In instances where the upland property is Crown Land, we "are" the upland property owners, and our riparian access and water rights are being denied without our permission or true public consultation. The ministry should recognize and respect these rights.

(2)

DFO's mission is to protect fish habitat, with a "No Net Loss Principal" for our wild fish? Farmed salmon are ultimately a Net Loss for world fish sustainability. How can you justify any threat to fish habitat by authorizing private fisheries that are even suspected to harm? Chemicals, pollution and viruses are not under control. DFO has been subject to the company spin and, in my opinion; is in denial of world science and the facts of farmed salmon disasters in other parts of the world. Deep water shellfish sites blockade thousands of acres of navigable waters. Aquaculture has been proven sustainable and acceptable for other species in closed containment - on LAND.

Transport Canada's mission is to protect navigational safety. They are not achieving their mission. Our marine charts are unreliable, unable to keep up with the locations of approved sites. Hazards to navigation are often unlit, unmonitored and dangerous. Who is legally responsible for any damages to our vessels incurred by these "approved" works? The public has been lulled by their complacency that our water rights were being protected. The government has been lured by the company spin of the corporations who are determined to occupy our waterways. We are the ones who must suffer the many consequences that have evolved from the poor decisions made.

I believe that all industrial private water tenures that block access to navigable waters, to water sources or that threatens our navigational safety can be challenged constitutionally and legally. These water tenures are fundamentally different in that they deny access between the land and the water rather than facilitate it. Is it really up to the public to continue to take legal action to insist that the public interest be paramount to private interest? It is in the best interests of us all to have our coastal waterways remain open for transit and to take every possible action to save the habitat of our fish. Please stop saying that there are elements beyond our control and start enforcing what we can control. You do not have to live with the consequences of this great coastal invasion. Our fish, our vessel safety, our marine economy, and our common laws must be preserved. Aquaculture is a "Net Loss" to our economy, our tourism and our waterways as well as to our wild fish.

All water tenures that impact navigability or threaten our fish must be reviewed. The primary users of our waterways were overlooked in the short-staff procedures that were developed to expedite the application in favour of the proponent and make the process as easy as possible and completed as quietly as possible and as soon as possible. Official input from small vessel operators was solely from the Council of BC Yacht Clubs. This is a neutral organization, whose stated policy refuses to address environmental or political issues, but was considered sufficient to speak for the entire boating population of the coast in application referrals to Transport Canada. *Lack of response was considered a positive response.* Decisions were often personal or informal, with logistics scanty due to remote locations. A Regulation made did not equal a Regulation enforced. History has shown us that whoever controls the harbours has won the war. The people of BC are willing to go to legal wars to protect our salmon and our navigational rights on the water. We "are" the major users of our aquatic lands. I ask for your cooperation to publicly review the existing water tenures and to modify the future water tenure process to properly include the marine rights of the people of BC so that this will not be necessary. Now is the time, while the entire process is under review and applications are frozen.

Sincerely,  
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Appendix:

Complaints should be followed by Positive Solutions

Offer residential crown LAND tenures for northern homestead opportunities at attractive rates. Current city real estate prices would lend incentive for settlement initiatives. Internet jobs have replaced many traditional jobs, so income is feasible. More people bring more prosperity.

Begin a review of existing tenures in navigable waters with greater emphasis on Canadian common law, navigational rights and riparian rights. The safety of the public on the water and the future of any community development in the north depends upon it.

Stop supporting private fisheries that exclude navigational access in public waterways.

Shellfish farms moved out of anchorage areas. Beach or land farming only.

Support for finfish aquaculture of fresh water species, in closed containment, on LAND.

Establish a true public notification system of future water tenure applications in navigable waters. Notification to small vessel operators via boating publications, coastal newspapers, marinas and marine supply outlets and the water based tourism organizations; with sufficient time allowed for responses.

Insist that Fisheries policies for BC cannot be a “one size fits all” across Canada. Our coastlines, our fish, our weather, our economy, our tourism, our small vessel traffic and our environment are not the same. One policy does not fit all accurately.

Limit on the maximum tonnage of fish permitted for commercial vessels. Limits established for the commercial take per vessel per opening. This encourages smaller vessels, where more individuals can make a living, instead of a few large corporate vessels making a lot. More vessels bringing more people bring more prosperity.