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NSARB-2025-001

NOVA SCOTIA AQUACULTURE REVIEW BOARD

IN THE MATTER OF: *Fisheries and Coastal Resources Act*, SNS 1996, c 25

- and -

NSARB-2025-001: Public Hearing on Application for Boundary Amendment for Marine Finfish Licence/Lease AQ#0814x and New Marine Finfish Licence/Lease AQ#1430 and AQ#1431, WFN Fish Farm Limited Partnership, Whycocomagh Bay, Inverness County, Nova Scotia

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CLOSING SUBMISSIONS ON BEHALF OF WFN FISH FARM LIMITED PARTNERSHIP

March 16, 2026

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OVERVIEW

1. The Applicant, WFN Fish Farm Limited Partnership ("**WFN**"), makes the following closing submissions in support of its application seeking a boundary amendment for marine finfish license/lease AQ#0814x and two new marine finfish licenses/leases AQ#1430 and AQ#1431 in Whycocomagh Bay, Inverness County for the cultivation of Rainbow trout (*Oncorhynchus mykiss*) (the "**Farm**" and the "**Application**").

2. Since 2011, WFN has successfully farmed trout at the Farm. In 2019, it submitted its Application with respect to the Farm to the Department of Fisheries and Aquaculture ("**DFA**"), including its development plan for each site (which were last updated in 2024) (collectively, the **"Development Plans**").

3. The Development Plans, and the affidavit evidence, demonstrate that WFN has significantly invested in the Farm and continually improved its operations and infrastructure. This has resulted in a successful and productive trout aquaculture farm providing employment opportunities for the members of We'koqma'q First Nation.

4. The Application was reviewed by DFA as well as multiple provincial and federal departments and agencies. The results of these reviews were submitted to the Board in DFA's Report on Performance Review and Report on Outcomes of Consultation, respectively.

5. In its Report on Performance Review, DFA concluded that the sites have been consistently productive and have been generally compliant in terms of containment management, environmental monitoring, and fish health management. Most of the provincial and federal departments and agencies raised no issue with the Application. DFA concluded that the recommendations from the Department of Fisheries and Oceans ("**DFO**") could be addressed under the governing regulatory scheme, if the Application is allowed.

6. Following its review, DFA referred the Application to the Board. The hearing was held on February 23, 2026.

7. As discussed in further detail below, the evidence with respect to the factors enumerated under section 17 of the *Aquaculture Licence and Lease Regulations*, NS Reg 276/2025 (the "**Regulations**" and the "**Section 17 Factors**") strongly supports that the Farm is the optimum use of marine resources because:

(a) The Farm is a significant economic contributor to the We'koqma'q First Nation as well as Inverness County and the Province. WFN employs a total of 70 employees for its Trout Operations. It employs 31 people at the Farm, 28 of whom are members of We'koqma'q First Nation. In addition, the provincial economy benefits from the Farm through WFN retaining the services of multiple businesses throughout Nova Scotia.

(b) The Farm successfully operates in a complementary fashion with the other commercial, recreational and First Nations fisheries in Whycocomagh Bay. There is no evidence that the Farm has displaced or negatively affected the other fisheries.

(c) The Farm's Proposed Production Plan (defined below), and use of the three sites, is designed for the specific oceanographic and biophysical conditions in Whycocomagh Bay. The proposed extended fallowing period at AQ#1430 and AQ#1431 will mitigate the Farm's impact on the benthos of the Bay.

(d) The proposed expansion will not negatively affect other users of Whycocomagh Bay.

(e) Transport Canada raised no concerns with respect to the Application and therefore it does not affect the public right of navigation.

(f) WFN's containment management as well as its fish health, disease, biosecurity, and environmental monitoring will mitigate the low risk, if any, of the Farm to the wild salmon population in or around Whycocomagh Bay. The Province has stocked the Bay with Rainbow trout for multiple years which supports a finding that there is little concern that the presence of trout affects the sustainability of wild salmon.

(g) There are two shellfish aquaculture sites for the cultivation of oysters, owned and operated by WFN, in the Bay; only one is operational (AQ#1291). There are no other operational finfish aquaculture sites.

8. We therefore respectfully submit that the Board should allow the Application.

FACTS

History of WFN's Trout Operations

9. WFN has the facilities and infrastructure for egg to plate production of high-quality trout. This is a result of years of WFN's investment in its trout aquaculture operations, which include the trout aquaculture sites in Whycocomagh Bay (the Farm), its hatchery in Big Falls, NS, and its processing plant in Aberdeen, NS (collectively, the "**Trout Operation**").

10. In 2011, WFN[1] acquired sites AQ#0814, AQ#0845, and AQ#600, and began fish farming. It partnered with another company to operate the sites. Early operations involved We'koqma'q providing infrastructure and labour while the partner company handled day-to-day operations and brought the product to market. This partnership arrangement ultimately ended, and, in 2015, WFN took over the full ownership and operation of the Farm.

11. In 2015, WFN also took over full ownership and operation of the processing plant in Aberdeen, NS. The hatchery was acquired in 2018.

12. In 2019 and 2021, WFN began operating experimental sites AQ#5010 (which overlaps with the requested commercial site AQ#1430) and AQ#5013 (which overlaps with the requested commercial AQ#1431), respectively.

13. As stated in Donald Davis's affidavit, WFN's investment in the Trout Operation was part of a long-term strategy to develop business opportunities capable of generating independent revenue within the community for the benefit of the Band members. As government funding for the community continued to decline, expanding into aquaculture became essential to support community initiatives.[2]

14. The goal of WFN's Trout Operation has been to achieve financial stability, provide meaningful employment for its community members, and build a vertically integrated

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[1] The leases and licenses were initially issued to Waycobah First Nations Band Council, later We'koqma'q First Nation, and now WFN, for a ten-year term. In 2021, the licenses were renewed for another 10-year term (until 2031) and the leases were renewed for another 20-year term (until 2041). *See*: Report on the Outcomes of the Performance Review, Exhibit #006a, p 2 – 3.

[2] Davis Affidavit, Exhibit #011, at paras 16 – 25.

fishery that can endure for generations. After the Band's total capital investment of approximately $15 million, that goal has been achieved.

15. Mr. Davis confirmed at the hearing that WFN is in the trout business. While the lease and license for site AQ#0814x also allows for the cultivation of salmon, WFN has no intention to cultivate salmon at the Farm.

History of the Application

- **Site AQ#0814 Required Amendment Post 2015 Regulatory Overhaul**

16. In 2015, the *Fisheries and Coastal Resources Act* ("**Act**") was amended and the *Aquaculture Licence and Lease Regulations* as well as the *Aquaculture Management Regulations* were published.[3]

17. At that time, a portion of WFN's infrastructure at site AQ#0814 was outside the boundaries of the lease - which historically was permitted. However, following the regulatory overhaul, it was a contravention of section 55(2)(b) of the former *Aquaculture Licence and Lease Regulations*, NS Reg 347/2015 (the "**Former Regulations**") which required all infrastructure to be within the lease boundaries (and now required under section 74 of the Regulations).

