

**RECEIVED**

*By Nova Scotia Aquaculture Review Board at 3:42 pm, Jan 23, 2024*

2023

NSARB-2023-001

**Nova Scotia Aquaculture Review Board**

**IN THE MATTER OF:** Applications made by **KELLY COVE SALMON LTD.** for a **BOUNDARY AMENDMENT** and **TWO NEW MARINE FINFISH AQUACULTURE LICENSES** and **LEASES** for the cultivation of **ATLANTIC SALMON (*Salmo salar*)** - **AQ#1205x, AQ#1432, AQ#1433** in **LIVERPOOL BAY, QUEENS COUNTY.**

**Kelly Cove Salmon Ltd.**

APPLICANT

-and-

**Minister of Fisheries and Aquaculture**

PARTY

-and-

**Kwilmu'kw Maw-Klusuaqn Negotiation Office (KMKNO)**

INTERVENOR

-and-

**Queens Recreational Boating Association (Brooklyn Marina)**

INTERVENOR

**22 Fishermen of Liverpool Bay**

INTERVENOR

**Region of Queens Municipality**

INTERVENOR

**Protect Liverpool Bay Association**

INTERVENOR

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**Affidavit of Robert Ceschiutti**

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I affirm and give evidence as follows:

1. I am Robert Ceschiutti, the Manager of Licensing and Leasing in the Department of Fisheries and Aquaculture (the Department). As part of this position, I am responsible for overseeing the maintenance and administration of applications and related records created further to the issuance of any aquaculture leases and/or licenses issued pursuant to the *Fisheries and Coastal Resources Act* and the *Aquaculture Licence and Lease Regulations*. Part of my job is to conduct consultations with Mi'kmaq bands respecting established or asserted Mi'kmaq Aboriginal or treaty rights with respect to specific aquaculture applications. I started in this position on July 1, 2019.
2. I have personal knowledge of the evidence affirmed in this Affidavit except where otherwise stated to be based on information and belief.
3. I state, in this Affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
4. On June 27, 2019, the Department sent Kelly Cove Ltd.'s licence and lease applications (#1205x, #1432, and #1433) to the Office of Aboriginal Affairs, now the Office of L'Nu Affairs (OLA) for review and advice. (Exhibit 4, p. 717).
5. OLA responded on July 15 and 16, 2019, advising consultation at the moderate level with the Assembly of Nova Scotia Mi'kmaw Chiefs ("the Assembly"), which includes 11 of the 13 Nova Scotia Mi'kmaq Bands. OLA did not advise consultation with Millbrook First Nation or Sipekne'katik First Nation. This correspondence is at Appendix M of the Report on the Outcomes of Consultations (Exhibit 4, p. 718 and 719).
6. The Department's Consultation Record is a complete chronological account of all correspondence (by letter and by email), records of meetings, and presentations given during consultation with the KMKNO. I attach the Consultation Record to this Affidavit as "**Exhibit A**".
7. On May 1, 2023, the Department decided to proceed with processing these applications. On this date, on behalf of the Department, I sent identical decision letters closing consultation to the KMKNO and the Chiefs and Councils of each of the following Assembly Bands:
  - a. **Acadia First Nation**  
Chief Deborah Robinson
  - b. **Annapolis Valley First Nation**  
Chief Gerald (Jerry) Toney
  - c. **Eskasoni First Nation**  
Chief Leroy D.C. Denny

- d. Glooscap First Nation**  
Chief Sidney Peters
- e. L'sitkuk (Bear River) First Nation**  
Chief Carol Dee Potter
- f. Paqtnkek Mi'kmaw Nation**  
Chief Paul J. Prosper
- g. Pictou Landing First Nation**  
Chief Andrea Paul
- h. Potlotek First Nation**  
Chief Wilbert Marshall
- i. Wagmatcook First Nation**  
Chief Norman Bernard
- j. We'koqmaq First Nation**  
Chief Roderick Googoo

- 8. To avoid unnecessary duplication of identical documents, the only decision letter included in the Consultation Record is the decision letter addressed to the KMKNO.
- 9. On or about October 28, 2020, Membertou First Nation left the Assembly. As a result, on May 1, 2023, on behalf of the Department, I sent a separate decision letter closing Consultations to the Chief Terrance J. Paul and Council of Membertou First Nation.
- 10. I was not physically present before Mrs. Menczel-O'Neill when I affirmed this affidavit. I was linked with Ms. Menczel-O'Neill using video conferencing technology.

Sworn before me by videoconference from  
Shelburne (location of affiant) to Halifax,  
Nova Scotia (location of lawyer taking oath)  
on the   18   day of January 2024.



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Caitlin E. Menczel-O'Neill  
A Barrister of the Supreme Court  
of Nova Scotia

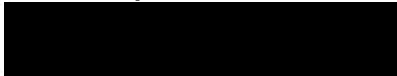


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**Robert Ceschiutti**

# TAB A

2023 NSARB-2023-001-  
This is Exhibit "A" referred to in the  
Affidavit of Robert Ceschiutti,  
affirmed before me by videoconference  
on January 18, 2024

A solid black rectangular box redacting the signature of the affiant.

Signature  
CAITLIN MENCZEL-O'NEILL  
A Barrister of the Supreme Court of Nova Scotia

### CONSULTATION RECORD INDEX

<b>Date</b>	<b>Consultation Type</b>	<b>Description</b>	<b>Page No.</b>
Sep 25, 2019	Letter – Initiate Consultation	Letter from Nova Scotia Department Fisheries and Aquaculture ( <b>DFA</b> ) to each Mi'kmaq Band within the Assembly of First Nations, copying the Kwilmu'kw Maw-klusuaqn Negotiation Office ( <b>KMKNO</b> )	4
Nov 22, 2019	Response to Letter – Initiate Consultation	From KMKNO to DFA – Offer to consult accepted, concerns stated	37
Feb 6, 2020	Letter – Continuing Consultation	From DFA to KMKNO – Response to November 22, 2019 letter, concerns addressed, consultation meeting offered	39
March 5, 2020	Response to Letter – Continuing Consultation	From KMKNO to DFA – Response to February 6, 2020 letter, consultation meeting requested	45
Dec 9, 2020	Consultation Meeting #1	Record of Meeting between DFA, Nova Scotia Office of L'nu Affairs ( <b>OLA</b> ), Acadia First Nation, Glooscap First Nation, and KMKNO.	46
		DFA Presentation re Application Review Process	52
		DFA Presentation re Liverpool Sites Overview	68
		DFA Presentation re Telemetry Project	77
May 3, 2021	Letter – Continuing Consultation	From DFA to KMKNO – Offer to hold 2 separate, issue-specific Consultation meetings	85
July 16, 2021	Email – Continuing Consultation	DFA to KMKNO reminding KMKNO of offer for next meetings. Meeting dates suggested: August 10-12, 2021	87
Aug 25, 2021	Email –Consultation Scheduling	DFA to OLA requesting assistance in contacting KMKNO. Request re. KMKNO's next availability for continuing consultation.	88
Aug 30, 2021	Email –Consultation Scheduling	OLA to KMKNO reminding KMKNO of offer for next meetings. Requested availability, suggesting September or early October 2021.	89
Aug 30, 2021	Email –Consultation Scheduling	KMKNO to OLA indicating KMKNO will respond OLA once they have range of meeting availability from Acadia FN.	90

