

Courtenay NASAPI meeting document

Dear Mr. Willis    RE: WATER LEASES & MARINE NAVIGATION    Jan 11/2010

Why do I get the feeling as I read the agenda of the upcoming Fisheries and Oceans meeting on Jan 19 and 20 in Courtenay, BC that there is no real consideration at all being given to the major stakeholders and the true owners of our Canadian waters; the people and the mariners of Canada? We use our waters for transportation. We are considered an obstacle to be overcome and part of the social problems of aquaculture to be solved, not as a valid owner and user of these leased waters with rights worth defending. This agenda reads to me as a “done deal”, with any suggestions for minor patches and improvements most likely coming from the industry itself. The industry has a financial stake in showing up. The marine public has virtually no knowledge of these meetings. I can already guess the outcome. Sustainable aquaculture has been seen as a legitimate use of Canadian waters, but it can not be at the expense of public safety and the coastal environment.

Before we rush to maintain the status quo, merely substituting one authority for another, we must look at the reasons why the BC Supreme Court overturned the Provincial authority for regulating these fisheries. The Provincial water leases were beyond the jurisdictional authority that created them. The laws of Canada pertaining to fisheries and water rights are based upon British common law. These laws differ substantially from the US when it comes to foreshore and riparian rights. The people of Canada are the prime users and major stakeholders of Canadian waters. The possibly illegal processes and the precedents that were set then should be the first thing examined before we hurry to fill the void of bureaucracy that now exists due to the BC Supreme Court decision.

If you accept the fact that I own the water you must recognize that not only were the jurisdictions of the original water leases in error, but that the entire process that created the industry was done without my knowledge or permission. Those who use the waters were represented marginally by yacht clubs which often have their own facilities and outstations on the coast. Commercial traffic routes were considered, but not the small vessel traffic on the waterways that connect the islands beyond the road and ferry systems. The lease applications were advertised locally in their remote locations and then processed so quickly that there was no practical opportunity for real objections or opinions from the public. The vast majority of us are not organized and we are all out there on the water for different reasons. We are not a recognizable group any more than are the public who travel our land highways by car. I am trying to be a voice for those nameless, invisible water travelers. It is up to Transport Canada to protect public safety and our rights on the water. They have failed us miserably.

What began as apparently benign, beach foreshore shellfish leases and fledgling fish farming experiments has blossomed into a monster invasion and foreign takeover of our public waters and anchorages, all with the assistance of those sworn to uphold Canadian values and laws. I understand completely that the original intention was to foster local jobs, although very few have worked out that way. It was the precedent set in those first leases (which have now been declared beyond the scope of the Province) that first denied our common law Canadian water rights and opened the Pandora’s Box of private water ownership. I have watched in horror as our salmon are threatened by invasive species and

disease, our harbours were blockaded to us and the safety of the waterway system degraded and spoiled. Now you only seem to ask for public suggestions on ways to make this more palatable to those who object? This is entirely the wrong approach.

Usually the only ones defending the aquaculture industry are those within it or those who have friends making money at it. I have yet to speak with any mariner on this coast who is in favour of current aquaculture projects or of losing more water access on the coast. They will not be at this meeting because they are probably ignorant of its existence or unable to invest the time, energy and money it would take to attend with little hope of being truly heard above the sound of money. This does not mean that they do not care.

It frightens me when I read the scope of future development planned and the lack of importance given to the local problems that exist. The view is too narrow. If you want to know the true opinions of the stakeholders it would be in a public referendum that reaches all British Columbians, not in virtually hidden, secret meetings of the industry to determine our children's future rights once again without our consent. This meeting is not transparent to the public and appears to be seeking input from the industry, not from us. We are considered one of the problems; not part of the solution. We have an opportunity for change. It is change that we need, not the status quo.

If we are going to rush into anything, it should be into a complete ban on new water leases and cancellation of the renewal of present ones until a public review of each lease is looked at one at a time; hopefully with a wider perspective and a true consultation from British Columbians than the original permissions encompassed. A moratorium is needed on salmon farming in BC as well, instead of business as usual, while we, the public, endlessly prove that this industry is bad for BC. Bad decisions can be and should be reversed. There is a legal reason why the Provincial water leases were struck down. This also means that there is a valid legal reason to question and doubt the processes which were enabled by these water leases. I only ask that we question and doubt with true public input and due consideration of the water rights and navigational safety of Canadians. Is DFO willing to accept the liability of personal harm to mariners or the responsibility for damage to vessels from contact with assorted, approved aquaculture "works"? These questions are unanswered.

Enclosed is a report that I have circulated recently outlining the marine objections to the shellfish industry. How have so few come to control this private fishery and own so many public anchorages? I have learned that there is yet another deep water shellfish application pending in Gorge Harbour on Cortes Island, applied for in October /2009. <http://arfd.gov.bc.ca/ApplicationPosting/viewpost.jsp?PostID=13685> This one would put a further 40 acres of the anchorage off limits to vessels and approximately 4 million additional shellfish in a harbour already filled with aquaculture debris and frequently protested by residents and visitors alike. I have an interest in these matters and yet I have only learned about this pending application by accident. I doubt that the vast majority of the marine public knows about this, but I guarantee that they would object if they did. My point is taken. These issues must be higher on your agenda, a condition of any licensing.

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Report on Nanaimo NASAPI meeting  
October 19, 2010

Originally sent by email on October 20, 2010. This is a copy of the text.