18. On May 31, 2016, Nova Scotia Environment (now Nova Scotia Environment and Climate Change ("**NSECC**")), then the provincial department responsible for compliance and enforcement, sent a letter to WFN providing two options to bring its operations into compliance:

    (a) A realignment plan to move all equipment within the lease boundaries; or

    (b) Bring an application for an adjudicative or administrative amendment.[4]

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[3] The regulatory overhaul of the aquaculture industry occurred following "A New Regulatory Framework for Low-Impact/High-Value Aquaculture in Nova Scotia The Final Report of the Independent Aquaculture Regulatory Review for Nova Scotia," 2014, online: https://novascotia.ca/fish/documents/Aquaculture_Regulatory_Framework_Final_04Dec14.pdf.

[4] Report on the Outcomes of the Performance Review, Exhibit #006a, p 8 – 10.

19. WFN decided to bring an application for an adjudicative amendment. It corresponded with and followed DFA's process to do so following receipt of NSECC's letter.

20. WFN's application was ultimately filed in 2019. It requested a boundary amendment for site #AQ0814 which would replace the leases and licenses for three sites AQ#0814, AQ#0600 and AQ#0845 with one larger site, referred to as AQ#0814x (which overlays all three sites). The three sites are all licensed for the marine cage cultivation of Atlantic salmon and Rainbow trout.

21. WFN originally requested that the total lease area increase from 4.37 hectares (comprised of AQ#0814 (1.39 ha), AQ#0845 (1.57 ha) and AQ#0600 (1.39 ha)) to 75 hectares, which included a navigational corridor.[5]

22. In 2024, WFN revised its application and reduced the requested lease area of AQ#0814x to approximately 65 hectares to reflect the planned production use.[6]

23. The proposed site AQ#0814x will consist of ten (10) cages in a 2 x 5 array configuration in the production area. It will also include an overwintering area.

- **Commercial Sites Need to be Issued at Experimental Sites #AQ5010 and AQ# 5013**

24. In 2019, WFN also submitted its applications for commercial sites AQ#1430 and AQ#1431.[7]

25. These commercial sites overlap with WFN's experimental sites AQ#5010 and AQ#5013. DFA issued the experimental sites and annually renewed them. Importantly, DFA permitted WFN to continue to operate the experimental sites pending a decision of the Board.

26. Proposed site AQ#1430 is 31.90 hectares and AQ#1431 is 34.42 hectares, each with ten (10) cages in a 2 x 5 configuration for the cultivation of Rainbow trout. Stocking will alternate between two arrays at each site.

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5 Application Package, Volume 2, Exhibit #004b, p 524 (pdf p 29).
6 Application Package, Volume 1, Exhibit #004a, p 35.
7 Application Package, Volume 1, Exhibit #004a, p 14 and 20.

- **WFN Submitted & Updated its Development Plans for the Farm**

27. In 2019, in support of its applications, WFN submitted a Development Plan for each of the sites to DFA. These development plans were updated and amended in 2020, 2023 and 2024.[8]

28. In April 2024, WFN submitted its updated Development Plans for all three sites to incorporate all current and updated information since the Application was originally filed in 2019. [9] [10]

The Farm's Stocking Cycle & Production Plan

29. As set out in Ms. Romens' Affidavit[11] and in the Development Plans, the three sites (AQ#0814x, AQ#1430, AQ#1431) complement each other and are managed collectively as a single integrated Farm. The movement of fish between these three sites is an essential part of managing both environmental conditions and fish health.

30. Historically, trout were grown at sites AQ#0814, AQ#0845, and AQ#0600 in the "inner bay" of Whycocomagh Bay during spring, summer, and fall. These sites are in a depositional area where the high feeding levels required for viable commercial production are not environmentally sustainable.

31. That is why the Farm requires sites AQ#1430 and AQ#1431 to address the shortcomings of the inner bay site. Reported modelling and farming experience confirm that sites AQ#1430 and AQ#1431 can assimilate higher levels of organic deposition due to higher energy environments and increased flushing. In this Application, these sites have been identified as the primary production sites because they are best suited for feeding and biomass growth. Unfortunately, sites AQ#1430 and AQ#1431 also have the

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8 *See*: Application Package, Volume 2, Exhibit #004b.

9 Section 2 of the Application Package, Volume 1, Exhibit #004a, Section 2.1 AQ#0814x Development Plan, p 26 – 85; Section 2.2 AQ#1430 Development Plan, p 86 – 148; and Section 2.3 AQ#1431 Development Plan, p 149 – 212. The Appendices, Baseline Monitoring Packages, and Scoping Report for all three sites are located at p 213 – 495.

10 The original Development Plans submitted in 2019 by WFN are in Application Package, Volume 2, Exhibit #004b.

11 Rommens Affidavit, Exhibit #013, paras 12 – 31.

disadvantages of being inaccessible during winter ice and more exposed than the inner bay site to destructive ice movement in spring.

32. Due to ice formation in Whycocomagh Bay during the winter months, cages from AQ#1430, AQ#1431 and AQ#0814x production area will be held in the sheltered overwintering area located within AQ#0814x. All cages from AQ#1430, AQ#1431 and AQ#0814x are moved to the overwintering location in early winter, then distributed back to the production sites once the ice retreats in spring. The fish are moved while in their cages by tethering an entire cage to a boat with a specially designed bridle system and slowly pulling it. This is repeated for each cage of fish.

33. WFN's goal is to ensure that each phase of the fish's lifecycle occurs in the area best suited for that particular activity. Fish are moved for several reasons:

    (a) To maximize growth at the sites with optimal biophysical conditions;

    (b) To keep cages out of the path of seasonal ice movement; and

    (c) To maintain winter accessibility to the cages when the lake freezes.

34. Therefore, on this Application, WFN's proposed annual stocking cycle for a single year class is as follows (the "**Proposed Production Plan**"):

    (a) In the fall of Year 0, small fish (about 100 g) arrive from the hatchery. They are held and grown in the nursery grid at 0814x, then moved into the overwintering location for winter.

    (b) In spring of Year 1, these fish are moved to site 1430 for feeding and growth.

    (c) Larger small fish (150 g+) of the same year class arrive from the hatchery in spring of Year 1 and are placed in the same grid at 1430.

    (d) In early winter of Year 1, the entire year class is moved to the overwintering location at 0814x.

    (e) In spring of Year 2, the year class moves to site 1431 to complete growth to market size. Harvest begins in the fall of Year 2 but cannot be completed before winter.

(f) Some market-size fish are therefore moved back to the overwintering location at 0814x, where harvest continues until the year class is removed.[12]

35. Year classes are rotated continuously to maintain uninterrupted production.

36. Further, both AQ#1430 and AQ#1431 have two cage arrays; only one cage array will operate per site per year, giving each array at least 15 months of fallow time to reduce the environmental impacts on the benthos.

