



Maritime Aboriginal Peoples Council

*The Maritime Region Aboriginal Leaders Intergovernmental Council
of Aboriginal Peoples Continuing to Reside on Traditional Homelands*

Forums

February 19, 2009

- Leaders Congress
- MAPC Commissions
- MAARS Secretariate
- SAR Ikanawtiket
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RDIMS: 4340453

MAPC Regional
Administrative Office
172 Truro Heights Rd.
Truro Heights, Nova Scotia
B6L 1X1

Tel: 902-895-2982
Fax: 902-895-3844
email: mapc@mapcorg.ca

Governmental APRO Councils

Native Council of
Nova Scotia
P.O. Box 1320,
Truro, Nova Scotia
B2N 5N2

Tel: 902-895-1523
Fax: 902-895-0024
email: core1@eastlink.ca

New Brunswick Aboriginal
Peoples Council
320 St. Mary's Street,
Fredericton, N.B.
E3A 2S4

Tel: 506-458-8422
Fax: 506-451-6130
email: blavallee@nbapc.org

Native Council of
Prince Edward Island
6 F.J. McAulay Court,
Charlottetown
Prince Edward Island
C1A 9M7

Tel: 902-892-5314
Fax: 902-368-7464
email: admin@ncei.com

Luc Desroches
Aboriginal Consultation Officer
Transport Canada
95 Foundry St.
P.O. Box 42
Moncton, New Brunswick
E1C 8K6

COPY

Dear Mr Desroches:

Further to your letter of January 30, 2009, couriered to my attention, in which you provide a recap, a thank you for our meeting of May 9, 2008, and note of documents forwarded to our attention, I respond.

I will respond to each of your response observations in a like manner format to yours to maintain consistency with the concerns.

1. "...The NCNS mentioned that aquaculture activities affect its members food, gathering and harvesting activities along Nova Scotia shorelines..." and you respond "...DFO would welcome this detailed information for consideration and review...".

We had provided the May 9th attendees with copies of the "Native Council of Nova Scotia Netukulimkewe'l Commission Community Harvest Guidelines 2008" and the booklet "Towards a better understanding". The 2008 guidelines explain the A.T.R.A. right to harvest in the area. Port Mouton is situated in Queens County where the Council has a large number of A.T.R.A. Netukli'tite'wk. I also attach a census Canada census data map for Nova Scotia which includes Queens County.

Tim Martin, at the meeting, also indicated that the Council's Aboriginal Communal Commercial Fisheries frequently use the waters at the proposed aquaculture site. He also raised the matter that the proposed site is sheltered by Port Mouton Island as well as

a large shallow shoal with less than 3 meters of water depth extending past Jackie's Island, (at low tide almost a land bridge). These two physical features contribute to providing a very sheltered and calm water with a very minimal bottom through flow.

The concern still remains in light of a fact: *"...With respect to finfish aquaculture development, the primary pathway of effect to fish habitat occurs as a result of organic enrichment to the sea floor when excess feed and feces are released from the facility..."*.

We need to be assured that there is adequate through water flow at the bottom or that there will be undercurrent dispersal or a sufficient undercurrent velocity that would prevent the accumulation of feed feces under the proposed cages.

You also indicate that : *"...DFO has concluded that the site is not likely to result in adverse effects to fish habit..."*, we need to know how DFO arrived at that conclusion given the fact of the very constraining biophysical attributes of the area where the fish pens are proposed to be situated.

Your response does not provide us assurance that the Proponent has the human, financial or otherwise capacity to both monitor and mitigate a feces problem. The Proponent has not developed an Environmental Protection Plan (EPP) nor trained personal who would be able either to cease operations and begin to implement special measures to either stop, reduce or collect the production of feces when it is discovered not to be dispersing naturally or when build ups are observed.

You should recall from the meeting and from other intervenors, that the Proponent proposes to set the cages in an area where there is known or virtually minimum wash through or undercurrent water flow, because, of the very shallow shore of Port Mouton Island and the long shallow shoal with depths of less than 3 meters.

We are still not convinced that: *"...the plague of aquaculture site feces producing disease, and inviting sea lice will not be generated by this addition of cages in this quiet water enclave used by many others..."*.

2. *"...The NCNS expressed concerns regarding fish and human health diseases and how there needs to be adequate monitoring/research for these diseases..."*.

You responded that: *"...It is our understanding that the Proponent will subscribe to standard industry practices related to fish husbandry and health. Furthermore, aquaculture facilities in Nova Scotia are required to implement all recommendations from provincial and private veterinarians who proactively visit aquaculture facilities on a routine basis to address fish health and husbandry issues..."*.

We still do not have information about the standard industry practice for locating aquaculture pens in non-turbulent shallow waters, which waters are also used by other fishing interests to either harvest crustaceans or store fishery related gear or conduct Aboriginal food fishery. How many proposed veterinary visits are anticipated or scheduled within a 12 month period for this proposed site if and when it is approved and operating?

3. "...The NCNS expressed concern about access to aquatic species in the area for food, social and ceremonial purposes. The NCNS noted that its members will lose access to the area of the proposed facility and that more vessels may reduce space at the nearest wharf..."

