

November 30, 2018

**Kwikwasut'inuxw Haxwa'mis First Nation**  
Box 10  
Alert Bay, BC V0N 1A0  
**Attention: Chief and Councillors**

**'Namgis First Nation**  
49 Atli Road  
P.O. Box 210  
Alert Bay, BC V0N 1A0  
**Attention: Chief and Councillors**

**Mamalilikulla First Nation**  
1441B 16<sup>th</sup> Avenue  
Campbell River, BC V9W 2E4  
**Attention: Chief and Councillors**

**Office of the Premier**  
P.O. Box 9041, Stn. Prov. Govt.  
Victoria, BC V8W 9E1  
**Attention: Honourable John Horgan, Premier**

**Ministry of Forests, Lands, Natural Resource  
Operations and Rural Development**  
P.O. Box 9049, Stn. Prov. Govt.  
Victoria, BC V8W 9E2  
**Attention: Honourable Doug Donaldson,  
Minister**

**Ministry of Agriculture**  
P.O. Box 9043, Stn. Prov. Govt.  
Victoria, BC V8W 9E2  
**Attention: Honourable Lana Popham, Minister**

**Ministry of Indigenous Relations and  
Reconciliation**  
P.O. Box 9051, Stn. Prov. Govt.  
Victoria, BC V8W 9E2  
**Attention: Honourable Scott Fraser, Minister**

**Ministry of Environment & Climate Change  
Strategy**  
P.O. Box 9047, Stn. Prov. Govt.  
Victoria, BC V8W 9E2  
**Attention: Honourable George Heyman, Minister**

Dear Sirs/Mesdames:


**Re: Collaborative Solutions for Finfish Aquaculture Farms in the Broughton Area: Steering  
Committee Recommendations**

Please find enclosed the consensus Recommendations reached by the Steering Committee under the Letter of Understanding signed June 27, 2018 by the Province of British Columbia and the Kwikwasut'inuxw Haxwa'mis, 'Namgis, and Mamalilikulla First Nations.

Included with these Recommendations are letters of support provided by the Tenure Holders: Cermaq Canada Ltd. and Marine Harvest Canada Inc.

Should you have any questions, please do not hesitate to contact us.

Yours truly,



Lorne Brownsey  
Provincial Co-Chair



Chief Robert (Galagame') Chamberlin  
First Nations' Co-Chair

## BRITISH COLUMBIA - FIRST NATIONS

### COLLABORATIVE SOLUTIONS FOR FINFISH AQUACULTURE FARMS IN THE BROUGHTON AREA

#### STEERING COMMITTEE RECOMMENDATIONS<sup>1</sup>: November 30, 2018

##### BACKGROUND AND CONTEXT:

- A. Under s. 11 of the *Land Act*, RSBC 1996, c 245, the Province of British Columbia (the Province) issues licences of occupation for the siting of finfish aquaculture operations (tenures). The Province has issued tenures for finfish aquaculture in the Territories of Kwikwasut'inuxw Haxwa'mix, 'Namgis, and Mamalilikulla First Nations (the First Nations). The First Nations have consistently raised concerns regarding the risk of harm from open-net pen finfish aquaculture to wild salmon and other aquatic species and the migratory routes and ecosystems on which they depend. The First Nations have never consented to the tenures and have continued to raise significant concerns regarding the potential impacts and risks to section 35(1) Rights, including Title, related to the locations and operations of finfish aquaculture in their Territories.
- B. On June 27, 2018 the Province and the First Nations entered into a Letter of Understanding (the LOU) which establishes a consent-based process consistent with the United Nations Declaration on the Rights of Indigenous Peoples to make consensus recommendations for the Broughton Replacement Tenure Decisions. A copy of the LOU is attached as Appendix A to these Recommendations (as defined below).
- C. The LOU directed the Steering Committee to deliver consensus recommendations by the end of September 2018 to their respective decision makers regarding the Broughton Replacement Tenure Decisions according to the context, consent-based process, collaboration principles and scope of issues described in the LOU (the Recommendations). On September 25, 2018, the First Nations and the Province agreed to extend the time the Steering Committee had to make its Recommendations to November 30, 2018, in order to provide additional opportunity to engage Cermaq Canada Ltd. and Marine Harvest Canada Inc., the applicants for the Broughton Replacement Tenure Decisions (Tenure Holders) and find solutions.
- D. These Steering Committee Recommendations are made within the context and principles of the LOU. Section 4.1 of the LOU sets out the Scope of issues which the Steering Committee considered when preparing the Recommendations.

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<sup>1</sup> All defined terms in these Recommendations have the same definition found within the LOU.

- E. In January, 2018, after 18 months of deliberations, the Minister of Agriculture's Advisory Council on Finfish Aquaculture (MAACFA) submitted to the Province its Final Report and Recommendations (the MAACFA Report). The Province publicly released the MAACFA Report on April 5, 2018. MAACFA included representatives with expertise in aquaculture, marine planning and fish health from the salmon aquaculture industry, the seafood industry, academia, first nations, non-government organizations, and the provincial and federal governments. The MAACFA Report addressed six themes, each with a strategic recommendation and supporting immediate and longer-term recommended actions. The MAACFA Report also included appendices describing different perspectives on the risk associated with open-net pen finfish aquaculture.
- F. Although the MAACFA Report and its recommendations are broader in scope than the work of the Steering Committee, the following strategic recommendations from the MAACFA Report have informed and motivated the Steering Committee's work:
1. Strengthen the precautionary approach to regulating salmon farming in B.C. to reduce the potential risk of serious harm to wild salmon.
  2. Acknowledge and incorporate First Nations' Rights, Title and stewardship responsibilities in all aspects of fish farm governance, including tenuring, licensing, management and monitoring in a manner consistent with the UNDRIP.
  3. Increase community, stakeholder and local government engagement and marine spatial planning to improve public trust in aquaculture siting and operations.
  4. Move expeditiously to better understand the risk salmon farming poses to wild salmon from the transfer of pathogens (including sea lice) as well as the actual consequences of pathogen infection on wild salmon.
  5. Provide incentives for the continued research, development and adoption of salmon farming technologies that reduce the risk to wild salmon, including land-based closed containment.
  6. Improve the timeliness and accessibility of information on finfish aquaculture.
- G. Consistent with the MAACFA Report's recommendations, on June 22, 2018 the Province announced a policy stipulating that effective June 2022, the Province will grant *Land Act* tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated

agreements with the first nations in whose territory they propose to operate.

- H. In completing its work under the LOU, from July 2018 to November 2018, the Steering Committee engaged actively with the Tenure Holders. At their request, the Steering Committee provided the Tenure Holders with numerous in-person meetings and teleconferences, opportunities to provide and revise written proposals, and sought and obtained an extension to provide additional opportunities for engagement.
- I. In completing the Recommendations, the Steering Committee relied upon materials provided by the Tenure Holders and DFO. Those materials and engagements assisted the Steering Committee in identifying possible options for building consensus recommendations. The Steering Committee is grateful for the cooperation and engagement of the Tenure Holders and DFO while completing their work in reaching the Recommendations.
- J. Participating in the LOU, including creating, adopting, and implementing the Recommendations:
  - 1. does not provide the First Nations' consent to the past, present or future locations and operations of the Fish Farms, including the tenures;
  - 2. except as provided by section 3.1(j) of the LOU, does not provide accommodations or payment of damages related to past, present or future impacts and infringements from the Fish Farms, and
  - 3. is without prejudice to any Parties' rights and remedies to enforce or protect the exercise of legal rights or constitutional Title, Rights and responsibilities, including statutory remedies, constitutional remedies, or in existing or future litigation.
- K. The Province and the First Nations recognize the value of marine spatial tools and planning in government to government decision making.
- L. By letter attached to these Recommendations, each of the Tenure Holders confirm their agreement in principle to the immediate implementation of these Recommendations through such things as detailed agreements and protocols, as required. (Appendix B: Cermaq Canada Ltd. Letter and Appendix C: Marine Harvest Canada Inc. Letter).