WFN's Farm Management Plan

37. Under the *Aquaculture Management Regulations* ("**AMR**")[13], all aquaculture licence holders must prepare a farm management plan ("**FMP**") that includes detailed information and procedures on:

(a) fish health management;

(b) containment management;

(c) environmental monitoring; and

(d) farm operations.[14]

38. WFN's FMP describes how the Farm meets each regulatory requirement. It has been approved for implementation by DFA[15] and may be audited by DFA at any time.[16] The fish health management section of the FMP is reviewed by DFA prior to stocking (which occurs annually, at a minimum).

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12 Rommens Affidavit, Exhibit #013, at paras 29 – 31.
13 WFN's Book of Authorities ("**BOA**"), Tab E.
14 J Feindel Affidavit, Exhibit #009, at para 7.
15 Rommens Affidavit, Exhibit #013, at paras 10 -11.
16 Under section 38 of the AMR.

DFA Conducted its Network Partner Review

39. Upon receipt of WFN's Application, DFA undertook its review and consultations with the relevant provincial and federal departments and agencies (as required under the Regulations).[17]

40. The Application was sent to the following departments and agencies for review and comment (the "**Network Partners**"):

    (a) Fisheries and Oceans Canada ("**DFO**");

    (b) Canadian Food Inspection Agency;

    (c) Transport Canada;

    (d) Environment and Climate Change Canada – Canadian Shellfish and Sanitation Program;

    (e) Environment and Climate Change Canada – Canadian Wildlife Service ("**CWS**");

    (f) Nova Scotia Department of Environment and Climate Change (previously the Department of Environment);

    (g) Nova Scotia Department of Agriculture;

    (h) Nova Scotia Municipal Affairs (previously the Department of Municipal Affairs and Housing);

    (i) Nova Scotia Communities, Culture, Tourism and Heritage (previously the Department of Communities, Culture, and Heritage) ("**CCTH**");

    (j) Nova Scotia Department of Natural Resources (previously the Department of Lands and Forestry, and the Department of Natural Resources and Renewables);

    (k) Nova Scotia Department of Fisheries and Aquaculture – Inland Fisheries; and

    (l) Nova Scotia Office of L'nu Affairs ("**OLA**") (previously the Department of Aboriginal Affairs) with respect to the duty to consult with the Mi'kmaq of Nova Scotia.

41. The above provincial and federal agencies provided advice to DFA on the Application based on their respective mandates. All feedback from the network review was shared with WFN for its consideration. DFA coordinated with WFN and the network agencies to

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[17] Section 23 of the Regulations requires DFA to consult with the relevant provincial and federal departments and agencies for Class I applications (i.e. applications for new lease and license and/or amendment to a current lease and license).

respond to questions or comments regarding the Application. Agencies were provided an opportunity to revise their advice, where appropriate.[18]

42. The results of the review and consultations are set out in DFA's Report on the Outcomes of Consultation.[19] As stated in Mr. Feindel's affidavit, WFN addressed all technical comments, mitigation recommendations, and operational guidance provided by the DFA's Network Partners.[20]

43. Many of the agencies did not raise any concerns or questions.[21] Only four agencies provided recommendations.

44. In its Letters of Advice and CSAS responses, DFO provided recommendations to WFN, if the sites are approved by the Board, including:

(a) Mitigating against escapes;

(b) Routine inspection, cleaning and replacement of the Farm infrastructure;

(c) Taking reasonable measures to minimize deposit of waste feed and feces; and

(d) Monitoring dissolved oxygen.[22]

45. As set out in the Development Plans, and the affidavits of Mr. Nickerson and Ms. Rommens, WFN has implemented various mitigation measures at the Farm which address DFO's recommendations, including real time temperature and oxygen monitoring, feed management systems, cleaning protocols and containment management initiatives.[23]

46. CWS provided advice on mitigating debris and interactions with birds (which included questions about the use of grow lights). In response, WFN provided its Bird & Predator

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18 Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 13.

19 Report on the Outcomes of Consultation, Volumes 1 – 3, Exhibits #005a, #005b and #500c.

20 N Feindel Affidavit, Exhibit #008, at para 87.

21 Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 14 – 17.

22 Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 14 – 15.

23 Development Plans, Application Package, Volume 1, Exhibit #004a; Nickerson Affidavit, Exhibit #0012, paras 11 – 15; Rommens Affidavit, Exhibit #013, paras 32, and 51.

Deterrence Strategy, Pest Management Strategy, and excerpts from its FMP to address CWS's advice and clarified that no grow lights would be used at their sites.[24]

47. Similarly, DNR provided advice with respect to wildlife and birds (including bald eagles) and was satisfied with WFN's Wildlife Interaction Plan.[25]

48. Lastly, CCTH advised that it did not have any significant archaeological concerns and noted that WFN must immediately report if any artifacts are located during construction.[26]

DFA Initiated Consultation with Mi'kmaq of Nova Scotia

49. DFA also initiated consultation with the Mi'kmaw of Nova Scotia. The Application was sent to OLA for Aboriginal consultation purposes. OLA concluded that the Application potentially involved impacts to the Mi'kmaw's Aboriginal and treaty rights at the moderate end of the *Haida* spectrum.[27]

50. In April 2020, DFA initiated consultation at the moderate level with the following groups: [28]

    (a) The 10 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaw Chiefs, including Membertou First Nation (under the Mi'kmaq - Nova Scotia - Canada Consultation Terms of Reference);

    (b) Millbrook First Nation; and

    (c) Sipekne'katik First Nation.

51. No issues were raised by the Mi'kmaq of Nova Scotia to DFA.[29] Accordingly, DFA advised that it would proceed with the Application.

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[24] Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 16.
[25] Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 17.
[26] Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 16.
[27] Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 19.
[28] The letters to the Chiefs of the thirteen First Nations are located at Exhibit #005b, p 822 – 860 (pdf p 378 – 416).
[29] Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 19.

Farm is Compliant with the Act and Regulations

52. As required under section 15 of the Regulations, DFA conducted a Performance Review for each of the three sites, with respect to the FMP, environmental performance, containment management and fish health and surveillance.

53. DFA concluded that all three sites were consistently productive under WFN's ownership and operation and were "in compliance and no complaints have resulted in an offence ticket or charges pursuant to the *Fisheries and Coastal Resources Act*, *Aquaculture Management Regulations*, or *Aquaculture Licence and Lease Regulations.*"[30] [31]

54. DFA's Performance Review for AQ#0814x reported that a complaint was filed in 2021 with respect to a fish escape, written warnings were issued, and WFN resolved the issue.[32]

55. With respect to AQ#1430 and AQ#1431, DFA reported that they were classified as Hypoxic A after the environmental monitoring event in November 2024. Both sites have a history of oxic and hypoxic classifications. Mitigations measures have been required. WFN has fully participated in DFA's environmental monitoring program.