Date	Consultation Type	Description	Page No.
Sep 24, 2021	Email –Consultation Scheduling	OLA to KMKNO reminding KMKNO of offer for next meetings, asking for update on Acadia FN.	91
Oct 1, 2021	Email –Consultation Scheduling	KMKNO to OLA – stating they are available in early October 2021.	92
Oct 4, 2021	Emails –Consultation Scheduling	OLA to KMKNO – insufficient time to arrange the meeting in October. Requesting KMKNO & Acadia First Nation November availability.	93
		KMKNO to OLA – stating early November would be fine, requesting possible meeting dates.	94
Oct 13, 2021	Emails –Consultation Scheduling	OLA to KMKNO – providing November 24 and 26, 2021 as available meeting dates. Requesting December dates if November no longer possible.	95
Nov 23, 2021	Emails –Consultation Scheduling	OLA to KMKNO – asking for meeting before holidays 2021 and reminding KMKNO of DFA’s regulatory obligations to Kelly Cove Salmon Ltd ( <b>the Proponent</b> ).	96
Nov 24, 2021	Emails –Consultation Scheduling	KMKNO to OLA – indicating no availability to meet in November and requesting consultation meeting Dec 1 or 2, 2021.	97
Nov 29, 2021	Emails –Consultation Scheduling	KMKNO to OLA – requesting consultation meeting dates in the week of Nov 29-Dec 3, 2021.	98
		OLA to KMKNO – requesting consultation meeting availability into Dec 2021.	99
		KMKNO to OLA – requesting consultation meeting dates on Dec 6 or 8, 2021.	100
Jan 18, 2022	Letter – Consultation Scheduling	From DFA to KMKNO – Follow up on scheduling close of consultation meeting	101
	Emails – Consultation Scheduling	KMKNO to OLA, Transport Canada ( <b>TC</b> ), Department of Fisheries and Oceans Canada ( <b>DFO</b> ) and DFA –suggesting March 1 and 2, 2022 as dates to "conclude consultation" on Proponent’s Liverpool Bay aquaculture applications.	111
March 1, 2022	Consultation Meeting #2	Record of Meeting between DFA, OLA, TC, Acadia First Nation, and KMKNO. <b>Meeting dedicated to:</b> potential fish health impacts and mitigation measures.	112

Date	Consultation Type	Description	Page No.
		DFA presentation re. Aquatic Animal Health	115
March 2, 2022	Consultation Meeting #3	Record of Meeting between DFA, OLA, TC, Acadia First Nation, KMKNO. <b>Meeting dedicated to:</b> potential environmental impacts and mitigation measures.	153
		DFA presentation re. Environmental Monitoring Program	160
		DFA video of ocean floor under applications sites	192
June 1, 2022	Consultation Meeting #4	Record of Meeting between DFA, OLA, Nova Scotia Department of Communities Culture Tourism and Heritage (CCTH), Acadia First Nation, KMKNO as follow up to meetings held on March 1 and 2, 2022	193
June 16, 2022	Letter – Continuing Consultation	From KMKNO to DFA – requesting that an Archaeological Resource Impact Assessment (ARIA) be completed at application sites prior to any decision by the Aquaculture Review Board (ARB).	200
Nov 23, 2022	Letter – Continuing Consultation	From DFA to KMKNO – Follow up on KMKNO action items from Consultation Meeting #4	202
Nov 30, 2022	Letter – Continuing Consultation	From KMKNO to DFA – requesting additional time to consider ARIA procured by the Proponent.	211
Dec 14, 2022	Letter – Continuing Consultation	From KMKNO to DFA – Follow-up on outstanding Action items from Consultation Meeting #4; supporting ARIA's recommendation that subsurface archaeological testing be completed at/near application sites.	212
May 1, 2023	Letter – Closing Consultation	From DFA to KMKNO – Communicating decision to close consultations and proceed to ARB Hearing for Proponent's Liverpool Bay aquaculture applications. <i>Identical letters circulated to all Bands within the Assembly of First Nations</i>	215
		From DFA to Membertou First Nation – Communicating the decision to close consultations and proceed to submit Liverpool Bay site applications to NSARB	258



September 25, 2019

Chief Deborah Robinson  
Acadia First Nation  
10526 Highway #3  
Yarmouth, Nova Scotia  
B5A 5J7

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

I am writing to bring to your attention to the aquaculture applications for Atlantic salmon submitted by Kelly Cove Salmon Ltd. in Liverpool Bay, Queens County.

The purpose of this letter is to initiate consultation on the three aquaculture applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide information about:

1. Description of the project;
2. Summary of Consultation Screening;
3. Provincial Approval Requirements;
4. Consultation with the Mi'kmaq of Nova Scotia;

#### Description of the Projects

The applicant, Kelly Cove Salmon Ltd., has submitted three aquaculture applications (AQ1432, AQ1433 and AQ1205) for the marine cage cultivation of Atlantic salmon. The proposed three sites combined footprint totals approximately 122.10 hectare.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

Acadia First Nation  
ATTN: Chief Deborah Robinson  
September 25, 2019

### Summary of Consultation Screening

Based on the information available at this time, the Province has screened Aquaculture Licence and Lease Application No. AQ#1432, AQ#1433 and AQ#1205 and considers them to potentially have impacts to Aboriginal and Treaty Rights at the moderate level.