- M. By implementing these Recommendations, including reaching and implementing the necessary agreements and protocols with provincial and federal agencies, the First Nations, and the Tenure Holders, the Parties intend to provide certainty of tenure for the Fish Farms during the orderly transition (years 2019-2023).

#### **BROUGHTON STEERING COMMITTEE RECOMMENDATIONS**

As set out below, the Steering Committee's Recommendations, reached by consensus, include area-wide recommendations and site specific recommendations that apply to and inform the Broughton Replacement Tenure Decisions.

In making the Recommendations, the Steering Committee considered numerous priorities and factors including those set out in the LOU, and the following:

- Mitigating potential harm to wild salmon;
- Prioritizing the reduction of the number of tenures in the proximity of natal salmon streams in the northern salmon smolt outmigration routes within the Territories in the Broughton Area (Schedule A to the LOU);
- First Nation governance, management and values in their Territories, including concerns regarding the Fish Farms' potential impacts on the exercise of their section 35 (1) Title, Rights and responsibilities including both site specific and territorial wide concerns;
- The Tenure Holders' requests to be provided adequate time to adjust their operations, to minimize potential economic, social, and cultural consequences, and to provide further opportunity to earn the First Nations' free prior and informed consent; and
- Information provided to the Steering Committee, including by the Tenure Holders and DFO.

Based on the factors above, and having weighed the interests of the Tenure Holders, and to promote reconciliation, the Steering Committee recommends making the Broughton Replacement Tenure Decisions according to the Recommendations set out below.

## **AREA-WIDE RECOMMENDATIONS:**

- 1. Orderly Transition based on short, medium and long term actions -** The Steering Committee recommends that the Broughton Replacement Tenure Decisions be considered as a package in order to ensure an orderly transition of the tenures with specific actions being taken in the immediate, medium and longer term (years 2019 – 2023), all as set out below in the Site Specific Recommendations.
- 2. Establish the First Nations' Oversight of the Fish Farms during the Orderly Transition -** The Steering Committee recommends the establishment and implementation of an Indigenous Monitoring and Inspection Plan (IMIP) for finfish aquaculture to oversee the operations of the Fish Farms during the orderly transition in an effort to document, understand, avoid and mitigate potential harmful effects on wild Pacific salmon and other marine resources, and the ecosystems on which they rely. Compliance with the required agreements between the First Nations and the Tenure Holders will be a condition of the tenures issued through the Broughton Replacement Tenure Decisions.

The IMIP would have the following objectives:

- a.** Establish a program for First Nations' oversight of the Fish Farms with objective standards acceptable to the First Nations for:
  - i.** fish health;
  - ii.** monitoring and testing for pathogens, diseases and disease agents in hatchery smolts to ensure that smolts are free of disease, disease agents and pathogens before they are introduced or transferred into the open-net pens at the Fish Farms;
  - iii.** monitoring and testing for pathogens, diseases and disease agents while fish are in the open-net pens; and
  - iv.** monitoring and testing of the Applicant's integrated sea lice management programs;
- b.** Ensure open and transparent public reporting of the operating conditions of the Fish Farms and potential effects on fish health of BC wild salmon;
- c.** Integrate Indigenous knowledge and science to inform management approaches regarding the Fish Farm operations;
- d.** Provide trusted information to First Nation community members on the Fish Farms with the goal of promoting a better working relationship between the communities, the Tenure Holders, and relevant federal and provincial agencies;

- e. Ensure that the IMIP provides required standards for the Fish Farms and mechanisms for compliance and enforcement;
- f. Monitoring of the decommissioning of the tenures;
- g. Monitor and take steps to avoid and mitigate the impacts of Fish Farms on wild fish, including by sampling and testing wild fish in proximity to the Fish Farms according to standards established by the IMIP that are acceptable to the First Nations; and
- h. The potential development of an independent advisory panel.

To develop and implement the IMIP, the Steering Committee recommends that the First Nations, relevant provincial and federal agencies and the Tenure Holders work together to reach agreement(s), including where necessary incremental agreements, on:

- i. the objectives of the IMIP identified above during each Fish Farm's tenure, including the independent testing;
- ii. the funding necessary to implement the IMIP; and
- iii. the monitoring and enforcement measures necessary to oversee Tenure Holder's compliance with the IMIP, including identifying and implementing corrective measures.

The Steering Committee recommends that the Province and the First Nations work with relevant federal agencies, the Tenure Holders and third parties to identify the required resourcing for the immediate finalization and implementation of the IMIP. The Tenure Holders have acknowledged a willingness to contribute (financially and in kind) towards this work.

**3. Increased Capacity for First Nations Monitoring and Salmon Restoration** - The Steering Committee recommends agreements between the First Nations, relevant provincial and federal agencies, third parties and the Tenure Holders to:

- a. Improve First Nations management and monitoring of marine resources, technical data capture and analysis, planning, and communication and engagement skills, including for example guardian/guardian watchmen programs;
- b. Provide meaningful employment for the First Nations' community members;
- c. Facilitate the appropriate training and accreditations necessary to conduct activities identified under the IMIP; and

- d. Ensure that the results of the IMIP activities are communicated to all parties in a timely manner to inform ongoing management actions and finfish aquaculture operations, as appropriate.
4. **Increased provincial capacity** – To facilitate the Tenure Holders' adjustment to the orderly transition provided for in the Recommendations, the Steering Committee recommends the Province increase its human and financial capacity to work with relevant First Nations, the federal government and the Tenure Holders. To support the processing of the tenure applications and the tenure amendments in an expeditious manner in order to implement the Recommendations, the Steering Committee recommends the Province, working with the First Nations, aim to process applications in line with federal service standards, and to facilitate the Tenure Holders' identification of acceptable amendment applications or alternative finfish aquaculture tenure locations outside of the Broughton Area (Schedule A to the LOU).
5. **Promote wild salmon restoration and/or enhancement programs** - The Steering Committee recommends that the First Nations, relevant provincial and federal agencies and third parties identify, prioritize and implement wild salmon restoration and/or enhancement programs in the Broughton Area (Schedule A to the LOU). The Tenure Holders have offered to contribute (financially and in kind) towards this work.
6. **New Technology:** The Steering Committee recommends that relevant provincial and federal agencies work with interested first nations throughout B.C. and the Tenure Holders to consider immediate incentives and opportunities to collaborate and achieve agreements on the transition to new farming technologies that reduce potential risk to wild salmon and other aquatic resources associated with finfish aquaculture. This effort could include examining current initiatives underway by the Tenure Holders in Norway and other initiatives elsewhere, and the promotion of new technologies including closed containment (recirculating aquaculture systems), advanced net-pen systems, near-shore floating containment and off-shore farming systems.
7. **Timing:** The Steering Committee recommends that the Province and the First Nations seek to obtain the Broughton Replacement Tenure Decisions by January 31, 2019 and complete an implementation plan for these Recommendations on or before March 31, 2019, including reaching necessary arrangements and agreements as required with the Federal Crown, the Tenure Holders and potentially third parties. The Steering Committee also recommends that any necessary incremental agreements related to the IMIP be in place by January 31, 2019.