56. Based on the Performance Reviews, DFA referred the Application to the Board.

The Application was referred to the Board

57. On October 21, 2025, the Honourable Kent Smith, Minister of DFA, referred the Application pursuant to Section 49(c) of the Act[33] for a decision before the Board for an adjudicative amendment.[34]

58. The Board classified the Application as a Category 3 application.

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30 With the exception of non-compliance at AQ#0814x with respect to its lease boundary, which is subject of this hearing.

31 Reports on the Outcomes of the Performance Review, Exhibit #006a at p 4, Exhibit #006b at p 3, and Exhibit #006c at p 3, for sites AQ#0814x, AQ#1430 and AQ#1431, respectively.

32 Reports on the Outcomes of the Performance Review, Exhibit #006a at p 4.

33 BOA Tab C.

34 Referral letter, Exhibit #001.

59. The Notice of Public Hearing was advertised. There were no requests for standing as an intervenor, nor any requests to present an oral statement at the hearing.

60. Two written statements were received from:

(a) Fred Harrington and Karen Hollett, who are seasonal residents at their shoreline property in Aberdeen and oppose the Application; and

(b) Healthy Bays Network, a community organization with a vision for Nova Scotia to transition away from marine aquaculture, which opposes the Application.

The Hearing & Evidence

61. In advance of the hearing, WFN filed the affidavits of:

(a) Donald Davis, General Manager of the Farm ("**Davis Affidavit**");

(b) Melissa Rommens, biologist, of Sustain Aqua ("**Rommens Affidavit**"); and

(c) Jeffrey Nickerson of MJ Aqua Services Inc ("**Nickerson Affidavit**").

62. DFA filed the affidavits of:

(a) Jessica Feindel, DFA Manager of Aquaculture Operations ("**J Feindel Affidavit**");

(b) Nathaniel Feindel, DFA Manager of Aquaculture Development and Marine Plant Harvesting ("**N Feindel Affidavit**"); and

(c) Dr. Amanda Swim, DFA Chief Aquatic Health Veterinarian ("**Swim Affidavit**").

63. The hearing took place on February 23, 2026, at the We'koqma'q First Nation Community Hall. On behalf of the Chief and Council of We'koqma'q First Nation, Anthony Phillips, WFN Farm Manager, welcomed the Board, parties and the public to their community.

64. At the hearing, the Board heard testimony from two witness panels. The first, on behalf of WFN, comprised of Mr. Davis, Ms. Rommens, and Mr. Nickerson. The second, on behalf of DFA, comprised of Mr. Feindel, Ms. Feindel, and Dr. Swim.

65. An index of the exhibits before the Board is attached as **Schedule A**.

ISSUE

66. On this Application, the Board must consider the factors enumerated under section 17 of the Regulations to determine whether the Farm is an optimum use of marine resources.

67. We respectfully submit that the evidence supports a finding that the Farm is an optimum use of marine resources and therefore the Application should be allowed.

LAW AND ARGUMENT

The New Test Under the Regulations

68. Regulatory amendments have changed the test the Board must consider when making a decision related to a marine aquaculture site.

69. Under the Former Regulations, the Board previously held that it must consider the impact, if any, of an application considering the eight factors set out in section 3 of the Former Regulations. *See*: ***Liverpool Bay*** at para 34 and ***Rattling Beach*** at para 51.[35]

70. On December 16, 2025, the Former Regulations were repealed and replaced with the new Regulations (i.e. *Aquaculture License and Lease Regulations*, NS Reg 276/2025).

71. Under the new Regulations, the Board must determine whether the Farm is an optimum use of marine resources. To reach it decision, it must consider the Section 17 Factors.

72. Section 17 of the Regulations state, in relevant part, as follows:

> **Factors to be considered in decisions related to aquaculture applications**
>
> 17 (1) In making decisions related to marine aquaculture sites, the Review Board or Administrator must take into consideration the optimum use of marine resources, as determined by taking into consideration the following factors only:
>
> (a) the contribution of the proposed operation to community and Provincial economic development;

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[35] BOA Tabs 1 and 2, respectively.

(b) fishery activities in the public waters surrounding the proposed aquacultural operation;

(c) the oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;

(d) the other users of the public waters surrounding the proposed aquacultural operation;

(e) the public right of navigation;

(f) for marine finfish applications, the sustainability of wild salmon;

(g) the number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation.

73. Our submissions will address each of the Section 17 Factors as they relate to the Farm (i.e. all three sites), unless specifically stated otherwise.

(a) The Farm contributes to the Community and Provincial economic development

74. The Farm is a significant economic contributor to (1) the We'koqma'q First Nation and (2) the Provincial economy. Sections 2.3 to 2.5 of the Development Plans address the economic contribution of the Application to the community and Provincial economy.[36]

75. WFN has operated the Farm for eleven years, as the business owner and operator (from 2011 to present). The Farm employs 31 total employees, 28 of which are members of the We'koqma'q First Nation community.

76. WFN's Trout Operations employ a total of 70 people as follows: [37]

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[36] Sections 2.2 – 2.5: The Contribution of the Proposed Operation to the Community and Provincial Economic Development of the Development Plans, Application Package Volume 1, Exhibit 004a, p 39-40 (AQ#0814x); p 98 – 100 (AQ#1430); and p 161 – 163 (AQ#1431).

[37] Davis Affidavit, Exhibit #011, paras 28 to 31.

	Employment	Total Employees	First Nation Employees
Processing Plant	The schedule depends on harvest availability. The goal is to operate and provide full time employment 9–10 months per year.	28	23
Farm	Staff work full-time for 10 months each year, with a smaller crew working through winter.	31	28
Hatchery	Staff are employed full-time year-round and seasonally.	7 full-time 4 seasonal	0

77. As explained by Mr. Davis at the hearing and as stated in his affidavit, not only does the Farm provide employment opportunities to the local First Nations people but also provides training opportunities and hands on experience in technical fields including wastewater management, machinery maintenance, diving, feed operations, site maintenance, boat operation and computer software.

78. WFN retains local contractors (welders, carpenters, and others) and suppliers of general merchandise to support the finfish operations. The scale of these requirements reflects the scale of the Trout Operation.

79. Mr. Davis further explained that the Band previously had a program in place to bus its community members to the crab processing facilities in Arichat and Cheticamp due to the lack of employment available on the reserve. That program is no longer needed due to the employment at the Farm and processing plant.

80. Similar to its findings in ***Liverpool Bay***, at para 65, and ***Rattling Beach,*** at para 58, if the Board allows this Application, the economic contribution of the Farm, and the WFN's Trout Operations, will continue.[38]

(b) The Farm Operates in a Complementary Way with the Fisheries in the Bay

81. The Farm has successfully operated in Whycocomagh Bay in a complementary way with other fisheries, including but not limited to, trout and Atlantic salmon. There are

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[38] BOA Tabs 1 and 2, respectively.

recreational, commercial and traditional fisheries in the Bay. Section 3 of the Development Plans address the fishery activities around the Farm.[39]

82. Whycocomagh and Whycocomagh Bay are recognized as cultural, recreational and social significance. We'koqma'q First Nation has been involved in the shellfish and finfish aquaculture industries for decades. They are managed in association with the other Mi'kmaw activities in the waters. A single group manages both the fisheries and aquaculture portfolio to ensure that they are complementary.[40]

83. We'koqma'q First Nation traditionally fishes smelts, trout, eels, winter flounder, striped bass, soft shell clams, mussels and oysters. The Farm has operated for decades, and no concerns have been raised or identified with respect to the traditional fishery. There is not a moderate livelihood fishery in Whycocomagh Bay.