Kelly Cove Salmon Ltd. is proposing to more than triple the amount of farmed Atlantic Salmon in Liverpool Bay, Nova Scotia. Total biomass, if all applications are approved, could reach 10 million kilograms and the proposed sites would comprise a total footprint of 122.1 hectares in Liverpool Bay. Numerous other fisheries, including commercial and Aboriginal fisheries, are known to have occurred in the past - or currently occur - in Liverpool Bay. The Mersey River system, which drains into Liverpool Bay, is a known river of significance to the Mi'kmaq and the proposed aquaculture sites are located approximately 30 km from Ponthook Lake IR 10 (Acadia FN).

Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

While the number of fish produced on the new proposed sites will increase, the applicant has committed to employing management strategies to reduce the risk of fish escapes including building infrastructure strong enough to withstand weather, currents and ice flow. Cages will be designed to minimize farmed fish and wildlife interactions and will include predator deterrents.

Limited engagement with the Mi'kmaq of Nova Scotian has been undertaken to date.

The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals may be required for this project to proceed.

### Consultation with the Mi'kmaq of Nova Scotia

Nova Scotia Department of Fisheries and Aquaculture will lead aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved.

Transport Canada has been informed of these applications, as a site-specific authorization under the *Navigation Protection Act* will be required for the placement of works in the water column.

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the movement of any live fish will require a licence from DFO (e.g. Introductions and Transfers Licence) pursuant to the provisions of Section 55 and 56 of the *Fishery (General)*

Acadia First Nation  
ATTN: Chief Deborah Robinson  
September 25, 2019

Regulations of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act and the Species at Risk Act*.

The Nova Scotia Department of Fisheries and Aquaculture will keep both Transport Canada and Fisheries and Oceans Canada apprised of the consultation on this file.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project. We require a response concerning this project by November 25, 2019.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

C:  
Twila Gaudent, Consultation Liaison Officer  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Leroy D.C. Denny  
Eskasoni Frist Nation  
PO Box 7040  
63 Mimi Mall Drive  
Eskasoni, Nova Scotia  
B1W 1A1

Dear Chief and Council:

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Eskasoni First Nation  
ATTN: Chief Leroy D.C. Denny  
September 25, 2019

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Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

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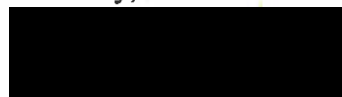
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The Nova Scotia Department of Fisheries and Aquaculture will keep both Transport Canada and Fisheries and Oceans Canada apprised of the consultation on this file.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project. We require a response concerning this project by November 25, 2019.

Sincerely,



Robert Ceschiutti,  
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Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Carol Dee Potter  
L'sitkuk (Bear River)  
130 Reservation Road  
Bear River, Nova Scotia  
B0S 1B0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

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L'sitkuk (Bear River)  
ATTN: Chief Carol Dee Potter  
September 25, 2019

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Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

While the number of fish produced on the new proposed sites will increase, the applicant has committed to employing management strategies to reduce the risk of fish escapes including building infrastructure strong enough to withstand weather, currents and ice flow. Cages will be designed to minimize farmed fish and wildlife interactions and will include predator deterrents.

Limited engagement with the Mi'kmaq of Nova Scotian has been undertaken to date.

The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals may be required for this project to proceed.

### Consultation with the Mi'kmaq of Nova Scotia

Nova Scotia Department of Fisheries and Aquaculture will lead aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved.

Transport Canada has been informed of these applications, as a site-specific authorization under the *Navigation Protection Act* will be required for the placement of works in the water column.

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the movement of any live fish will require a licence from DFO (e.g. Introductions and Transfers Licence) pursuant to the provisions of Section 55 and 56 of the *Fishery (General)*



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Annapolis Valley First Nation  
29 Toney Blvd  
Cambridge Station, Nova Scotia  
B0P 1G0

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Annapolis Valley First Nation  
ATTN: Chief Gerald (Jerry) Toney  
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Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

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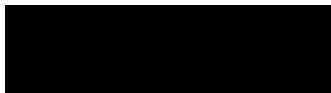
Annapolis Valley First Nation  
ATTN: Chief Gerald (Jerry) Toney  
September 25, 2019

Regulations of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act and the Species at Risk Act*.

The Nova Scotia Department of Fisheries and Aquaculture will keep both Transport Canada and Fisheries and Oceans Canada apprised of the consultation on this file.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project. We require a response concerning this project by November 25, 2019.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

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Twila Gaudent, Consultation Liaison Officer  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Ma'klusuaqn Negotiation Office

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Nova Scotia Office of Aboriginal Affairs

Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Sidney Peters  
Glooscap First Nation  
159 Smith Road  
Hantsport, Nova Scotia  
B0P 1P0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

I am writing to bring to your attention to the aquaculture applications for Atlantic salmon submitted by Kelly Cove Salmon Ltd. in Liverpool Bay, Queens County.

The purpose of this letter is to initiate consultation on the three aquaculture applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide information about:

1. Description of the project;
2. Summary of Consultation Screening;
3. Provincial Approval Requirements;
4. Consultation with the Mi'kmaq of Nova Scotia;

#### Description of the Projects

The applicant, Kelly Cove Salmon Ltd., has submitted three aquaculture applications (AQ1432, AQ1433 and AQ1205) for the marine cage cultivation of Atlantic salmon. The proposed three sites combined footprint totals approximately 122.10 hectare.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

Glooscap First Nation  
ATTN: Chief Sidney Peters  
September 25, 2019

### Summary of Consultation Screening

Based on the information available at this time, the Province has screened Aquaculture Licence and Lease Application No. AQ#1432, AQ#1433 and AQ#1205 and considers them to potentially have impacts to Aboriginal and Treaty Rights at the moderate level.

Kelly Cove Salmon Ltd. is proposing to more than triple the amount of farmed Atlantic Salmon in Liverpool Bay, Nova Scotia. Total biomass, if all applications are approved, could reach 10 million kilograms and the proposed sites would comprise a total footprint of 122.1 hectares in Liverpool Bay. Numerous other fisheries, including commercial and Aboriginal fisheries, are known to have occurred in the past - or currently occur - in Liverpool Bay. The Mersey River system, which drains into Liverpool Bay, is a known river of significance to the Mi'kmaq and the proposed aquaculture sites are located approximately 30 km from Ponhook Lake IR 10 (Acadia FN).

Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

While the number of fish produced on the new proposed sites will increase, the applicant has committed to employing management strategies to reduce the risk of fish escapes including building infrastructure strong enough to withstand weather, currents and ice flow. Cages will be designed to minimize farmed fish and wildlife interactions and will include predator deterrents.