### **SITE SPECIFIC RECOMMENDATIONS:**

In addition to the Area Wide Recommendations and to give effect to those recommendations, the Steering Committee recommends the following additional site specific recommendations:

#### **FOR CERMAQ CANADA:**

The Steering Committee proposes the following **short-term** recommendations:

1. Unless Cermaq Canada immediately notifies the Province and the First Nations that it withdraws its current application for tenure replacement related to **CLIFF BAY – FILE # 1403929**, Cermaq Canada's application for replacement be declined; and in either event, the tenure of CLIFF BAY – FILE # 1403929 be decommissioned as soon as possible and no later than March 31, 2019.
2. The tenure for **BURDWOOD – FILE # 1406650**, be replaced until January 31st, 2020 and be decommissioned as soon as possible thereafter and no later than June 1, 2020, under the following site specific conditions, to be implemented as appropriate through tenure conditions or through agreement by the First Nations and Cermaq, including:
  - a. Cermaq to operate the Fish Farm at this tenure in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to prioritize fallowing or reduced production during salmon smolt outmigration periods;
  - b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations) on or before any restocking and in any event no later than March 30, 2019 and implemented thereafter throughout the term of the tenure BURDWOOD – FILE # 1406650; and
  - c. No extension or replacement of the tenure for BURDWOOD – FILE # 14062020 beyond January 31, 2020, will be granted except as required to complete the required decommissioning of the tenure for BURDWOOD – FILE # 14062020, as soon as possible and no later than June 1, 2020.

The Steering Committee proposes the following **mid to long-term** recommendations:

3. The tenure for **SIR EDMUND BAY - FILE # 1404179**, be replaced until December 31st, 2023 and be decommissioned as soon as possible thereafter and no later than June 30, 2024, under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by the First Nations and Cermaq, including:

- a. Cermaq to operate the Fish Farm at this tenure in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to prioritize fallowing or reduced production during salmon smolt outmigration periods;
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations) on or before any restocking and in any event no later than March 30, 2019 and implemented thereafter throughout the term of the tenure SIR EDMUND BAY - FILE # 1404179; and
- c. No extension or replacement of the tenure for SIR EDMUND BAY - FILE # 1404179 beyond December 31, 2023, will be granted except as required to complete the required decommissioning of the tenure for SIR EDMUND BAY - FILE # 1404179 , as soon as possible and no later than June 30, 2024- unless continued operations of the Fish Farm at that tenure is approved by written agreement with the First Nation(s) in whose Territory the tenure is located.

The Steering Committee recommends that the First Nations, the Province and Cermaq work with relevant federal agencies to consider in detail Cermaq's amendment application to trial an innovative semi-closed finfish aquaculture containment system (Botngaard System) at the SIR EDMUND BAY - FILE # 1404179 tenure site.

4. The tenure for **CECIL ISLAND – FILE # 1405181**, be replaced until December 31st, 2023 and be decommissioned as soon as possible thereafter and no later than June 30, 2024 under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by First Nations and Cermaq, including:

- a. Cecil Island tenure remains a nursery site (being sites that contain fish ranging from entry size (as smolts) to a maximum average size of 1 kilogram);
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations) on or before any restocking and in any event no later than March 30, 2019 and implemented thereafter throughout the term of the tenure CECIL ISLAND – FILE # 1405181; and
- c. No extension or replacement of the tenure for CECIL ISLAND – FILE # 1405181 beyond December 31, 2023, will be granted except as required to complete the required decommissioning of the tenure for CECIL ISLAND – FILE # 1405181, as soon as possible and no later than June 30, 2024 - unless continued operations of

the Fish Farm at that tenure is approved by written agreement with the First Nation(s) in whose Territory the tenure is located.

5. The tenure for **CYPRESS HARBOUR – FILE # 1405381**, be replaced until December 31st, 2023 and be decommissioned as soon as possible thereafter and no later than June 30, 2024 under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by First Nations and Cermaq, including:

- a. Cypress Harbour tenure remains a broodstock site with maximum allowable biomass at 300 metric tonnes;
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations) on or before any restocking and in any event no later than March 30, 2019 and implemented thereafter throughout the term of the tenure CYPRESS HARBOUR – FILE # 1405381; and
- c. No extension or replacement of the tenure for CECIL ISLAND - FILE # 1405181 beyond December 31, 2023, will be granted except as required to complete the required decommissioning of the tenure of CECIL ISLAND - FILE # 1405181, as soon as possible and no later than June 30, 2024- unless continued operations of the Fish Farm at that tenure is approved by written agreement with the First Nation(s) in whose Territory the tenure is located.

**FOR MARINE HARVEST CANADA:**

The Steering Committee proposes the following **short-term** recommendations:

1. Unless Marine Harvest Canada immediately notifies the Province and the First Nations that it withdraws its current application for tenure replacement related to **ARROW PASSAGE – FILE # 1404681**, Marine Harvest Canada's application for replacement be declined; and in either event, the tenure for ARROW PASSAGE – FILE # 1404681 be decommissioned as soon as possible and no later than January 31, 2019. It is understood that Marine Harvest Canada will also need to secure additional permits from BC Parks to remove related infrastructure which may take longer than January 31, 2019, but will not result in a delay of the decommissioning of the tenure for ARROW PASSAGE – FILE # 1404681.
2. Marine Harvest Canada to notify the Province and the First Nations and any other relevant parties that they will decommission the tenure, **POTTS BAY – FILE # 1406655**, as soon as possible and no later than February 28, 2019, and that the tenure be removed from current disposition once that process is completed. In the event that Marine Harvest Canada applies

for a replacement of the tenure, POTTS BAY – FILE # 1406655, that the application for replacement be declined.

3. Unless Marine Harvest Canada immediately notifies the Province and the First Nations that it withdraws its current application for tenure replacement related to **GLACIER FALLS – FILE # 1405180**, Marine Harvest Canada's application for replacement be declined; and in either event the tenure for GLACIER FALLS – FILE # 1405180, be decommissioned as soon as possible and no later than June 30, 2019.

4. The tenure for **UPPER RETREAT – FILE # 1404379** be replaced until December 31, 2020 and be decommissioned as soon as possible thereafter and no later than August 31, 2021, under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by First Nations and Marine Harvest Canada, including:

- a. Marine Harvest Canada to operate the Fish Farm at this tenure in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to prioritize fallowing or reduced production during salmon smolt outmigration periods;
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations), on or before any restocking and in any event no later than March 30, 2019, and implemented thereafter throughout the term of the tenure for UPPER RETREAT – FILE # 1404379 ; and
- c. No extension or replacement of the tenure for UPPER RETREAT – FILE # 1404379 beyond December 31, 2020, will be granted except as required to complete the required decommissioning of the tenure for UPPER RETREAT – FILE # 1404379 as soon as possible and no later than August 31, 2021.

The Steering Committee proposes the following **mid to long-term** recommendations:

5. The tenure for **WICKLOW POINT – FILE # 1405183**, be replaced until December 31st, 2021 and be decommissioned as soon as possible thereafter and no later than June 30, 2022 under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by First Nations and Marine Harvest Canada, including:

- a. Marine Harvest Canada to operate the Fish Farm at this tenure in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to



prioritize fallowing or reduced production during salmon smolt outmigration periods;

- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations), on or before any restocking and in any event no later than March 30, 2019, and implemented thereafter throughout the term of the tenure WICKLOW POINT – FILE # 1405183; and
- c. No extension or replacement of the tenure for WICKLOW POINT – FILE # 1405183 beyond December 31, 2021, will be granted except as required to complete the required decommissioning of tenure for WICKLOW POINT – FILE # 1405183 no later than June 30, 2022.