You advised us that: "*...It has been determined that the activities of the proposed site will not have a negative impact on the existing infrastructure in Port Mouton...* ".

We at this point and time will accept your determination about existing infrastructure with a caveat, should the Port Mouton port authority raise within the foreseeable future or within 5 years the subject of infrastructure overcapacity or the matter of over use of the infrastructure because of the activities of the aquaculture operation which would require accommodation or amendments to leases of uses and costs, then it will be the responsibility of the aquaculture owner or Transport Canada to compensate or accommodate ours or other persons wharf needs and the infrastructure capacity and facility needs at the Port Mouton wharf.

You still did not answer the issue that our community's food, social and ceremonial harvesters may be affected by the increased activities of an expanded aquaculture site or the detrimental effects to our food fishery because of disease or fouling of waters and beaches as a result of the aquaculture operation. We do not know the effects today however, it is a common known fact that excess feed and feces foul large areas. Our community has expressed this concern to us now.

4. "...The NCNS expressed concern over the fact that there is allegedly a lobster decline in the area due to aquaculture activities..."

Your response is: "*In this case, the Proponent has subscribed to an enhanced provincially administered monitoring and site management program which should mitigate this concern to ensure that fish habitat remain healthy and productive...* ".

Before we can agree or disagree with your response and view for mitigation, we would request and require to receive a copy of the "*enhanced provincial administered monitoring and management program*", established for this particular site given its particular biophysical attributes or why such a program would apply to this site.

5. "...The NCNS recommended extensive monitoring of sea bottom and an effective testing program...".

Your answer is: *"...In this case, the Proponent has committed to operate the site in a manner that includes the monitoring and management of organic outputs from the aquaculture facility such that benthic fish habitat conditions remain within acceptable levels such that adverse impacts to fish habitat are avoided..."*.

The biophysical attributes of the area, singularly from experience, community knowledge and common sense, raise the alarm bells and call for a serious review of this site for enhanced aquaculture activities as proposed. The monitoring and management of organic outputs must be elevated to a level above acceptable to err on the safe side and employ the precautionary approach.

If the Proponent or the regulators cannot adopt the precautionary approach or if this is not within the capacity of the proponent then we would require that this site should have a special set of veterinary visits which would include below cages observations and analysis of feces on a regular basis through out a 12 month period for several years. Also some form of a "Surety Bond" to cover potential damage claims from fishers, for potential fouling or diseasing of stored equipment or observable decline of lobster in the area or complaints and harvest losses or loss of harvest areas by our community for food, social and ceremonial fisheries. Who is responding to shoreline degradation in the area or if the area is affected with disease or other fouling including the introduction of invasive species. Our communities must be able to seek restitution or compensation for damages or loss of exercise of rights and benefits as a result of displacement; if they agree to displacement, from the shoreline area and waters.

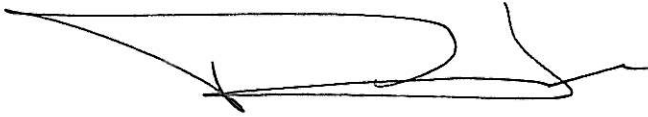
This concludes my preliminary response to your thoughtful letter. I am sorry that you did not receive our information which was provided at the meeting. I again provide this information with this letter as attachments. Yes, we most definitely do wish to provide comment during a CEAR assessment once it is posted. Could you possibly give us a heads up when you learn that the assessment has been posted.

I hope this letter provides you with the issues and concerns which we still have, based on your responses. Yes we can meet to further discuss both your correspondence and our correspondence or we can meet once there is an environmental assessment document completed.

Thank you for your response and follow through on the matter. Hopefully as the issues and concerns are fully addressed with other responses from you with more complete information as requested, we may hopefully arrive at a mutually satisfactory understanding or arrangement.

Please forward to us, the environmental assessment document, or identify where I can find it on the CEAR website.

Advancing Promoting and Advocating the Reality of the
Maritime Off-reserve Community of Aboriginal Peoples



Roger Hunka
Director

RH/bb

cc Chuck McKenna, N.S. Department of Fisheries and Aquaculture
Denise McCullough, Fisheries and Oceans Canada
Chief Grace Conrad, Native Council of N.S.
Tim Martin, President Mime'j Seafoods Ltd.
Native Council of N.S. Board of Directors
Jay Hartling, N.S. Office of Aboriginal Affairs
Joe Crocker, Fisheries and Oceans Canada
Kevin LeBlanc, Transport Canada
Marshall Giles, N.S. Dept. of Fisheries and Aquaculture
Melinda Donovan, Transport Canada
Michael Kaczorowski, Indian and Northern Affairs Canada
Greg Dahl, Office of the Federal Interlocutor for Metis and Non-Status Indians

Encl: Native Council of Nova Scotia Netukulimkewe'l Commission *Community Harvest Guidelines 2008*
MI'KMAQ Fisheries Netukulimk *Towards a Better Understanding*
NCNS Netukulimkewe'l Commission & Mime'j Seafoods Limited *Annual Report 2007/2008*