

March 26, 2018

Andrew Thomson, Regional Director  
Fisheries Management  
Fisheries and Oceans Canada  
by email transmission to [andrew.thomson@dfo-mpo.gc.ca](mailto:andrew.thomson@dfo-mpo.gc.ca)

Dear Mr. Thomson,

Re: Aquaculture Act consultations

We were led to expect that high-level consultations on a potential federal Aquaculture Act would be taking place prior to the end of March, 2018, in order that the department could bring forward recommendations to the Ministers' Meeting in June. Several of our east coast colleagues report having had the opportunity to meet with the department between December and January; and we have repeatedly requested the opportunity to learn of your plans and meet with you on the subject.

In the absence of any affirmative response, we (together with the undersigned organizations) developed the attached principles for your consideration as you prepare your recommendations.

On March 22, we received a response to our request for a meeting from Brenda McCorquodale. We will of course accept, but offer the enclosed comments representing a broad-based consensus from groups concerned with wild salmon.

Yours truly,



Karen G. Wrysten  
Executive Director  
Encl.

On behalf of:

Christianne Wilhelmson, Executive Director, Georgia Strait Alliance

Pat Moss, Executive Director, Northwest Institute (cont)

Stan Proboszcz, Science and Campaign Advisor, Watershed Watch Salmon Society

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Cheryl Brown, President, Douglas Channel Watch  
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Dawn Remington, Chair, Friends of Morice-Bulkley  
Anne Hill, Co-chair, North West Watch  
Todd Stockner, Chair, Skeena Watershed Conservation Coalition  
John Werring, Senior Science Advisor, David Suzuki Foundation  
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Caitlyn Vernon, Campaigns Director, Sierra Club BC  
Tony Allard, Chair, Wild Salmon Forever

## Governing principles for a federal Aquaculture Act

1. An Aquaculture Act should embody:
  - the precautionary principle; and
  - the three fundamental purposes of the *Fisheries Act*:
    - i. the proper management and control of the fisheries;
    - ii. the conservation and protection of fish; and
    - iii. the protection of fish and fish habitat.
  - Those four purposes should be recognized in the preamble, and in sections dealing with purposes and interpretation.
  - Provisions in the Act should provide equal or greater protection for the conservation and protection of fish and the protection of fish and fish habitat as those of the *Fisheries Act*. Such provisions should be incorporated by reference so that standards established in the *Fisheries Act* continue to apply.
  - Approvals under the *Fisheries Act* should still be required for siting, introducing or transferring fish, depositing substances, and any other activities that could affect the protection and conservation of fish and fish habitat.
  - Regulatory powers must be exercised subject to the *Fisheries Act*
2. The Act should require transparent public reporting for all facilities operating in the marine environment or facilities that can have an impact on the environment. Public reporting should include monthly public reports on water quality and benthic testing; the use of drugs and chemicals; sea lice and other parasites; and disease testing.
  - Licence conditions should be transparent: essential management framework for aquaculture activities should be set out in regulation, rather than publicly inaccessible Conditions of Licence
3. The Act must be premised on the concept that salmon farms will be transitioned from open ocean net pens to land-based closed containment and be broadly enough drafted to facilitate transitional regulation and ongoing regulation of land-based aquaculture. It must incentivize transition to closed containment facilities through a combination of escalating licence fees, an effective compliance and enforcement regime, site remediation provisions and modern penalties commensurate with those in place under the *Fisheries Act*.

4. An Aquaculture Act provides the means by which to implement Mr. Justice Cohen's recommendation that Fisheries and Oceans Canada ("DFO") not have responsibility the dual mandate of promoting the aquaculture industry and the protection and conservation of wild fish.
  - We recommend that a federal agency other than DFO have responsibility for the promotion of the aquaculture industry, but that DFO retain authority for any authorizations, compliance and enforcement with respect to the protection and conservation of fish and/or the protection of fish and fish habitat.
  - In this way DFO's regulatory role would be the same as it is for any other industry that could have impacts on the marine environment or fish and fish habitat, such as oil and gas, mining, shipping, etc.
5. To ensure that the Act is implemented according to the precautionary principle:
  - Siting criteria, in particular, should be drafted and designed to be precautionary; and
  - Listing of wild fish by COSEWIC as Special Concern, Threatened or Endangered must immediately trigger a review of operations of sites that are on the migratory routes of those listed species. The review must consider restrictions on the operations of those sites and their removal.
6. For better decisions that are guided by modern environmental management principles, we recommend that all persons engaged in the administration of the proposed Act or its regulations be required to:
  - take into account the principles of sustainable development , as set out in the Rio Declaration on Environment and Development;
  - employ a science-based approach to decision-making and take into account the best available science, research, and technical information available;
  - take into account climate change;
  - consider the interests of coastal communities, where employment and culture may be adversely affected by the introduction of aquaculture;
  - consider traditional knowledge; and
  - consider cultural significance to indigenous peoples of Canada, as stipulated under the UN Declaration on the rights of indigenous peoples.

Many of these principles, such as the precautionary principle and concept of ecosystem-based management, are already included in DFO policies such as the Policy to Manage the Impacts of Fishing on Sensitive Benthic Areas, and are required by international obligations.

7. Maintenance of the ecological function of aquatic ecosystems should be the first priority of the Minister when considering all aspects of the management of aquaculture. Including such language in the Act will provide necessary direction to decision-makers.

8. The Act must respect First Nations' rights and title and provide a meaningful opportunity for Nations to participate in the design of regulations, management, monitoring and enforcement. In particular, siting criteria should incorporate UNDRIP principles, including the need to obtain free, prior and informed consent for fish farms on First Nation territories.
9. The Act must be capable of accommodating the discrete jurisdiction of the provinces.
  - Provincial jurisdictions vary, but all have constitutional powers that are engaged by the aquaculture industry
  - The duty to consult with First Nations ensures to both the federal and provincial governments and must be properly discharged by both
10. The Act must require environmental assessment of new tenures, and expansions and alterations to existing tenures, in accordance with any federal and provincial environmental assessment acts. Any federal environmental assessment act must expressly require environmental assessment for new or expanded aquaculture facilities.
11. The Act must prohibit the introduction of substances deleterious to fish or fish habitat into the marine environment.
  - Introduction of fish carrying disease or disease agents specifically prohibited.
  - Decisions on what constitutes a prohibited disease or disease agent must be made through a consent-based decisional making process involving affected First Nations.
  - Drug and chemical use permitted only after evidence-based assessment of potential for impacts on marine ecosystems
  - Limitations on biological oxygen demanding matter
12. To ensure the protection of fish and fish habitat regulations must be promulgated under the *Fisheries Act* to regulate disposal of waste related to aquaculture, including bloodwater/wastewater from fish processing, as well as aquaculture facilities and equipment. The promulgation of such regulations would be consistent with regulations on the *Fisheries Act* that regulate the discharge of substances in waters containing fish or fish habitat including, but not limited to, mining, oil and gas, pulp and paper, meat processing, poultry processing and potato processing.