6. The tenures for **PORT ELIZABETH – FILE # 1403104** and **LARSEN ISLAND – FILE # 1408560**, be replaced until July 31st, 2022 and be decommissioned as soon as possible thereafter and no later than February 28, 2023 under the following site specific conditions to be implemented as appropriate through tenure conditions or through agreement by First Nations and Marine Harvest Canada, including:

- a. Port Elizabeth and Larsen Island remain nursery sites (being sites that contain fish ranging from entry size (as smolts) to a maximum average size of 1 kilogram);
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations), on or before any restocking and in any event no later than March 30, 2019, and implemented thereafter throughout the term of the tenures PORT ELIZABETH – FILE # 1403104 and LARSEN ISLAND – FILE # 1408560; and
- c. No extension or replacement of the tenures for PORT ELIZABETH – FILE # 1403104 and LARSEN ISLAND – FILE # 1408560 beyond July 31, 2022 will be granted except as required to complete the required decommissioning of the tenures for PORT ELIZABETH – FILE # 1403104 and LARSEN ISLAND – FILE # 1408560 no later than February 28, 2023.

7. The tenures for **MIDSUMMER ISLAND - FILE # 1404380**; **SWANSON ISLAND – FILE # 1404381**; **HUMPHREY ROCK – FILE #1409707**; and **SARGEAUNT PASSAGE – FILE # 1403328** be replaced until December 31st, 2022 and be decommissioned as soon as possible thereafter and no later than August 31, 2023 under the following site specific conditions to be implemented

as appropriate through tenure conditions or through agreement by First Nations and Marine Harvest Canada, including:

- a. Marine Harvest Canada to operate the Fish Farms at these tenures in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to prioritize fallowing or reduced production during salmon smolt outmigration periods;
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations), on or before any restocking and in any event no later than March 30, 2019, and implemented thereafter throughout the term of the tenures MIDSUMMER ISLAND - FILE # 1404380; SWANSON ISLAND – FILE # 1404381; HUMPHREY ROCK – FILE #1409707; and SARGEANT PASSAGE – FILE # 1403328;
- c. A reduction of 1,000 metric tonnes of production at the Humphrey Rock site on or before April 30, 2021;
- d. No extension or replacement of the tenure for SWANSON ISLAND - FILE # 1404381 beyond December 31, 2022, with the required decommissioning of the tenure for SWANSON ISLAND - FILE # 1404381 by no later than August 31, 2023; and
- e. No extensions or replacements of the tenures for MIDSUMMER ISLAND - FILE # 1404380; HUMPHREY ROCK – FILE #1409707; and SARGEANT PASSAGE – FILE # 1403328 beyond December 31, 2022, with the required decommissioning of those tenures by August 31, 2023, will be granted unless continued operations of the Fish Farms at each of those tenures is approved by written agreement with the First Nation(s) in whose Territory the tenures are located.


The Steering Committee recommends that the Province, the First Nations and Marine Harvest Canada work with relevant provincial and federal agencies to expeditiously and thoroughly consider applications from Marine Harvest for tenure and licence amendments at MIDSUMMER ISLAND - FILE # 1404380 to accommodate an increased 1,000 metric tonnes of production and changes to circle pens. Provided that Marine Harvest Canada submits its amendment application to Front Counter BC and the First Nations no later than March 31, 2019, such approval decisions should aim to be considered no later than February 28, 2020 to accommodate required operational planning and changes by Marine Harvest Canada.

8. The tenure for **DOCTOR ISLETS FILE # 1408758** be replaced until December 31st, 2023 and be decommissioned as soon as possible thereafter and no later than August 31, 2024 under the following site specific condition(s) to be implemented as appropriate through tenure conditions or through agreement by First Nations and Marine Harvest Canada, including:

- a. Marine Harvest Canada to operate the Fish Farm at this tenure in a manner that includes a production schedule designed to avoid and mitigate potential negative effects on migrating salmon and other aquatic resources, and to prioritize fallowing or reduced production during salmon smolt outmigration periods;
- b. Written agreements are finalized with the First Nations for the IMIP (as defined above in Section 2 of the Area Wide Recommendations), on or before any restocking and in any event no later than March 30, 2019, and implemented thereafter throughout the term of the tenure DOCTOR ISLETS FILE # 1408758; and
- c. No extension or replacement of the tenure for DOCTOR ISLETS FILE # 1408758 beyond December 31, 2023, will be granted except as required to complete the required decommissioning of the tenure at DOCTOR ISLETS FILE # 1408758, as soon as possible and no later than August 31, 2024 - unless continued operations of the Fish Farm at that tenure is approved by written agreement with the First Nation(s) in whose Territory the tenure is located.

All of which is respectfully confirmed and recommended by consensus of the Steering Committee on November 30, 2018:

  
Lorne Brownsey  
Provincial Co-Chair

  
Chief Robert (Galagame') Chamberlin  
First Nations' Co-Chair

APPENDIX A to STEERING COMMITTEE RECOMMENDATIONS



Kwikwasut'inuxw/Haxwa'mis  
Box 10, Alert Bay, BC V0N 1A0

'Namgis  
49 Atli Rd, Alert Bay, BC V0N 1A0

Mamalilikulla  
1441B 16th Avenue, Campbell River BC V9W 2E4

**Dated for reference: September \_\_, 2018**

**Re: Extension of time period for recommendations for Provincial tenure replacement decisions for open-net pen Atlantic Salmon finfish farms identified in Schedule A & B (the "Broughton Replacement Tenure Decisions") of the Letter of Understanding signed June 27, 2018 (the "LOU").**

The Province of British Columbia and the Kwikwasut'inuxw/Haxwa'mis, 'Namgis, and Mamalilikulla First Nations entered into the LOU to effect a consent-based process for recommendations with respect to the Broughton Replacement Tenure Decisions. Under section 8.0 of the LOU, we anticipated receiving recommendations from the Steering Committee by no later than September 30, 2018. The Steering Committee has recommended a 60 day extension to the September 30, 2018 deadline in the LOU, with forthcoming recommendations to now be provided to us on **November 30, 2018**.

This letter confirms the agreement of the Province of British Columbia and the Kwikwasut'inuxw/Haxwa'mis, 'Namgis, and Mamalilikulla First Nations to extend the time period for the Steering Committee recommendations under the LOU to **November 30, 2018**.

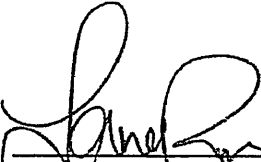
If the Kwikwasut'inuxw/Haxwa'mis, 'Namgis, and Mamalilikulla First Nations are in support of this time period extension for Steering Committee recommendations to November 30, 2018, please sign in the signature block provided below, and return a copy of this letter to our attention.

Sincerely,

Honorable Doug Donaldson  
Minister

Province of British Columbia  
Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Date: September 25, 2018

  
\_\_\_\_\_  
Honorable Lana Popham  
Minister  
Province of British Columbia  
Ministry of Agriculture

Date: Sept 25/18

  
\_\_\_\_\_  
Honorable Scott Fraser  
Minister  
Province of British Columbia  
Ministry of Indigenous Relations and Reconciliation


Date: \_\_\_\_\_

  
\_\_\_\_\_  
Kwikwasut'inuxw/Haxwa'mis  
Chief Robert Chamberlin, Owadi  
Chief Councillor

Date: Sept 24/18

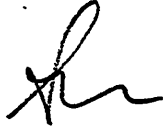
  
\_\_\_\_\_  
'Namgis  
Chief Councillor Donald Svanvik

Date: \_\_\_\_\_

  
\_\_\_\_\_  
Mamalilikulla  
Chief Councillor Richard Sumner

Date: SEPT 24/18

\_\_\_\_\_  
Honorable Lana Popham  
Minister  
Province of British Columbia  
Ministry of Agriculture

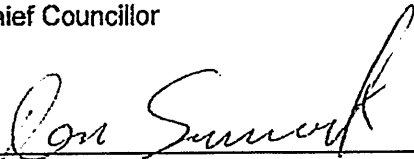


Date: \_\_\_\_\_

\_\_\_\_\_  
Honorable Scott Fraser  
Minister  
Province of British Columbia  
Ministry of Indigenous Relations and Reconciliation