Limited engagement with the Mi'kmaq of Nova Scotian has been undertaken to date.

The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

### Provincial Approval Requirements

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### Consultation with the Mi'kmaq of Nova Scotia

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61  
18  
Glooscap First Nation  
ATTN: Chief Sidney Peters  
September 25, 2019

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Nova Scotia Office of Aboriginal Affairs

Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Terrance J. Paul  
Membertou First Nation  
111 Membertou Street  
Membertou, Nova Scotia  
B1S 2M9

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

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~~20~~ Membertou First Nation  
ATTN: Chief Terrance J. Paul  
September 25, 2019

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Transport Canada

September 25, 2019

Chief Paul J. Prosper  
Paqtnkek Mi'kmaw Nation  
7 Dillon Street  
Afton Station, Nova Scotia  
B0A 1A0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

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Paqtnkek Mi'kmaw Nation  
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September 25, 2019

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~~P24~~ Inkek Mi'kmaw Nation  
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September 25, 2019

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Nova Scotia Office of Aboriginal Affairs

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Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Andrea Paul  
Pictou Landing First Nation  
RR#2 Box 55 Site 6  
43 Maple Street  
Trenton, Nova Scotia  
B0K 1X0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

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26  
Pescou Landing First Nation  
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September 25, 2019

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Fisheries and Oceans Canada

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Transport Canada



September 25, 2019

Chief Roderick Googoo  
We'koqma'q First Nation  
PO Box 149  
150 Reservation Road  
Waycobah, Nova Scotia  
B0E 3M0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

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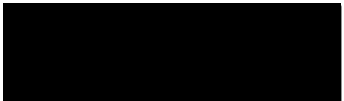
Wə'koqma'q First Nation  
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Transport Canada

September 25, 2019

Chief Wilbert Marshall  
Potlotek (Chapel Island) First Nation  
12004 Nova Scotia 4  
St. Peter's, Nova Scotia  
B0E 3B0

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32 Motek (Chapel Island) First Nation  
ATTN: Chief Wilbert Marshall  
September 25, 2019

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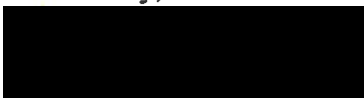
Potlotek (Chapel Island) First Nation  
ATTN: Chief Wilbert Marshall  
September 25, 2019

Regulations of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act and the Species at Risk Act*.

The Nova Scotia Department of Fisheries and Aquaculture will keep both Transport Canada and Fisheries and Oceans Canada apprised of the consultation on this file.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project. We require a response concerning this project by November 25, 2019.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

C:  
Twila Gaudent, Consultation Liaison Officer  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

September 25, 2019

Chief Norman Bernard  
Wagmatcook First Nation  
PO Box 30001  
75 Humes Rear Road  
Wagmatcook, Nova Scotia  
B0E 3N0

Dear Chief and Council:

**RE: Consultation with the Assembly of Nova Scotia Mi'kmaq Chiefs on the Aquaculture Licence and Lease Application Nos. AQ#1432, AQ#1433 and AQ#1205 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

I am writing to bring to your attention to the aquaculture applications for Atlantic salmon submitted by Kelly Cove Salmon Ltd. in Liverpool Bay, Queens County.

The purpose of this letter is to initiate consultation on the three aquaculture applications with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference, and to provide information about:

1. Description of the project;
2. Summary of Consultation Screening;
3. Provincial Approval Requirements;
4. Consultation with the Mi'kmaq of Nova Scotia;

#### Description of the Projects

The applicant, Kelly Cove Salmon Ltd., has submitted three aquaculture applications (AQ1432, AQ1433 and AQ1205) for the marine cage cultivation of Atlantic salmon. The proposed three sites combined footprint totals approximately 122.10 hectare.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

Wagmatcook First Nation  
ATTN: Chief Norman Bernard  
September 25, 2019

### Summary of Consultation Screening

Based on the information available at this time, the Province has screened Aquaculture Licence and Lease Application No. AQ#1432, AQ#1433 and AQ#1205 and considers them to potentially have impacts to Aboriginal and Treaty Rights at the moderate level.

Kelly Cove Salmon Ltd. is proposing to more than triple the amount of farmed Atlantic Salmon in Liverpool Bay, Nova Scotia. Total biomass, if all applications are approved, could reach 10 million kilograms and the proposed sites would comprise a total footprint of 122.1 hectares in Liverpool Bay. Numerous other fisheries, including commercial and Aboriginal fisheries, are known to have occurred in the past - or currently occur - in Liverpool Bay. The Mersey River system, which drains into Liverpool Bay, is a known river of significance to the Mi'kmaq and the proposed aquaculture sites are located approximately 30 km from Ponhook Lake IR 10 (Acadia FN).

Site #1205 is immediately proximal to Coffin Island which is a known nesting ground and migratory resting spot for birds and provides valuable duck habitat. All three sites are also located within the vicinity of known Mi'kmaq archaeological sites in the Liverpool area.

While the number of fish produced on the new proposed sites will increase, the applicant has committed to employing management strategies to reduce the risk of fish escapes including building infrastructure strong enough to withstand weather, currents and ice flow. Cages will be designed to minimize farmed fish and wildlife interactions and will include predator deterrents.

Limited engagement with the Mi'kmaq of Nova Scotian has been undertaken to date.

The Province welcomes receiving additional information from you that may better inform our understanding of your Aboriginal and Treaty Rights.

### Provincial Approval Requirements

It is not anticipated that any additional provincial permits, authorizations, and/or approvals may be required for this project to proceed.

### Consultation with the Mi'kmaq of Nova Scotia

Nova Scotia Department of Fisheries and Aquaculture will lead aboriginal consultation at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved.

Transport Canada has been informed of these applications, as a site-specific authorization under the *Navigation Protection Act* will be required for the placement of works in the water column.

Fisheries and Oceans Canada (DFO) has been informed of this application. Should the application be approved, the movement of any live fish will require a licence from DFO (e.g. Introductions and Transfers Licence) pursuant to the provisions of Section 55 and 56 of the *Fishery (General)*



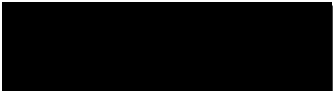
30  
Wegmatcook First Nation  
ATTN: Chief Norman Bernard  
September 25, 2019

Regulations of the federal *Fisheries Act*. Furthermore, Fisheries and Oceans Canada will review the application in accordance with their legislative mandates under the *Fisheries Act and the Species at Risk Act*.