Dear Mr. Gilbert

I am sending these comments to you following the NASAPI meeting in Nanaimo yesterday. I am also copying this to those who were not there and other interested parties.

I suppose that I should thank those who declined to attend, for I did have a greater opportunity to put forth the importance of the marine issues surrounding water tenures, water access rights, water uses and navigation. For what it's worth, I would like to offer my take on the meeting from my perspective.

The meeting was poorly attended by nine individuals, two of which were physically present, but were there only to support other participants and offered no input. The other seven participants, other than myself, were Mary and Vern Kemp of the Responsible Shellfish Growers Association; Pat McLaughlin, Denman Island Stewardship Committee; Ramona C.de Graaf, a very knowledgeable biologist, from the BC Shore Spawners Alliance; Wayne Harling, representing the BC Wildlife Federation and Odd Grydeland, the president of the BCSFA, there as an observer from the West Coast Vancouver Island Aquatic Management Board. It was recognized that the absence of the environmental groups was a statement that could not be denied, but ultimately the record will show that only nine people in BC cared enough to attend and only six were questioning the present plan of action.

Apparently, there was not just one meeting, but a series of meetings with differing invitations extended to different interest groups. This avoided any interaction between the pro and con elements. Thus, this was a separate meeting of those known to oppose industry (ENGOS). The ENGOS were not invited to any meetings conducted with industry supporters. There was no media advertising for any public participation.

We were told that there are more DFO meetings regarding closed containment being held today and that CAAR and all of the other environmental groups would be attending then, including representatives of land based closed containment?

Those ENGOS of us that were there were encouraged to examine the precise diction contained in the draft proposals without truly examining it's meaning or intent. Similar to the function of a spell check. When questioned further on specific issues, we were assured that NASAPI was only a rough plan for the intended actions to be completed by government bodies and the time frames for those actions to be accomplished. In spite of the fact that the specific policies and regulations will be based on the NASAPI consultations, there were no specifics offered on what those policies or regulations may be other than that they will be designed to further and foster the Aquaculture industry. It is difficult to offer meaningful input on that basis.

There was a discussion on enforcement. The plan, as I understood it, was to have the feedlots make a yearly report, which would be available to the public. NOT including disease records, which could be damaging to the corporations business plan. There are apparently 15 new jobs being created for enforcement purposes already and some boats purchased. I commented that the

remoteness of our coast and these locations would require much more than 15 to do an effective job. A regulation made is not a regulation enforced. This was one of the major problems with the Provincial management. A report once a year without any third party monitoring leaves the industry as it always has been - self-reporting on their own activities in remote locations. The fox is still guarding the chickens.

We were told that the concept of Social Licensing & Reporting and a vision statement that includes public confidence is a novel approach by government. When I asked what would happen if public confidence was not achieved, the answer was that the industry would not be able to expand.

Mr Gilbert was satisfied that the remarkable sockeye return of this year has debunked all of the environmental concerns and that the science conducted by DFO paid agencies is superior and more knowledgeable than local science, therefore the aquaculture promotion is justified. “The salmon” are not back. One species, of a couple stocks of Fraser sockeye – “are back.” Interior coho, early run Chinook, steelhead, and a myriad of other salmon stocks and species are still in deep trouble. I am not a fish scientist and could not supply names or any details of the poor or failed runs this year, so I ask the biologists and those with more specific knowledge to fill in that information to Mr. Gilbert.

There are also plans to map the coast into areas to make the decisions easier for siting. They were not aware of the CHRIS mapping studies initially done by the Provincial government which ultimately placed feedlots in the Red Zones identified by the coastal people.

Comments on the Chile and Norway aquaculture experiences were met with a statement that sportfishing is better than ever in Norway?

I received this reply today to my request for the minutes of the Courtenay meeting that I was unable to attend, but had given a written submission:

I would also like to let you know that the meeting you are seeking minutes for (Jan 19/20) did not actually end up discussing NASAPI. The Pacific Aquaculture Regulation discussion went longer than anticipated and it was agreed that the NASAPI discussion should be postponed until the Regulation had been drafted and put out for public comment.

The Federal Fisheries Aquaculture Licenses will still require a Provincial Land Tenure to operate. We must deny the land if we are to be successful in achieving what is good for BC. The Provincial Land Act states:

[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96245\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96245_01)

In Part 2, Section 18 of the act

### **Land below natural water boundary**

**18** (1) Except by order of the Lieutenant Governor in Council, on the terms the Lieutenant Governor in Council may specify, unfilled Crown land below the natural boundary of a body of water must not be disposed of by Crown grant under this Act.

(2) Except by order of the minister, on the terms the minister may specify, filled Crown land below the natural boundary of a body of water must not be disposed of by Crown grant under this Act.

My overall impression was that this process has placed a terrible pressure at the bureaucratic level to do something before December 18th to rescue the Aquaculture industry from limbo. The neat packages of plans are already tied up on the East Coast and the Freshwater Aquaculture Fisheries and we are just being difficult. There was a sense of frustration from the Federal agents trying to fathom an extremely complex set of circumstances, jurisdictions and opinions within a limited time frame. I do not envy your job. It was obvious that there is only a plan to make a plan. I pleaded that they should spend more time talking to the people of the coast on a one to one basis to learn more about the local knowledge of our coast and to better understand what it is that we are trying to protect.

Please add these comments to the record.

Sincerely,  
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PS: At the meeting, I submitted a DVD of coastal photographs, aquaculture sites and some of my research information to Mr. Gilbert. If anyone else would like a copy of this, please ask.