Date: September 25, 2018  
\_\_\_\_\_

\_\_\_\_\_  
Kwikwasut'inuxw/Haxwa'mis  
Chief Robert Chamberlin, Owadi  
Chief Councillor



Date: \_\_\_\_\_

\_\_\_\_\_  
'Nángis  
Chief Councillor Donald Svanvik

Date: September 24, 2018  
\_\_\_\_\_

\_\_\_\_\_  
Mamalilikulla  
Chief Councillor Richard Sumner

Date: \_\_\_\_\_



Kwikwasutinuxw Haxwa'mis  
Box 10, Alert Bay, BC V0N 1A0

'Namgis  
49 Atli Rd, Alert Bay, BC V0N 1A0

Mamalilikulla  
1441B 16th Avenue, Campbell River BC V9W 2E4

**Dated for reference: June 27, 2018**

**Re: Letter of Understanding regarding a government-to-government process to address finfish aquaculture in the Broughton Area, including recommendations on Provincial Tenure Replacement Decisions**

This letter is further to the discussions which were initiated at a meeting in the Big House in Alert Bay in October 2017, and continued on January 30, 2018. These discussions led to our joint communique of January 30, 2018 where the Parties confirmed a willingness to engage in a consent-based process consistent with the United Nations Declaration on the Rights of Indigenous Peoples with respect to wild salmon and existing open-pen aquaculture operations in the Broughton Area. This letter and attached Letter of Understanding confirms the agreement of the Province of British Columbia, as represented by the Ministry of Forests, Lands and Natural Resource Operations and Rural Development, in cooperation with the BC Ministry of Agriculture and the BC Ministry of Indigenous Relations and Reconciliation, to collaborate with the First Nations who are signatories to this letter to reach consensus recommendations on:

- (a) Provincial finfish aquaculture tenures listed in the attached Letter of Understanding including applications for Provincial replacement tenures, under *the Land Act*;
- (b) promoting, protecting and conserving, in the context of our respective authorities, sustainable wild salmon populations, other aquatic species and their ecosystems, recognizing that as between the Federal and Provincial Crown, the Federal Government exercises primary responsibility over the management of wild salmon and other marine aquatic species and their habitats; and,
- (c) priorities for short, medium and long term action.

The Province and the signatory First Nations will use the best available information and best practices to inform the work set out in this Letter of Understanding, including traditional indigenous knowledge and science.

The nature and process for our collaboration is identified in Attachment 1 to this letter. If the First Nations are in support of this Letter of Understanding, please initial the pages of

Attachment 1, sign in the signature block provided below, and return a copy of this letter to our attention.

Further, the Province and the signatory First Nations agree that Dzawada'enuxw First Nation and Gwawaenuk Tribe (other First Nations within the Broughton Area) may, upon their request, become parties to this Letter of Understanding

Sincerely,

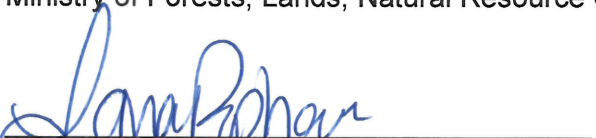


Honorable Doug Donaldson  
Minister

Province of British Columbia

Ministry of Forests, Lands, Natural Resource Operations and Rural Development

Date: June 27, 2018



Honorable Lorna Fopham  
Minister

Province of British Columbia

Ministry of Agriculture

Date: June 27, 2018



Honorable Scott Fraser  
Minister

Province of British Columbia

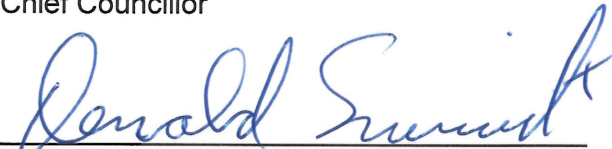
Ministry of Indigenous Relations and Reconciliation

Date: June 27, 2018



Kwikwasut'inuxw/Haxwa'mis  
Chief Robert Chamberlin, Owadi  
Chief Councillor

Date: June 27, 2018



'Namgis  
Chief Councillor Donald Svanvik

Date: June 27, 2018



Mamalilikulla  
Chief Councillor Richard Sumner

Date: June 27, 2018



## ATTACHMENT 1 to June \_\_, 2018 Letter of Understanding

### BRITISH COLUMBIA - FIRST NATIONS COLLABORATIVE SOLUTIONS FOR FINFISH AQUACULTURE FARMS IN THE BROUGHTON AREA

#### 1.0 PURPOSE

This document outlines the context and consent-based process to be undertaken by the Province of British Columbia, as represented by the Ministry of Forests, Lands and Natural Resource Operations and Rural Development, in cooperation with the BC Ministry of Agriculture and the BC Ministry of Indigenous Relations and Reconciliation (the “**Provincial Agencies**”), and Kwikwasutinuxw Haxwa’mis, ‘Namgis, and the Mamalilikulla Nations (the “**First Nations**”), (and collectively “the **Parties**”) for finfish aquaculture in the Broughton Area, including applications for Provincial replacement tenures under *the Land Act*.

#### 2.0 CONTEXT

- 2.1 The First Nations represent Aboriginal peoples who have since time immemorial used and occupied the lands and waters of their various territories located on the central coast of what is now called British Columbia, which include the Broughton Area (the “**Territories**”).
- 2.2 Pursuant to their laws, customs and traditions, the Aboriginal peoples represented by the First Nations hold and exercise Aboriginal Title, Rights, responsibilities and authorities in relation to the lands, waters, resources and people of their Territories.
- 2.3 These Titles, Rights, responsibilities and authorities are advanced by elected and hereditary leadership of the Aboriginal peoples represented by the First Nations. The First Nations’ laws, customs and traditions include sacred responsibilities to past, present and future generations, including the lands, waters and resources on which their food security, societies and cultures depend.
- 2.4 The Province and Canada have authorized and licenced the siting, locations, tenures and operation of those open-net pen Atlantic Salmon finfish farms in the Territories (the “**Fish Farms**”) without the consent of the First Nations. These Fish Farms are identified on the map attached as Schedule A, and are listed in Schedule B. There are currently 17 Fish Farms identified in Schedules A and B, 16 of which the Province has currently received applications for Provincial tenure renewal or replacement under the Provincial *Land Act* (the “**Broughton Replacement Tenure Decisions**”).
- 2.5 As between the Province and Canada, the Province regulates finfish aquaculture in British Columbia by issuing tenures for the sites of the Fish Farms. The Province does so by way of decisions it makes under its *Land Act*. The Province also participates in testing of fish including farmed fish through its Animal Health Centre, which is affiliated with the BC Ministry of Agriculture, and has a contract with Fisheries and Oceans Canada (“**DFO**”) to provide diagnostic services to DFO’s Fish Health Audit and Surveillance Program.
- 2.6 As between the Province and Canada, Canada has a central role in the regulation of finfish aquaculture by way of its responsibilities over Sea Coast and Inland Fisheries under s. 91(12) of the *Constitution Act, 1867*, and exercises that authority by:

- 2.6.1 passing statutes and regulations that govern the Fish Farm industry;
  - 2.6.2 issuing aquaculture licences that govern the operation of the Fish Farms;  
and
  - 2.6.3 issuing licences to introduce or transfer fish into the Fish Farms.
- 2.7 Section 35(1) of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal Rights, including Aboriginal Title, of Aboriginal people within Canada.
- 2.8 The United Nations Declaration on the Rights of Indigenous Peoples ("**UNDRIP**"), was adopted by the United Nations General Assembly in 2007, and Canada became a full supporter of UNDRIP in May 2016, without qualification, and British Columbia committed fully to UNDRIP on September 13, 2017 and released British Columbia's Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples in May 2018 (the "**Draft Principles**").
- 2.9 While the articles of UNDRIP benefit from being read comprehensively, and without restricting the application of UNDRIP to the work under this Letter of Understanding: Article 19 of UNDRIP states that "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions." Article 32(2) of UNDRIP states that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources".
- 2.10 BC acknowledges that the Broughton Replacement Tenure Decisions have the potential to cause serious adverse impacts on the Aboriginal Rights, including Aboriginal Title, of the First Nations.
- 2.11 The First Nations require that the Fish Farms be removed from their Territories given their conclusions regarding the harmful effects on and risks to the ecosystems, including the waters, lands, and resources, including migratory resources, in their Territories and the adverse impacts of the Fish Farms on their Aboriginal Rights including Title.
- 2.12 On January 30<sup>th</sup>, 2018 the Parties agreed to immediately embark on government-to-government discussions to address the Fish Farms, including the Broughton Replacement Tenure Decisions, based on the UNDRIP and to have these discussions be conducted through a jointly-defined consent-based process ( the "**Gov to Gov Process**").
- 2.13 The Parties intend to identify and implement solutions to outstanding concerns about the Fish Farms, including effects on wild Pacific salmon and the ecosystems on which wild salmon rely.
- 2.14 The Parties intend to enter into agreements for capacity funding to the First Nations according to the provisions set out in Section 6.



- 2.15 For the purposes of the Gov to Gov Process, the Parties intend to work together in the interests of arriving at consensus solutions regarding the Fish Farms, including using the Gov to Gov Process to reach consensus outcomes related to the Broughton Replacement Tenure Decisions.
- 2.16 While the Province acknowledges that the First Nations hold Aboriginal Title and Rights within their respective Territories, neither this document, nor any acts performed in connection with it, are to be used, construed or relied on by anyone as evidence or admission of the nature, scope or content of any Aboriginal Rights or Title and Crown Rights or Title.
- 2.17 Nothing in the Gov to Gov Process precludes the First Nations or the Province from engaging in consultation with other first nations.

### **3.0 COLLABORATION PRINCIPLES**

#### **3.1 The Parties agree that:**

- (a) internal processes are required to inform and mandate the work of their representatives in the Gov to Gov Process, and participating individuals have the responsibility to represent their respective governments in the Gov to Gov Process;
- (b) best efforts will be made to reach consensus recommendations in a timely and efficient manner;
- (c) discussions will be respectful with the aim of upholding reconciliation;
- (d) the precautionary principle will guide the Gov to Gov Process;
- (e) best practices and the best available information will be used to inform the work and recommendations, including traditional knowledge, science, and best practices from other open-net pen Atlantic salmon producing nations - (e.g., Norway, Scotland, Chile);
- (f) there is a strong potential for ongoing and significant adverse effects and impacts of the Fish Farms, and different perspectives of risk, therefore the scientific weight of evidence regarding the impacts of open-net pen Atlantic salmon aquaculture on wild salmon populations will not be debated unless specifically required to reach consensus recommendations;
- (g) information will be shared between the Parties, guided where required by data sharing agreements or protocols between the First Nations, the Province, Canada and industry, as appropriate;
- (h) the Province intends to act in a manner that upholds the honour of the Crown and its constitutional obligations under s. 35 of the *Constitution Act, 1982*, and the principles and standards within UNDRIP, and the Draft Principles;
- (i) without predetermining the sufficiency of the process, the Gov to Gov Process will be used to inform, and may, where possible, meet the consultation

obligations which the Provincial Agencies owe to the First Nations with respect to the Broughton Replacement Tenure Decisions;

- (j) without predetermining the sufficiency of such accommodations, consent-based recommendations resulting from the Gov to Gov Process that are adopted by the Parties may be considered as potential contributions towards accommodations, to address First Nations' Aboriginal interests and concerns with respect to the Broughton Replacement Tenure Decisions;
  - (k) the Gov to Gov Process may include consensus recommendations to the Federal Government;
  - (l) the Gov to Gov Process will be a collaboration, with agreed upon processes for input from other first nations, stakeholders and the public to be implemented as required; and;
  - (m) input from stakeholders and the public is advisory in nature.
- 3.2 The Parties will respect each other's decision making structures and authorities, and the individuals participating in the Gov to Gov Process will work in good faith to make consensus recommendations to their respective executive/leadership.
- 3.3 Where areas of disagreement persist, the Parties will seek appropriate facilitation, mediation and other methods of conflict resolution in an effort to find common ground.
- 3.4 Discussions during the process will be on the record except when the Parties agree in advance that specific issues are confidential. The Parties agree that their discussions need to be conducted in a frank and direct manner; that some of the discussions may need to occur on a confidential basis; and that some discussions may benefit from occurring without prejudice.
- 3.5 The Parties may from time to time issue joint press releases regarding the implementation of the LOU. The Parties will not make public statements about information which have been agreed as confidential; and to the extent that public communication about confidential discussions are necessary – those communications will be jointly drafted and agreed upon by the Parties prior to release.
- 3.6 The Parties agree to use the Gov to Gov Process set out in this Agreement to review information and make consensus recommendations related to the Scope of Issues set out in section 4.0.
- 3.7 When advancing recommendations the Parties will consider tools for short, mid and long term planning, including land and marine use planning information to help inform collaborative governance, management and decision making.

#### **4.0 SCOPE OF ISSUES**

- 4.1 The Parties agree to engage on a respectful government to government basis, using the standard of free, prior and informed consent, to make consensus recommendations to their respective decision makers in relation to the Broughton Replacement Tenure Decisions including the following list of issues related to the Fish Farms:

- 4.1.1 the avoidance and mitigation of environmental harm including fresh and marine waters, rearing habitats and migratory routes of wild salmon and other aquatic resources within the context of Provincial and First Nations authorities;
- 4.1.2 the avoidance, mitigation and/or accommodation of adverse impacts to s. 35 (1) Rights, including Title, from the location of the Fish Farms;
- 4.1.3 regional and First Nations' socio-economic and public impacts, including industry concerns and operational requirements;
- 4.1.4 terms and conditions that would attach to the Broughton Replacement Tenure Decisions, taking into account considerations with respect to whether any of such tenure applications can be granted or replaced, as well as the Province's constitutional and administrative fairness obligations;
- 4.1.5 such further and other matters as may be agreed in writing by the Parties from time to time.

(the "**Scope**")

- 4.2 It is understood that implementation of this Gov to Gov Process for some of the Scope may raise issues specific to the interests of one or more of the First Nations. In that event, the interested First Nation or Nations may wish to engage directly with the Province and will provide notice to the others pursuant to s. 4.3.
- 4.3 At any time during the implementation of this Gov to Gov Process, a First Nation may provide 30 days advance notice to the other First Nations and the Province of their decision to proceed using bilateral discussions directly with the Province, on some or all of the Scope.
- 4.4 When a notice has been provided pursuant to s. 4.3, the Parties will collaboratively work to consider what, if any, adjustments to the Gov to Gov Process and structure set out in this Letter of Understanding would be required, including any work plans and budgets.
- 4.5 Any First Nation may, at any time, by notice in writing to the other Parties, terminate its participation under this Letter of Understanding. Upon receipt of such notice, the remaining Parties will discuss the implications of that termination, and the continued implementation of this Letter of Understanding.

## **5.0 STRUCTURES**

The Parties hereby establish the following collaborative structures to reach consensus recommendations and/or decisions within the Gov to Gov Process:

### **A. Executive Committee**

- The Executive Committee will be comprised of leadership from the Province and leadership from each of the First Nations.