The Nova Scotia Department of Fisheries and Aquaculture will keep both Transport Canada and Fisheries and Oceans Canada apprised of the consultation on this file.

We would like to hear from the Mi'kmaq of Nova Scotia about the details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this particular project. We require a response concerning this project by November 25, 2019.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

C:  
Twila Gaudent, Consultation Liaison Officer  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Tamara Young, Jr. Consultation Researcher  
Kwilmu'kw Ma'klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Tammy Rose-Quinn, Senior Aquaculture Advisor  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada



Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

Our Rights. Our Future.

75 Treaty Trail  
 Truro, NS B6L 1W3

**Tel** (902) 843 3880 **Fax** (902) 843 3882

**Toll Free** 1 888 803 3880

**Email** [info@mikmaqrights.com](mailto:info@mikmaqrights.com)

**www.mikmaqrights.com**

November 22, 2019

Robert Ceschiutti  
 Manager, Licensing and Leasing,  
 Fisheries and Aquaculture  
 1575 Lake Road  
 Shelburne, NS B0T 1W0  
 Via Email: [Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**Re: Aquaculture Licence and Lease Application Nos. AQ#1205, AQ#1432, & AQ#1433  
 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

Mr. Robert Ceschiutti,

I write to acknowledge your letter dated September 25<sup>th</sup>, 2019, requesting consultation under the *Terms of Reference Mi'kmaq-Nova Scotia-Canada Consultation Process* as ratified on August 31, 2010 on the above noted. This will advise that the Mi'kmaq of Nova Scotia wish to proceed with consultation.

Firstly, this must clearly advise that local Mi'kmaq communities have expressed significant concerns and oppose this aquaculture expansion for a variety reasons including but not limited to the following:

Research has demonstrated that aquaculture facility waste and uneaten feed can destroy the bottom of the ocean floor and coastal eco systems with toxic slug by covering up to one meter in depth that will take away optimal fish habitat and impact water quality.

The higher concentration of fish in the pens allow for easier transfer of parasites and sea lice and can harm wild stocks that swim past the site. Release of antibiotics in feed or some chemical baths for sea lice can harm or kill ground fish such as lobster.

When there is an increase in temperature or salinity, less oxygen will be dissolved, and when fish increase in size the amount of oxygen, they consume increases.

As juvenile smolts have to travel out to sea, passing the existing salmon sea cages can have an impact on their health and may result in no return. With the continued decline of wild stocks, the importance of protecting the wild stocks that enter the rivers where community members fish for Food Social and Ceremonial (FSC) purposes is a priority. Sea lice can kill juvenile fish even at low infestations levels.

Escape farmed fish will compete with the wild stocks for food and weaken local gene pools. Cross breeding with escape fish will weaken wild stocks and potentially take out wild stocks, attack native species and transmit disease.

The American eel has great cultural significance to the Mi'kmaq people and as we know, the eels must migrate from freshwater streams/rivers/lakes to the ocean to spawn. As the eels migrate to the ocean and travel past these open water aquaculture facilities they could potentially be in contact with disease and parasites. Similarly this would be the case when the small juvenile eels migrate back from the ocean to the freshwater.

Finally, it is strongly recommended that the above noted lease application(s) not be approved. Clearly further consultation is expected and required. It is requested that all information and correspondence be forwarded to the Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO) to facilitate the flow of the process and communication. I will be the contact person for KMKNO and accordingly I will coordinate further consultation with regards to this project.

Yours in Recognition of Mi'kmaq Rights and Title,

A large black rectangular redaction box covers the signature of Twila Gaudet. A blue ink scribble is visible to the right of the redaction.

Twila Gaudet, BA, LL.B.  
Director of Consultation

cc:

Claire Rillie, Consultation Advisor, Nova Scotia Office of Aboriginal Affairs  
Tammy Rose-Quinn, Senior Aquaculture Advisor, Fisheries and Oceans Canada  
Linda Babineau-LeBlanc, Aboriginal Consultation Officer, Transport Canada

February 6, 2020

Twila Gaudet  
Director of Consultation  
Kwilmu'ku Maw-klusuaqn Negotiation Office (KMKNO)75 Treaty Trail  
Truro, NS B6L 1W3

Dear Ms. Gaudet:

**RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205  
AQ#1432, & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

I am writing in response to your correspondence dated November 22, 2019. We acknowledge your request to proceed with consultation on the above applications. The Nova Scotia Department of Fisheries and Aquaculture (NSDFA) appreciates the time and effort you have invested in responding to these proposed projects.

The purpose of this letter is to continue consultation on three aquaculture applications (AQ1432, AQ1433 and AQ1205) submitted by Kelly Cove Salmon Ltd. with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

Continuing Consultation with the Mi'kmaq of Nova Scotia

As a follow-up to your letter dated November 22, 2019, I have shared the concerns raised by the Mi'kmaq of Nova Scotia with NSDFA staff, including the Managers of Aquaculture Development, Operations, Aquatic Animal Health and the Executive Director.

NSDFA understands that the Mi'kmaq of Nova Scotia have established and asserted Aboriginal and treaty rights to aquatic resources throughout the province. We consider two of the concerns raised in your November 22 letter to potentially threaten established and asserted Mi'kmaq Aboriginal and treaty rights. Your concern regarding the American eel was as follows:

*The American eel has great cultural significance to the Mi'kmaq people and as we know, the eels must migrate from freshwater streams/rivers/lakes to the ocean to spawn. As the eels migrate to the ocean and travel past these open water aquaculture facilities they could potentially be in contact with disease and parasites. Similarly, this would be the case when the small juvenile eels migrate back from the ocean to the freshwater.*

NSDFA would like to provide the following additional information related to this concern:

KMKNO  
ATTN: Twila Gaudet  
February 6, 2020

Eels, like all species of fish, have certain pathogens and parasites that can affect their health. Most pathogens and parasites of one species do not affect another species, however some may. For example, sea lice specific to salmon, known by its scientific name as *Lepeophtheirus salmonis*, do not affect eels.