84. The farm has successfully coexisted with the recreational trout fishery in the Bay. Since as early as 1899, through its enhancement program, the Province has stocked the Bay with Rainbow trout for the recreational sport fishery. This longstanding practice of stocking Rainbow trout illustrates that there is little concern that the presence of trout affects the sustainability of wild salmon.

85. The commercial fisheries in the Bras D'Or Lake are lobster and oyster, both of which have been in decline. The oyster population has declined due to overfishing, diversion of habitats, and the appearance of the MSX parasite in 2002. Initiatives are under way to rejuvenate the oyster population, which WFN supports. With respect to lobster, its population has declined and disappeared from Whycocomagh Bay since the mid 1960's. Surveys from 1999 indicate no lobster inhabit Whycocomagh Bay. Therefore, it is not likely that the Farm will impact either industry.

86. As detailed in the Development Plans, and the affidavits filed in support of the Application, WFN employs multiple operational procedures to mitigate potential risks and effects of its

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[39] Section 3 of the Development Plan, Application Package Vol 1, Exhibit #004a, p 41 – 52 (AQ#0814x); p 101 – 112 (AQ#1430); p 164 – 175 (AQ#1431).

[40] Section 3 of the Development Plan, Application Package Vol 1, Exhibit #004a, p 45.

marine finfish aquaculture operations to the wild fish populations and fisheries (including wild Atlantic salmon).

87. The potential risks of finfish aquaculture include the proliferation of disease and sea lice (from the natural environment) within the farmed fish population to act as reservoirs which may impact the wild fish population, as well as escapees.

- **Disease and Biosecurity**

88. Surveillance and early detection are considered integral components for effective disease monitoring for marine finfish aquaculture operations.

89. The AMR addresses the aquaculture license holder's requirements to operate a farm. An operator is required to make available its FMP to DFA for review and approval for implementation. The FMP must include information regarding fish health management, environmental monitoring, farm operations, and containment management. As noted above, DFA approved WFN's FMP for implementation.

90. The Farm follows the fish health requirements in its FMP, including veterinary care and disease surveillance programs.

91. Further, as required under federal and provincial regulations, all fish stocked at the Farm must have an accompanying aquatic animal health transfer permit issued by DFO and DFA, prior to movement, which consider the risk of disease transfer.

92. As explained by Dr. Swim, WFN employs DFA's Aquatic Animal Health Unit veterinarians to carry out the role of designated veterinarian for its Farm. At the hearing, Dr. Swim further explained that some operators chose to retain DFA's veterinarians, where others retain their own private veterinarians.

93. DFA's Aquatic Animal Health Unit veterinarians have therefore provided clinical services at the Farm, when needed, in addition to meeting the minimum requirements of the Marine Finfish Health Surveillance Program.

94. Along with the Provincial Marine Finfish Health Surveillance Program and Sea Lice Management Program, all operators also have a regulatory responsibility to report

elevated mortality events and known or suspected pathogens of concern to the Department, as outlined in section 21 of the AMR.

95. If these applications are approved by the Board, prior to each stocking period in the Spring, DFA will complete and approve a fish health assessment, corresponding to the FMP for the Farm, as has been done since the implementation of the FMP program under the AMR.

96. WFN has implemented the following measures to improve fish welfare at the Farm:

(a) Stocking the Farm with a larger juvenile to reduce time at sea and ensure a stronger, more resilient fish at sea pen entry;

(b) Use of passive grading, when applicable, prior to harvest, to reduce unnecessary fish handling and facilitate the reduction of densities;

(c) In-house team of certified occupational SCUBA divers for inspecting fish and retrieving mortalities in a timely manner; and

(d) Increased use of underwater cameras for observing fish.

- **Low Risk of Sea lice in the Bay**

97. The unique biophysical conditions of Whycocomagh Bay result in conditions not conducive to the presence of sea lice. Sea lice do not thrive in the lower salinity waters of the Bay. A sea lice problem is therefore unlikely in this region.

98. Due to the historical non-presence of sea lice at the Farm, an adapted sea lice monitoring program was created by DFA, specific to the FMP for the Farm. It provides that sea lice counts are completed once per month on each of the sites from April to December, if water temperatures are between 4-20 °C. This regime will continuously be assessed and can be adjusted by the Chief Aquatic Animal Health Veterinarian at any time, if needed.

- **The Farm's Fish Health Management Practices are Satisfactory**

99. The Aquatic Animal Health Unit completed performance reviews of the Farm and concluded that it has operated in a manner that follows aquatic animal health regulatory processes, as outlined in the AMR. WFN has participated in the Provincial Marine Finfish Health Surveillance Program. The Farm's historical operations are satisfactory.

100. WFN has complied with minimum mandatory reporting requirements and has worked with the Provincial Chief Aquatic Animal Health Veterinarian and/or Veterinary Designate in developing and improving their health management practices since obtaining their existing leases and licenses.[41]

- **Containment Management**

101. The Containment Management Framework under section 15(g) of the AMR requires WFN to provide DFA with a professional engineer's approval of the Farm's design structures in place for containment management. The engineer is required to consider oceanographic and meteorological conditions including wind, waves, currents, depth and tidal range. Proof of a professional engineer's approval is required prior to each stocking event at any new, or existing, sites.

102. Based on the experimental work conducted by WFN since 2019, WFN's proposed infrastructure for the Farm is 100m cages, in a 2 x 5 grid array. The enclosure nets will be 8m deep.

103. DFA reviewed the proposed infrastructure for the Farm and concluded that it conforms to the department's regulatory programs. [42] Mr. Feindel also noted that the cage arrays have been suitable in the past for facilitating cage movement between the production sites and the overwintering area. He further noted that the wharf infrastructure is sufficient to support the Farm operations.[43]

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41 Swim Affidavit, Exhibit #010, at paras 75- 78.

42 N Feindel Affidavit, Exhibit #008, at paras 31 – 38.

43 N Feindel Affidavit, Exhibit #008, at paras 39 – 40.

104. There have been reported escapes at the Farm. In response, WFN has implemented the following measures to prevent and mitigate against fish escapes:

(a) The Farm follows the containment management requirements as set out in its FMP, as required under the AMR.

(b) Net inventory and lifecycle tracking under the FMP has been ongoing, with increased visibility in 2025.

(c) Replacement of legacy cages with 100-metre heavy-duty HDPE circular cages is underway as part of a five-year capital plan. Additional cages are scheduled for installation in 2026.