- The role of the Executive Committee is to exchange information and resolve strategic and policy issues as necessary, including assisting if the Steering Committee is unable to reach consensus recommendations.
- Executive Committee members will be Provincial deputy ministers or designated representatives of the Provincial Agencies, and the Chiefs or designated representatives of the First Nations.
- Executive Committee will be comprised of an equal number of representatives appointed by the Province and the First Nations.
- The Executive Committee will meet as required.
- Prior to making a decision or implementing an action that is substantively inconsistent with consensus recommendations of the Steering Committee, a Party will provide advance notification to the Executive Committee, and the Executive Committee will exchange information to determine whether a strategic consensus solution can be reached.

**B. Broughton Steering Committee**

- The Steering Committee will be comprised of representatives from the Province and First Nations, who have been mandated to work collaboratively to reach the outcomes listed in section 8.1.
- The role of the Steering Committee is to conduct the day to day discussions, negotiations and reviews to complete the collaborative work necessary to reach consensus recommendations for the Parties' consideration.
- The Steering Committee will be comprised of an equal number of representatives appointed by the First Nations and the Province, shall not be populated by fewer than six (6) or more than eight (8) representatives from the Province and from the First Nations at any one time and will strive to complete all of their work by consensus.
- The Steering Committee may from time to time utilize technical expertise and capacity, including if necessary establishing a technical working group or team, on an as needed basis. This may include subject matter experts or external advisors from the respective parties who will conduct specific research, analysis and problem solving, and develop proposed plans, policies or program recommendations for the consideration of the Steering Committee.
- While all members of the Steering Committee are responsible for conducting the work, each Party has identified a lead contact for communication purposes.

**6.0 RESOURCING**

- 6.1 The Parties recognize that the First Nations require funding in order to participate equally and meaningfully in the Gov to Gov Process.
- 6.2 The Parties will develop shared cost arrangements to ensure the First Nations have an appropriate budget to travel to and participate in meetings, complete internal work to

inform their constituents and obtain mandates and retain the services of legal counsel and other specialized officials as necessary.

- 6.3 The Parties recognize there may be the need to retain external independent facilitators or technical advisors, and in the event those are required and agreed upon by the Parties, the Province will provide the necessary funding and resources for those services.
- 6.4 Associated meeting room and other logistical costs as determined jointly by the Parties will be resourced by the Province.

## **7.0 ENGAGEMENT**

- 7.1 The Parties agree that the Steering Committee may, as required and agreed upon, undertake engagement with other first nations to inform their recommendations.
- 7.2 The Parties agree that the Steering Committee may, as required and agreed upon, undertake stakeholder and public engagement to inform their recommendations.
- 7.3 Any engagement conducted pursuant to 7.1 and 7.2 will:
  - (a) be based on the principles of openness, transparency, inclusiveness, responsiveness, and informed input;
  - (b) may include tools such as focused multi-party meetings, open houses and joint communications; and
  - (c) also afford the opportunity for in-camera discussions, including with the Federal Government, other first nations, the Fish Farm tenure holders, and/or the BC Salmon Farmers Association.

## **8.0 KEY OUTPUTS**

- 8.1 Anticipated key outputs of the collaborative Gov to Gov Process would include consensus recommendations to the Parties as soon as possible, and no later than September 30th, 2018 regarding:
  - (a) identification of key short, medium, long term actions;
  - (b) consensus recommendations to the First Nations, and the Government of British Columbia regarding the Broughton Replacement Tenure Decisions;
  - (c) recommendations to the Federal Governments on matters related to finfish aquaculture in the Territories; and,
  - (d) implementation agreements, as required.



## 01/02/2018





## Schedule B

### List of Provincial Tenures under the Letter of Understanding

File #	Client name	Physical Location	Place Name	Tenure expiry date	DFO licence expiry date
1405381	CERMAQ CANADA LTD.	Cypress Harbour	Cypress Hrbr, Harbour Pt, Sutlej Channel	Jun 20 2018	2022-Jun-30
1403929	CERMAQ CANADA LTD.	Cliff Bay	Cliff Bay Simoom Sound Wishart Peninsula	Jun 20 2018	2022-Jun-30
1404379	MARINE HARVEST CANADA INC.	Upper Retreat	Upper Retreat Passage	Jun 20 2018	2022-Jun-30
1404681	MARINE HARVEST CANADA INC.	Arrow Passage	Arrow Passage, Bonwick Island	Jun 20 2018	2022-Jun-30
1405181	CERMAQ CANADA LTD.	Cecil Island	Cecil Island, Greenway Sound	Jun 20 2018	2022-Jun-30
1406655	MARINE HARVEST CANADA INC.	Potts Bay	Potts Bay, Midsummer Island	Apr 01 2025	2022-Jun-30
1403104	MARINE HARVEST CANADA INC.	Port Elizabeth	Port Elizabeth, Gilford Island	Jun 20 2018	2022-Jun-30
1403328	MARINE HARVEST CANADA INC.	Sargeaunt Passage	Sargeaunt Passage, Tribune Channel	Jun 20 2018	2022-Jun-30
1404179	CERMAQ CANADA LTD.	Sir Edmund Bay	Sir Edmund Bay, NE Shore Broughton Inlet	Jun 20 2018	2022-Jun-30
1404380	MARINE HARVEST CANADA INC.	Midsummer Island	Midsummer Island, Spring Passage	Jun 20 2018	2022-Jun-30
1404381	MARINE HARVEST CANADA INC.	Swanson Island	Swanson Island, North side	Jun 20 2018	2022-Jun-30
1405180	MARINE HARVEST CANADA INC.	Glacial Falls	Glacial Falls, Watson Cove, Tribune Channel	Jun 20 2018	2022-Jun-30
1405183	MARINE HARVEST CANADA INC.	Wicklow Point	Wicklow Point, Broughton Island	Jun 20 2018	2022-Jun-30
1406650	CERMAQ CANADA LTD.	Burdwood Group	Burdwood Group, Raleigh Passage	Jun 20 2018	2022-Jun-30
1408560	MARINE HARVEST CANADA INC.	Larsen Island	Larsen Island, Indian Channel	Jun 20 2018	2022-Jun-30
1408758	MARINE HARVEST CANADA INC.	Doctor Islets	Doctor Islets, Knight Inlet	Jun 20 2018	2022-Jun-30
1409707	MARINE HARVEST CANADA INC.	Humphrey Rock	Humphrey Rock, Tribune Channel	Jun 20 2018	2022-Jun-30

November 19, 2018

**To: All the members of the Steering Committee**

**C/o Chairmen Chief Bob Chamberlin and Mr. Lorne Brownsey**

We write in response to the Draft Recommendations that you presented to us on November 8, 2018. Although the status of our licences of occupation are of deep concern to us and the impact of this process on our business will not be insignificant, we would like to express our appreciation for the mutual respect that has been shown throughout this process. Cermaq very much appreciates the consideration given to our business and the livelihood of our employees at the LOU table and we are also grateful for the thoughtfulness and respectful nature of all our meetings with the table.

The one edit to the draft recommendations we are requesting at this time is that "Broughton Area" as used throughout the document is revised to reflect "Broughton LOU defined Area". Specifically in Area Wide Recommendation number 3, on page six be changed from "outside of the Broughton" to "outside of the Broughton LOU defined Area"

We are writing this letter to confirm that we are willing to proceed on the basis of the draft recommendations and to also confirm our commitment to the recommendations in the proposal, both the general recommendations that apply to both companies and the specific recommendations for Cermaq Canada. Our agreement in principle to these recommendations is on the understanding that:

- Cermaq will be involved in the process of finalizing details of all aspects within the recommendations;
- Cermaq will be involved in the implementation of the initiatives laid out in the recommendations;
- This process will result in certainty of tenure for Cermaq in the area for the periods identified in the recommendations; and
- The Province has accepted the commitment to increase its human and financial capacity to support the processing of applications in an expeditious manner, and facilitate the identification of acceptable amendment applications or alternative finfish aquaculture tenure locations outside of the Broughton LOU defined Area, in order for Cermaq to replace the lost biomass as a result of this process.