In general, growing conditions at fish farms are managed to decrease risk of pathogen and parasites and negative impacts to wild fish and vice versa, the impacts of pathogens from wild fish to farmed fish. These conditions are inherently beneficial to the farm and increase fish growth and survival. As well, maintenance of fish health is regulated through several federal and provincial Acts and Regulations including: the Canadian Food Inspection Agency's Health of Animal Act and Regulation, Fisheries and Oceans Fisheries General Regulations and Aquaculture Activities Regulations and the Province's *Fisheries and Coastal Resources Act* and Aquaculture Management Regulations.

Your concern regarding FSC fisheries in the vicinity of the proposed project was as follows:

*As juvenile smolts have to travel out to sea, passing the existing salmon sea cages can have an impact on their health and may result in no return. With the continued decline of wild stocks, the importance of protecting the wild stocks that enter the rivers where community members fish for Food Social and Ceremonial (FSC) purposes is a priority. Sea lice can kill juvenile fish even at low infestations levels.*

NSDFA would like to provide the following additional information related to this concern:

All marine salmon farms must monitor for sea lice levels according to the Farm Management Plan (FMP). Treatments, if they were to occur, would only be done so after consultation with a licensed veterinarian. As noted previously, sea lice have not historically been an issue in this area, and no sea lice treatments have been performed over the past seven (7) years because lice thresholds were not observed.

NSDFA identified some general concerns regarding the aquaculture process in your letter where a connection between the contemplated decision and a potential negative impact to an established or asserted Aboriginal or Treaty right was not clear. NSDFA would like to arrange a meeting with representatives of the KMKNO and concerned Mi'kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia. Please contact me if you wish to pursue this opportunity.

In the meantime, NSDFA will continue to collaborate with the KMKNO on the review of future approvals in an effort to resolve potential issues related to the access and harvesting of resources by the Mi'kmaq of Nova Scotia.

I have attached a response (Supplement #1) in an effort to address the more general concerns of your November 22, 2019 letter. The response was written by the subject matter experts at NSDFA and reviewed by management.

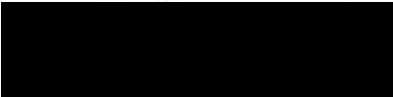
KMKNO  
ATTN: Twila Gaudet  
February 6, 2020

The Nova Scotia Department of Fisheries and Aquaculture will continue to lead Aboriginal consultation on these applications at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved.

As part of the continuing consultation, we would like to hear from the Mi'kmaq of Nova Scotia about any concerns you may have, including the details of any established or asserted Aboriginal or Treaty rights that could be adversely impacted by this project. Because these applications are of high importance to the Mi'kmaq, NSDFA is offering to meet in person for further consultation. Should you wish to accept the offer to meet in person please provide me with your availability. The Department of Fisheries and Oceans Canada and the Department of Transportation Canada will also be offered the opportunity to join in this consultation meeting in person. We require a response concerning this project by March 6, 2020.

Please note that Edward Parker has replaced Tammy Rose-Quinn as the Senior Advisor for Fisheries and Oceans Canada (Maritimes region).

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

C:

Tamara Young, Jr. Consultation Researcher  
Kwilmu'ku Maw-klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of Aboriginal Affairs

Edward Parker, Senior Aquaculture Advisor (Maritimes)  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
Transport Canada

**Supplement #1: Nova Scotia Department of Fisheries and Aquaculture Response to General Concerns Raised by KMKNO dated November 22, 2019**

Below is a table listing the concerns raised by the Kwilmu'kw Ma'klusuaqn Negotiation Office (KMKNO) and the associated response provided by the Nova Scotia Department of Fisheries and Aquaculture (NSDFA)

KMKNO Concern	NSDFA Response
<p><i>Research has demonstrated that aquaculture facility waste and uneaten feed can destroy the bottom of the ocean floor and coastal ecosystems with toxic [sludge] by covering up to one meter in depth that will take away optimal fish habitat and impact water quality.</i></p>	<p>Although some excess food and fish waste from the site will settle on the seafloor, not all will cover the bottom directly under the marine cages as there is natural flushing at the site that will disperse the waste throughout the water column. In addition, fallow periods will ease the effects of excess waste by allowing for gaps in the production periods. As required by the Nova Scotia Department of Fisheries and Aquaculture, the Environmental Monitoring Program (EMP) focuses on the benthic marine habitat in the immediate vicinity of the aquaculture site. This initiative assesses the organic loading beneath and around areas of aquaculture production. Furthermore, under the Federal Aquaculture Activities Regulations (AAR) Program, the operator cannot restock a site until the sediment under the cages is under an acceptable threshold.</p> <p>As part of the application process for new finfish sites proponents are required to develop site-specific depositional simulations using proven modelling methods. These simulations calculate the estimated rate of deposition of biochemical oxygen demanding material such as feed and fish excretions on the seafloor under and around the proposed facility at various stages in the production cycle.</p> <p>These are examples of initiatives that will help mitigate the impact of aquaculture wastes on fish and fish habitat around marine aquaculture sites.</p>
<p><i>The higher concentration of fish in the pens allow for easier transfer of parasites and sea lice and can harm wild stocks that swim past the site. Release of antibiotics in feed or some chemical</i></p>	<p>Salmon lice or <i>Lepeophtheirus salmonis</i>, can be an issue in some salmon growing locations in the world, however, salmon lice have not been an issue in the Liverpool area. Veterinary records are maintained for seven (7) years and during that time of operation of the current Liverpool farm, no sea lice treatments have been performed. All marine finfish farms monitor for salmon lice and must report if thresholds for treatment are met, which to date, they have not met the thresholds for treatment. There are two</p>