(d) Approximately $400,00 has been invested in net upgrades over the past five years.

(e) To supplement engineering plans, in 2023, WFN worked with Gael Force Group, a Scottish-based supplier providing equipment, technology, and services for aquaculture, commercial fishing, marinas, and mooring systems, to enhance its mooring systems.

(f) WFN is working to become certified to the Global Aquaculture Alliance's Best Aquaculture Practices ("**BAP**"). The BAP standard requires the application of a written "Containment Plan" to prevent fish escape. This would be above and beyond the FMP containment requirements described above and it would be third party audited.

(g) WFN has trialed and intends to use triploid stocks (i.e. sterile fish) if production outcomes continue to show that they thrive in the Bay's environment. This reduces the potential impacts of an escape as escaped triploids cannot reproduce.

(h) Standard Operating Procedures ("**SOPs**"), with enhanced quality control checks, for installation, maintenance, and inspections were developed as part of the FMP.

(i) Employing technically skilled and properly trained personnel. Training session on the SOPs are planned for the winter of 2026. [44]

105. Therefore, the evidence supports a finding that the Farm will not likely impact the other fisheries in the Bay, which weighs in favor of allowing the Application.

(c) Oceanographic and Biophysical Characteristics of the Bay

106. Section 4 of the Development Plans addresses the oceanographic and biophysical characteristics of the public waters surrounding the Farm, including wave conditions, waves, tides, currents, temperature, oxygen and bathymetry.

107. This site has hosted finfish aquaculture for over 30 years. Data and experience acquired throughout that time period, along with published studies on the area and data collected recently during scoping activities all contributed to the development of the Proposed Production Plan and how the Farm will be managed and operated.

- **Oceanographic Characteristics**

108. As discussed above under containment management, WFN's proposed infrastructure for the Farm is 100m cages, in a 2 x 5 grid array. The enclosure nets will be 8m deep. DFA reviewed the proposed infrastructure for the Farm and concluded that it conforms to the departments' regulatory programs. [45] Mr. Feindel also noted that the cage arrays have been suitable in the past for facilitating cage movement between the production sites and the overwintering area. He further noted that the wharf infrastructure is sufficient to support the Farm operations.[46]

109. DFA also reviewed the wind exposure for the Farm. In her affidavit, Ms. Feindel concluded that all three sites are relatively well sheltered from all directions due to the inland nature

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[44] *See*: Application Package Vol 1, Exhibit #004a, p 48 – 49; and Nickerson Affidavit, Exhibit #012, at para 15.

[45] N Feindel Affidavit, Exhibit #008, at paras 31 – 38.

[46] N Feindel Affidavit, Exhibit #008, at paras 39 – 40.

of the Bay, and the significant elevations of the surrounding land. No concerns were noted with respect to wind.[47]

110. With respect to currents, Dr. Swim concluded that the current speed would not impose an excessive demand on the fish, however, noted that enhanced dissolved oxygen monitoring was necessary.[48] Dr. Swim also concluded that the water salinity was reasonable for successfully growing Rainbow trout.[49] She raised no issues with respect to the water depths.

111. Dr. Swim identified that the fluctuating water temperatures could pose a risk to fish health, however, the risk could be mitigated. WFN has implemented enhanced dissolved water oxygen and temperature monitoring strategies to mitigate against fluctuations in oxygen levels and water temperature. As explained by Mr. Nickerson, WFN has retained the support of InnovaSea and has placed probes in each cage to provide real-time data on temperature and oxygen levels.[50]

- **Biophysical Characteristics**

112. DFA and DFO reviewed WFN's Proposed Production Plan for the Farm, including the proposed maximum biomasses for the production area and the overwintering area, to assess the environmental impact, if any.

113. If approved, the Farm will follow the Environmental Monitoring Program ("**EMP**") requirements dictated by DFA as required by the AMR, as well as the environmental monitoring requirements required by DFO according to the *Aquaculture Activities Regulations* ("**AAR**").[51]

Environmental Monitoring Program

114. The EMP is the monitoring and regulatory tool to maintain balance between licensed aquaculture operations in the province and the environments they operate within. The

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47 J Feindel Affidavit, Exhibit #009, at para 86 – 90.
48 Swim Affidavit, Exhibit #010, at paras 31 - 35.
49 Swim Affidavit, Exhibit #010, at paras 36 – 38.
50 Nickerson Affidavit, Exhibit #0012, at para 11.
51 Application Package Vol 1, Exhibit #004a, p 51.

function of the EMP is to monitor the effects of an aquaculture operation on the marine environment and respond if balance is disrupted. It plays an important role in evaluating maximum biomass for a site. The EMP also requires a mitigation plan which is to be applied when poor environmental performance is indicated by the monitoring.

115. One of the concerns regarding a marine finfish aquaculture operation is the potential for impacts on the surrounding marine benthic environment through organic loading (i.e. feed waste and feces). The goal of the EMP is to ensure that the marine environments where aquaculture operations occur maintain oxic sediment conditions.

116. Oxic conditions result when the biochemical oxygen-demand ("**BOD**") is less than the oxygen available. Hypoxic and anoxic conditions result when the BOD is greater than the oxygen available and can negatively impact localized fish and fish habitat.

117. To date, WFN has complied with the EMP. It has also participated in enhanced EMP at one of the experimental sites (AQ#5013 which overlays AQ#1431) which was part of a project to use modelling to predict sulphide level outcomes based on stocking densities, feed rates, cage arrangements and hydrodynamics of the site. It is anticipated to help WFN proactively minimize impacts on the benthos when planning future fish farming activities.[52]

118. Additionally, WFN contributes to the EMP's ongoing development through representation on the Nova Scotia Aquaculture Environmental Coordinating Committee. This committee, which is co-chaired by DFA and DFO, is a forum for industry and regulators to provide input and exchange ideas regarding the environmental monitoring program for marine sites in Nova Scotia.

119. Historically, with respect to AQ#0814x, the conditions have ranged from oxic to anoxic, and mitigation measures have been required.

120. To mitigate this issue at AQ#0814x, WFN's Proposed Production Plan provides that AQ#0814x will have a lower biomass of fish than has been historically cultured in WFN's three existing leases. The proposed expanded lease area will be used to rotate the

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[52] Application Package Vol 1, Exhibit #004a, p 51.

location of the production area as EMP results dictate, thus allowing the seabed to fallow between production cycles.

121. Similarly, the conditions at AQ#1430 and AQ#1431 have ranged from oxic to hypoxic, and mitigation measures have been required.

122. The requested lease areas for AQ#1430 and AQ#1431 have been sized to allow for two separate cage grids, which WFN intends to use as alternating production areas, allowing a longer fallow period of 15 months. DFA agrees that this proposed rotating fallowing regime is a proactive mitigatory approach and could allow for uninterrupted Rainbow trout culture.[53]

123. DFO concluded that the Proposed Production Plan could result in the exceedance of the sulphide threshold, i.e. lead to hypoxic conditions, which would temporarily prevent restocking under the AAR. As explained by Ms. Feindel, the sites will be assessed annually through the EMP, and if regulatory thresholds are exceeded, WFN will need to implement mitigation measures.[54]

Baseline Monitoring

124. The results following the mandatory baseline monitoring resulted in oxic conditions for sulphide analysis for all three sites. Where applicable, sampling locations with hard bottoms also passed as per DFA's hard bottom protocol.