To be clear regarding our understanding of the dates proposed, some of which are missing from the Draft Recommendation provided to us, our recommendation of the proposal is the following:

- Site Specific Recommendations – 1. Cliff Bay – “no later than March 31 2019”
- Site Specific Recommendations – 2. Burdwood – “no later than June 1 2020” for decommissioning and removal of infrastructure
- Site Specific Recommendations for timeframe to decommission sites, if agreement not reached for Sir Edmund Bay, Cypress Harbour and Cecil Island post December 31<sup>st</sup> 2023, is requested to be set for six months.

Cermaq will be proactive in participating in the development of the Indigenous Monitoring and Inspection Plan (IMIP) for finfish aquaculture as laid out in the recommendation document, and would like to start work on planning relating to the IMIP as soon as practical.

Implementing the recommendations will require all parties to continue with what has been established as a respectful dialogue with all parties approaching issues with an open mind and willingness to listen. Cermaq agrees that transparency will be the key to building trust and relationships during the transition period.

We look forward to our next few years of operating in more close alignment with the First Nations in the Broughton LOU defined area, and appreciate that one of the purposes stated in the recommendation for this period of adjustment is to give Cermaq the opportunity to build on the constructive dialogue initiated at the LOU table. We will be respectfully pursuing these discussions in the near future.

Respectfully,



David Kiemele

Managing Director

Cermaq Canada

## APPENDIX C to STEERING COMMITTEE RECOMMENDATIONS

MARINE HARVEST ASA



November 30, 2018

Lorne Brownsey  
Provincial Co-Chair of Steering Committee

Chief Robert (Galagame') Chamberlain  
First Nations Co-Chair of Steering Committee

### By Email

**Re: British Columbia – First Nations Collaborative Solutions for Finish Aquaculture Farms in the Broughton Area, Steering Committee Draft Recommendations dated November 29, 2018 (the “Recommendations”).**

We are pleased to have been given the opportunity to participate in a number of meetings with the Broughton Steering Committee and engage in important and respectful dialogue about our salmon farming operations in the Traditional Territories of the Kwikwasutinuxw Haxwa'mix, 'Namgis, and Mamalilikulla First Nations (“**First Nations**”). The Government-to-Government process provided a framework for diverse points of view to be heard and considered.

The farms in the Broughton Archipelago have been an essential part of our business for the past 30 years. Overall, the salmon raised on our 12 farms in the area generate approximately \$200-million towards the economy, 461 jobs and includes \$51-million spent with suppliers, of which 174 are located on northern Vancouver Island. We approached these discussions openly and have sought solutions to address the concerns of the First Nations and find common ground, while balancing the responsibilities we have to our employees, suppliers and other stakeholders, which has not been easy.

The “Broughton Area Wide Recommendations, Sections 1 to 7 and the Marine Harvest Site Specific Recommendations, Sections 1 to 8” provide a transition plan that Marine Harvest Canada believes can work for all. Please accept this letter as Marine Harvest’s agreement in principle to these Recommendations, which we approve as an integral package. The formation of Recommendations that are supported by the Provincial Government, the First Nations and industry, after much hard work by a very committed Steering Committee, is an occasion worth celebrating.

### Broughton Area Wide Recommendations:

Marine Harvest supports and agrees in principle to all Broughton Area Wide Recommendations. The Indigenous Monitoring and Inspection Plan (“IMIP”) is instrumental to the successful implementation of the Recommendations. Marine Harvest welcomes First Nations monitoring and oversight of our operations in the Broughton Area through the implementation of the IMIP.

We understand that Provincial Government, First Nations and industry representatives will work closely together to complete the IMIP before the Recommendations are fully implemented. We look

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		MAIL	
		Alf.helge.aarskog@marineharvest.com	
		WEB	
		http://marineharvest.com	

forward to participating in that process. We agree, the IMIP is crucial to finding a respectful pathway forward for all, including the people who work on the farms and depend on the salmon raised there.

First Nations have expressed great concern regarding the wild salmon stocks in the area, we too share their concern and look forward to assisting where we can, and where First Nations believe it is appropriate, to restore and/or enhance wild salmon.

We also understand that the Provincial Government is fully committed to supporting the Recommendations by providing additional resources necessary to implement the Recommendations within the required timeframes, and by providing further support to the First Nations.

Marine Harvest agrees that increasing the capacity for First Nations Monitoring and Salmon Restoration is important, and long over-due. We encourage this recommendation to be expedited and will participate where possible and appropriate.

We agree very much with the recommendation regarding new technology, and welcome First Nations to visit our research and development projects in Norway. We believe now is the time to initiate a pilot project in Canada for an ocean-based closed system and look forward to working together with interested First Nations and provincial and federal governments.

#### **Site Specific Recommendations:**

Today, the farms in the Broughton Archipelago are an essential part of our business. Throughout our engagement with the Steering Committee we described the complexities of our eight-year fish production cycle and the direct connections between the fish produced in the Broughton Archipelago to our business cycle, business model, supply chain and value chain. This production has supported year-round operations at our Port Hardy Processing Plant, and as one of five production areas for Marine Harvest, supports our value-added processing plant in Surrey.

We take our responsibilities to our employees, our contractors, and to the overall community very seriously. We also take the concerns expressed by First Nations with equal seriousness. We understand the need to build a foundation based on trust. Our engagement with First Nations representatives on the Steering Committee has started this, and we agree that the Site Specific Recommendations respect our employees and our business, and provide a workable pathway forward.

To meet the transition outlined in the Recommendations, Marine Harvest will need to apply for, and have approved, certain tenure and license amendments to shift production from sites that will be decommissioned to other sites. Whether or not this is possible is quite uncertain at this time. As a first step in this transition, Marine Harvest will withdraw its tenure replacement applications for Arrow Passage and Glacier Falls, and will notify the Ministry of Forests, Lands, Natural Resources, and Rural Development that we will relinquish our tenure at Potts Bay.

Marine Harvest welcomes First Nations monitoring and oversight of our operations in the Broughton Area through the implementation of the IMIP. As noted above, we agree that the successful implementation of the IMIP is instrumental to the successful implementation of the Recommendations. We understand that it is the intention of all parties, including Marine Harvest, to fully develop the IMIP on the recommended schedule; however, as the Recommendations note, incremental agreements may be necessary. We intend to work expeditiously and immediately on the development of the IMIP; however, smolt will be ready for ocean entry at our Sargeaunt Passage farm during the week of January 7, 2019. To meet the required 10 business day service standard for an Introductions and Transfers License, Marine Harvest must submit the required fish health information to Fisheries and Oceans Canada no later than December 20, 2018. Marine Harvest will also need to submit an application for an Introductions and Transfers License in mid-January to stock smolt at our Larson Island site in February 2019. We will seek First Nations agreement, under the IMIP framework, for this stocking to occur.

We understand that these Recommendations do not result in First Nations' consent to our operations during the transition period of 2018 to 2023 in the Broughton Area, but in implementing the Recommendations, the First Nations intend to provide certainty of tenure for Marine Harvest.

Marine Harvest looks forward to working with First Nations to fully implement these recommendations in the timeframe that is outlined, and collectively build community engagement based on respect and hopefully a pathway to First Nations' consent of our operations in their Territories.

We look forward to starting to work on completing the IMIP and to working together with the First Nations to implement the Recommendations, and we congratulate the Steering Committee for this successful outcome.

Sincerely



Alf-Helge Aarskog  
Chief Executive Officer  
Marine Harvest ASA



Dr. Diane Morrison  
Managing Director  
Marine Harvest Canada

Cc: Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
Attn: Charles Short, Executive Director, Regional Operations

Ministry of Agriculture, Science and Policy  
Attn: James Mack, Assistant Deputy Minister