KMKNO  
 ATTN: Twila Gaudet  
 February 6, 2020

KMKNO Concern	NSDFA Response
<p><i>baths for sea lice can harm or kill ground fish such as lobster.</i></p>	<p>approved products by Health Canada for sea lice treatments (Hydrogen peroxide and azamethiphos). These products, if used, are unlikely to persist in the environment and, if used as per Health Canada's Pest Management regulatory guidelines, is unlikely to cause significant harm to any non-target populations.</p> <p>The use of antibiotics at marine salmon farms is not a common practice in Nova Scotia. If treatments were to be performed, they would only be done so following the standard of culturing the bacteria of concern first, determining the antibiotic it is sensitive to, and then prescribing an approved antibiotic. Antibiotics can only be prescribed by a licensed veterinarian and must be used in accordance with Government Regulations. In the past seven (7) years of operation of the current salmon farm in Liverpool, no antibiotic treatments have occurred.</p>
<p><i>When there is an increase in temperature or salinity, less oxygen will be dissolved, and when fish increase in size the amount of oxygen, they consume increases.</i></p>	<p>Part of the scoping activity that an Operator must perform is to monitor the biophysical parameters of the marine environment over a period of time prior to developing a farm. During this monitoring period, the values for dissolved oxygen are recorded, and evaluated. Only if the biophysical parameters of the area indicate that it will be a good cultivation area, will the lease area be considered for farming.</p> <p>The proponent follows the guidelines and procedures outlined in the Nova Scotia Department of Fisheries and Aquaculture's EMP Framework and Standard Operating Procedures for each of their marine sites.</p> <p>The proponent also uses environmental probes that are installed on their cages, which sends a constant stream of information to the operators regarding temperature and dissolved oxygen in real time. Feed operators are trained in feeding practices which includes fish behavior observations using underwater camera technology, and other environmental sensors used to monitor water quality conditions (oxygen, temperature). These tools allow the feed operators to manage feeding rates to minimize waste and maximize fish growth.</p> <p>An operator must provide contingency plans in their Farm Management Plan (FMP) in the event that there is an abnormal</p>



~~44~~ KMKNO  
ATTN: Twila Gaudet  
February 6, 2020

<b>KMKNO Concern</b>	<b>NSDFA Response</b>
	event of low dissolved oxygen. To ensure the health and welfare of the animals at the farm, the farmer must employ a strategy to mitigate the issue of a low oxygen event if it were to occur.
<i>Escape farmed fish will compete with the wild stocks for food and weaken local gene pools. Cross breeding with escape fish will weaken wild stocks and potentially take out wild stocks, attack native species and transmit disease.</i>	The proponent has outlined their strategy to mitigate the risk of a site breach and has identified their containment management strategies in the Development Plan. Further requirements to safeguard against escapes must be outlined in the company's Farm Management Plan prior to stocking any new sites.  Regarding disease interactions, please see response above.



Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

75 Treaty Trail  
 Truro, NS B6L 1W3

**Tel** (902) 843 3880 **Fax** (902) 843 3882  
**Toll Free** 1 888 803 3880  
**Email** info@mikmaqrights.com  
**www.mikmaqrights.com**

Our Rights. Our Future.

March 5, 2020

Robert Ceschiutti  
 Manager, Licensing and Leasing,  
 Fisheries and Aquaculture  
 1575 Lake Road  
 Shelburne, NS  
 B0T 1W0

Email: Robert.Ceschiutti@novascotia.ca

**Re: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205, AQ#1432 & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool, Queens County**


Mr. Robert Ceschiutti,

I write to acknowledge your continuing consultation letter dated February 6, 2020, on the above noted lease applications.

This will further advise; we wish to proceed with a consultation meeting at your earliest convenience. Please contact, Mise'I Abram, Consultation Administrative Support to coordinate a mutually suitable meeting date. Mise'I can be reach via email at [mabram@mikmaqrights.com](mailto:mabram@mikmaqrights.com) or via telephone at 902-305-3139.

We trust these applications will not be approved until our concerns are adequately addressed through consultation.

Yours in Recognition of Mi'kmaq Rights and Title.

  
 Twila Gaudet, BA, LL. B., Director of Consultation  
 Kwilmu'kw Maw-Klusuaqn Negotiation Office

cc: Claire Rillie, Consultation Advisor  
 Nova Scotia Office of Aboriginal Affairs

Linda Babineau-LeBlanc, Aboriginal Consultation Officer  
 Transport Canada

Edward Parker, Senior Advisor  
 Department of Fisheries and Oceans

## RECORD OF MEETING

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon**

---

**December 9, 2 – 4 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abram, Patrick Butler, Gerard Francis (KMKNO), Charmaine Stevens (Acadia FN), Curtis Falls (Acadia FN), Gail Tupper (Glooscap FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Robert Ceschiutti, Nathaniel Feindel, Danielle St. Louis, Dr. Roland Cusack, Lynn Winfield, and Melinda Watts

Office of Aboriginal Affairs: Claire Rillie, Kendra Marshman

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Opening Prayer (Optional)
2. Introduction (KMKNO)
  - Roundtable
  - NSDFA provided introductory remarks noting that aquaculture regulations have changed and that a considerable amount of time has passed since significant finfish applications have come through.
  - NSDFA reiterated a desire for the Mi'kmaq to set the pace on this consultation –and expressed a desire to keep lines of communication open so everyone has good understanding of project and impacts.

### 3. Consultation Update (OAA)

- Consultation on these applications was initiated by NSDFA via written correspondence on September 25, 2019.
- KMKNO responded in writing on November 22, 2019 voicing opposition to the expansion plan and noting concerns related to the proposed applications. Concerns included:
  1. potential for damage to the ocean floor and coastal ecosystems due to waste generated by fish farms;
  2. possible ill effects from parasites, use of antibiotics and changes in water temperature and salinity; and
  3. other challenges related to escaped farmed salmon on wild populations of salmon and American eel.
- On February 6, 2020, NSDFA responded to the concerns outlined in KMKNO's November letter, noting measures in place to decrease the risk of pathogens and stating that sea lice have not historically been an issue in the Liverpool Bay area. NSDFA suggested a meeting with KMKNO to enable a discussion that would help the department better understand the connection between the contemplated applications and potential adverse impacts to Aboriginal and/or treaty rights.
- KMKNO responded in March of 2020, providing contact information and agreeing to a meeting.

### 4. Overview of the Aquaculture Application Process (NSDFA)

- NSDFA began their presentation by noting there are two kinds of decisions – adjudicative application review process and administrative decisions (please refer to the presentation materials provided for further detail).
- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. How does NSDFA evaluate how adequately the applicant has engaged the Mi'kmaq of Nova Scotia during the scoping process?
  2. Were FSC fisheries and fishers in the area identified and engaged during the scoping phase? Impacts on FSC fisheries around the expansion area are of concern to the Mi'kmaq on Nova Scotia.
  3. What is the function and composition of the Aquaculture Review Board (ARB)?
- How are pathogens/parasites like sea lice monitored, how often does monitoring occur and what types of treatments would be used if lice were detected on farmed fish? NSDFA responded to questions from the Mi'kmaq as follows:
  1. NSDFA's assessment is limited to what is outlined in the regulations. The regulations require the applicant to hold one public meeting and to advertise that meeting, record that meeting, and submit a scoping report. NSDFA

assesses whether the applicant meets these requirements. Beyond these requirements, the evaluation of the adequacy of proponent engagement efforts is undertaken by the ARB.