125. Ms. Feindel concluded that as a result of the historical review of the environmental performance of the sites, the current baseline information for all three lease sites, and the Department's regulatory framework programs (including proactive risk mitigation methodologies), her team is satisfied that WFN's proposed maximum biomass can be reasonably managed.[55]

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53 J Feindel Affidavit, Exhibit #009, at para 76 - 78.
54 J Feindel Affidavit, Exhibit #009, at para 36 – 37.
55 J Feindel Affidavit, Exhibit #009, at para 76.

March 2025 Mass Mortality Event

126. Since the 1970s, it has been established by ecologists, that the inner Bay features a deep-water basin with anoxic (low or no oxygen) water and sediment, at depth, including near the overwintering area of AQ#0814x. [56] [57] This bottom sediment and deep water anoxia is not attributed to the Farm.

127. In March 2025, a rare and unprecedented anoxic water upwelling event caused localized fish mortality at the overwintering site AQ#0814x. As testified by Dr. Swim, WFN reported the event to DFA.

128. Following an investigation by DFA's Fish Health Veterinarian, Dr. Synder, it was demonstrated that the root cause of this mortality event was non-infectious, and that the mortalities were attributable to water hypoxia (i.e. lack of oxygen). Based on further investigation, the hypoxic water was due to an environmental event in which the low oxygen water from the deep-water basin of the Bay was brought to the surface where the fish were overwintering.

129. Notably, there has not been a recorded event in the Bay where such large quantities of the deep anoxic layer ascended to the near surface, as occurred during the 2025 March mass mortality event.[58]

130. WFN has since deployed real-time oxygen and temperature monitoring. Additional mitigation measures, including enhanced oxygenation technologies, are being investigated. WFN has also partnered with Cape Breton University and the Carnegie Institute of Science to model the dynamics of the Bay and identify potential predictors of future events, if any. Sampling began in May 2025.

131. In her affidavit, Dr. Swim confirmed that WFN has implemented mitigation measures, including increase monitoring of the water temperature and oxygen levels. The Production

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[56] J Feindel Affidavit, Exhibit #009, at paras 67- 69.

[57] Rommens Affidavit, Exhibit #013, at para 43.

[58] Rommens Affidavit, Exhibit #013, paras 41 – 51.

Plan was also adjusted to reduce the maximum biomass at the overwintering site, to reduce the impact of potential naturally occurring low oxygen events.

February 2026 Super-chill Event

132. In February 2026, a super-chill event occurred at the overwintering site AQ#0814x which led to mass mortality. The event was immediately reported to DFA.[59]

133. Due to low temperatures in January 2026, harvesting and all other activities on the Farm were stopped to reduce stress on the fish during this period and to prevent the fish from rising into the surface waters where there was an increased chance of ice crystals coming into contact with the fish.

134. By February 16, 2026, water temperature increased enough to begin site activities, including harvesting. While preparing for harvest, it was noted that a significant mortality was evident in the cages closest to shore. This mortality has been attributed to a super-chill event caused by low water temperature.

135. In the future, cages will be held in deeper water as a mitigation measure. This will give the fish more room to avoid the ice.

136. Notably, there is no record of temperatures this low in this area since WFN took over the operation.

137. While both the March 2025 event and the recent February 2026 event at the Farm are unprecedented for the history of WFN's trout farming activities, beginning in 2011, WFN is now taking steps to implement mitigation plans to address these contingencies.

138. Importantly, Dr. Swim and Ms. Feindel both confirmed at the hearing that neither the 2025 event or 2026 event alter their opinions with respect to the Farm, and its performance. Dr. Swim noted that the regulatory monitoring scheme provides the framework to respond and mitigate to issues, if and when they arise.

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[59] Rommens Affidavit, Exhibit #013, paras 52 – 57.

139. The Proposed Production Plan was designed to address the oceanographic and biophysical characteristics of the Bay. The evidence supports a finding that WFN has complied with its regulatory requirements under the EMP and has implemented mitigation measures to address the environment in which it operates. This factor weighs in favor of allowing the Application.

(d) The Farm Operates Alongside Other Users of the Bay

- **Public Users of the Bay**

140. The public waters of Whycocomagh Bay are used for a variety of activities including boating, swimming and fishing. Other users of the Bay are addressed at Section 5 of the Development Plans.[60]

141. The Bras D'Or Lake is a popular cruising location for pleasure crafts. Whycocomagh Bay is open to the Bras D'Or Lake only through a narrow channel. It is a popular destination for small family vessels, kayakers, canoers, and small fishing vessels by residents or seasonal users.

142. Other users of Whycocomagh Bay include:

(a) Whycocomagh Waterfront Centre Association, which supports the community centre and marina.

(b) Whycocomagh Provincial Park, which includes hiking, trails, camping sites, and picnicking.

(c) Little Narrows Beach Municipal Park which offers sandy beachfront access.

(d) Owners and patrons of various tourist accommodations, including motels, camping, B&Bs, and cottages.

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[60] Section 5: Other Users of the Public Waters Surrounding the Proposed Aquacultural Operation, Application Package Vol 1, Exhibit #004a, p 62 – 74 (Aq#0814x); p 122 – 137 (AQ#1430); p 186 - 201 (AQ#1431).

(e) Bras d'Or Lakes Biosphere Reserve Association, a registered charity which oversees the UNESCO designation.

(f) Bras d'Or Lakes Stewardship Society, a non-profit organization which promotes the protection of the lake and its watershed.

143. None of the above local users sought to participate in (and oppose) the Application.

144. Fred Harrington and Karen Hollett oppose the Application, in part, because they no longer kayak or canoe in the direction towards experimental site AQ#5010 (AQ#1430) because it is "intimidating" and "unpleasant". Notably, they did not mention any risks navigating around the site.

- **Wildlife Users of the Bay**

145. Mammals, birds, fish and flora live in and around the Bay. WFN's Wildlife Interaction Plan, as described in its FMP, was reviewed and approved for implementation by DFA.

146. There are no identified rare or endangered species that are expected to be directly impacted by the Farm operation of this site. Mitigation measures applied to reduce fisheries impacts, including wild salmon, were described above, and will also mitigate impacts to other wildlife in the Bay in general.[61]

147. Neither DFO, DNR, nor CWS raised concerns about the Farm with respect to species at risk and/or endangered species.[62]

148. There is no evidence before the Board that the Farm will negatively impact other users of the Bay.

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[61] Section 5: Other Users of the Public Waters Surrounding the Proposed Aquacultural Operation, Application Package Vol 1, Exhibit #004a, p 73 (AQ#0814x), p 136 (AQ#1340); and p 200 (AQ#1431).

[62] Report on Outcomes of Consultation, Volume 1, Exhibit #005a, p 14 – 17.

(e) The Farm Does Not Impact the Public Right of Navigation

149. The Application will not impact the public right of navigation. During the Network Partner consultation, Transport Canada reviewed the Application and did not raise any concerns.[63] It advised that the Navigation Protection Program (NPP) will need to issue a Canadian Navigable Waters Act ("**CNWA**") approval. [64]

150. WFN has submitted its CNWA Notice of Works Forms for each of the three sites for approval, pending the outcome of this hearing.[65]

(f) The Farm will Not Impact the Sustainability of Wild Salmon

151. Section 7 of the Development Plans address the sustainability of wild salmon.[66]

152. The Farm is in Salmon Fishing Area 19. It is one of the few areas in the Province that allows for recreational catch and release salmon fishing. There is also a Food, Social and Ceremonial (FSC) salmon fishery.

153. There are multiple rivers in Salmon Fishing Area 19 that have a wild salmon population. The Skye River is the only river with a wild salmon population which connects to Whycocomagh Bay. Since 2006, the Middle and Baddeck Rivers, which connect to St. Patricks Channel, have had their salmon population enhanced by the Province, to offset the anticipated catch and release mortalities on these rivers. Approval of this Application is not anticipated to affect the Province's enhancement program.

154. The Province's rainbow trout enhancement program in Whycocomagh Bay demonstrates the absence of concern that the presence of trout affects the sustainability of wild salmon.

155. WFN's operational procedures mitigate any potential risks of finfish aquaculture operations to wild salmon populations; these being fish escape, disease and biosecurity,

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63 Report on Outcomes of Consultation, Volume 1, Appendix D – Transport Canada, Exhibit #005a, p 490.

64 Report on Outcomes of Consultation, Volume 1, Appendix D – Transport Canada, Exhibit #005a, p 377 – 378 (AQ#1430), p 380 - 381 (AQ#1431); and p 406 - 412 (AQ#0814x).

65 Appendix G of the Development Plans, Application Package, Volume 1, Exhibit #004a, p 407 – 434.

66 Section 7: Sustainability of Wild Salmon, Application Package, Volume 1, Exhibit #004a, pages 50 - 51 (AQ#0814x); 76 – 77 (AQ#1430) and 203 – 204 (AQ#1431).

and environmental impact risks. Each of these were discussed above in the section addressing the other fisheries in the Bay.

156. Importantly (also as discussed above), the low salinity waters of Whycocomagh Bay are not good habitat for sea lice. This reduces the risk, if any, of the potential for sea lice proliferation at the Farm affecting the wild salmon population.

157. In its Letters of Advice, DFO identified trout escapes as a stressor for the wild salmon population due to the risk of transfer of disease, predation or/and competition for space and food. However, it did not recommend additional mitigation efforts. With respect to pathogens, DFO highlighted that it will not issue transfer licenses (required under the federal *Fishery (General) Regulations* when fish are transferred from the hatchery to the cages) if the Rainbow trout have any disease that may be harmful to wild fish.[67]

158. Accordingly, the evidence before the Board strongly supports the conclusion that the Farm will not pose a risk to wild salmon or to the sustainability of wild salmon.

(g) WFN Owns & Operates the Other Aquaculture Sites in the Bay

159. Section 8 of the Development Plans address the aquaculture sites in Whycocomagh Bay.[68]

160. WFN is the lease and license holder for all six aquaculture sites within Whycocomagh Bay, both finfish and shellfish. There are no other operators in the waters directly connected to Whycocomagh Bay.

161. As previously discussed, the three finfish aquaculture sites (AQ#0814x, AQ#1430 and AQ#1431) in the Bay will be managed as a single farm to promote optimal fallowing regimes, i.e. the Farm.

162. WFN also owns and operates the two shellfish aquaculture sites in the Bay, AQ#1291 and AQ#1295, for the cultivation of oysters; only AQ#1291 is operational. In 2019, WFN

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67 DFO's Letters of Advice, Report on the Outcomes of Consultation, Volume 1, Exhibit #005a, p 179 (AQ#0814x), p 321 (AQ#1430); and p 328 (AQ#1431).

68 Section 8: The number and Productivity of Other Aquaculture Sites in the Public Waters Surrounding the Proposed Aquaculture Location, Application Package, Volume 1, Exhibit #004a, pages 78 – 83 (AQ#0814x); 141 – 146 (AQ#1430) and 205 – 210 (AQ#1431).

acquired the sixth site AQ#0193. The future use of this site is being explored, including its potential use for oyster aquaculture.

163. In her affidavit, Dr. Swim noted that, from a biosecurity perspective, the Farm does not represent an increase in operators working in the Bay. The biosecurity protocols for the Farm are detailed in WFN's FMP, which has been reviewed and approved for implementation by DFA.[69]

164. There is no evidence before the Board that the Farm impacts WFN's shellfish aquaculture operation in the Bay. Similarly, there is no evidence that the aquaculture sites in the Bay cannot operate in a complementary way.

CONCLUSION & RELIEF SOUGHT

165. The evidence before the Board strongly supports that the Farm is an optimum use of marine resources. All the Section 17 Factors weigh in favor of allowing the Application. As held in ***Rattling Beach*** and ***Liverpool Bay***, the Farm represents a small portion of Whycocomagh Bay and will efficiently produce thousands of kilograms of food annually. It will be a positive contributor to the economy of Nova Scotia.

166. We respectfully submit that the Board should decide in favor of WFN's Application. This will enable the Minister of DFA to amend the marine finfish aquaculture lease and license for AQ#0814x and approve the two new finfish aquaculture lease and licenses for AQ#1430 and AQ#1431 pursuant to section 52 of the Act.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Robert G. Grant & Sara D. Nicholson

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[69] Swim Affidavit, Exhibit #010, paras 90 - 93.

Schedule A - Index of Exhibits

Exhibit	Description
001	Ministerial Referral Letter
004a	Application Package Volume 1
004b	Application Package Volume 2
005a	Report on Outcomes of Consultation Volume 1
005b	Report on Outcomes of Consultation Volume 2
005c	Report on Outcomes of Consultation Volume 3
006a	AQ#0814 – Report on Performance Review
006b	AQ#1430-5010 – Report on Performance Review
006c	AQ#1431-5013 – Report on Performance Review
007	All Written Submissions Received
008	DFA - Affidavit of Nathaniel Feindel, sworn February 17, 2026
009	DFA - Affidavit of Jessica Feindel, sworn February 17, 2026
010	DFA - Affidavit of Dr. Amanda Swim, sworn February 18, 2026
011	WFN - Affidavit of Donald Davis, sworn February 19, 2026
012	WFN - Affidavit of Jeffrey Nickerson, sworn February 19, 2026
013	WFN - Affidavit of Melissa Rommens, sworn February 19, 2026