2. DFO evaluates the types of fisheries undertaken in the proposed project area, including commercial and Aboriginal fisheries. NSDFA networks with DFO on commercial fisheries but not Aboriginal (FSC and livelihood) fisheries, thus the consultation and engagement processes. NSDFA is also interested in hearing specific concerns about potential adverse impacts on local FSC fisheries from the Mi'kmaq during the consultation process – at this table. NSDFA asks who at Acadia First Nation the department could contact to discuss local FSC activities. Curtis identified himself as being able to meet with the applicant and connect the applicant to other Mi'kmaq fishers in the area.
3. The ARB it is an independent adjudicative board that appointed by the Minister of Fisheries and Aquaculture through the provincial government's Agencies, Boards and Commissions (ABC) process. The Board was a key feature of the new aquaculture regulations. ARB hearing proceedings are similar to those of a Court of law, the Board relies on testimony from folks in room (experts, etc.) to make its decision. The Board is comprised of the following individuals: Jean McKenna, Dr. Richard Patterson, and Michael McKinnon. Further information on ARB members is available here: <https://arb.novascotia.ca/board>.
4. Sea lice are generally monitored monthly, though throughout the year monitoring may be increased to once a week – less frequently when the water is colder. There has been no history of lice or treatment since the farm at this site went in. Having more space can reduce the likelihood of a lice outbreak, so the goal is to provide more room so that fish are not closely packed at the site. Different options for treatment include:
  - cleaner fish in cages – small native species such as gunner or lumpfish are added to the cage to interact with salmon in symbiotic way – they remove lice from surface of salmon,
  - salmon baths with warm waters,
  - gentle pressure washing, and
  - hydrogen peroxide and Salmosan (though these have never been used in NS)
  - The tool used depends on the unique circumstance. Only one single year class of fish is allowed on each site, fallow periods of between 2 and 6 months – with no fish on site – are also employed. KMKNO advised NSDFA that Cooke Aquaculture/Kelly Cove Salmon hadn't yet reached out.
5. Project Description (NSDFA)
  - Please refer to the presentation materials provided.

- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. Why is the projected increase in production not consistent with the increase in lot size?
  2. Does expanding the lot size increase the likelihood that migrating wild fish such as elvers or glass eels would encounter cages (which can be traumatizing and/or lethal for smaller fish or those in earlier phases of their lifecycle)?
  3. Is eel grass present at these sites? If so, could any copper present have an adverse impact the species?
  4. Has the impact of ocean currents on the deposition of waste been considered?
  5. What are the anticipated impacts of these farms on local or transient lobster populations?
  6. Could there be adverse impacts on lobster populations from the potential use of therapeutants on farmed salmon?
  7. Sea lice may not be an issue now, but may be in the future if sites continue to expand. Can NSDFA assure the Mi'kmaq of Nova Scotia that chemicals such as hydrogen peroxide will not be used to treat potential future sea lice outbreaks?
  8. What causes farmed salmon to escape, how can proponents protect against escape? Could the presence of ice increase the likelihood of escape?
  9. Is Infectious Salmon Anemia (ISA) a factor and could it be transmitted to live fish?
- NSDFA responded to questions from the Mi'kmaq as follows:
  1. Scrutiny applied to gear on site has increased with the new regulations – gear must now fall completely within site boundaries. Additionally, more space means less crowding.
  2. NSDFA shares concern related to impact of increased sizes of leases on the likelihood of migrating wild fish encountering cages. Limited literature on the subject is available, specifically as it applies to glass eels. It is thought that wild fish would avoid the obstacle presented by cages but if they did go inside it would likely lead to trauma or consumption. Aquaculture has been undertaken in NS since the late 70s-early 80s and the potential impacts are well understood. Regulations have been developed to mitigate potential impacts on wild species – NSDFA is not aware of any evidence that the eel population has declined because of salmon farming and the issue has not been flagged by DFO.
  3. Eel grass is not thought to be present at the proposed sites – the species has not been flagged by DFO, the Canadian Wildlife Service or the provincial Department of Lands and Forestry. Further, copper is no longer used in aquaculture industry – nets are now pressure cleaned by underwater ROVs.

Baseline monitoring for the proposed sites is now complete – extensive fish and fish habitat surveys have been completed. No eel grass, critical habitat or species at risk were noted.

4. Ocean currents were measured in all three proposed aquaculture sites and modelling was undertaken to determine where potential waste would be deposited. According to the models, most of deposition happened immediately beneath cages – this is generally what we have seen through environmental monitoring program as well. NSDFA to provide more information.
5. Interactions between salmon farms and lobster are currently being studied by the department (please refer to presentation materials for additional details). Lobster were found to be present in the vicinity of sites – and moving through them - in August, during the molting season. Lobsters and crabs were both tagged. FSC fishers in the area were present during tagging – NSDFA communicated with fishers, advising them to look out for tags and to return any tagged animals to the water. The study will continue into net season.
6. NSDFA is also concerned with any potential future use of therapeutants on the ecosystem. Therapeutants are highly regulated and studied by a number of government regulators including Health Canada, Environment and Climate Change Canada, and DFO. Human health implications are also well documented and have been studied extensively. Therapeutants would be used as a last resort with less invasive and damaging treatments preferred. Every step taken would be subject to robust regulation and any approvals granted would be subject to rigorous tests by regulators.
7. The aquaculture industry is very well regulated and is presenting more biological treatment methods as the public becomes more chemical adverse. Accumulative effects are factored into decision making.
8. The risk of farmed salmon escaping fish farms is mitigated in several ways:
  - All sites require the approval of a professional engineer and are required to withstand a 50 to 100-year storm.
  - NSDFA uses a fish tracing program (based on a model used in Maine).
  - The department can also access each site and audit how and why fish escaped and identify any risks for breach.
  - All fish farmers are required to have a marking/traceability plan – physically or genetically – if fish are not marked, operators can be prosecuted.

Ice is certainly a factor and has been considered for the current applications in Liverpool Bay.

9. Eggs for these salmon aquaculture sites come as small fry from a main hatchery in NB. They are screened in NB and cleared of reportable disease (e.g. ISA) before being transferred to NS. The federal government is responsible for overseeing the transfer process. Once small fry are brought to the local sites they are subject to a surveillance program administered by

veterinarians. The provincial veterinary team visits sites 4 times a year to complete screening activities. Cooke Aquaculture veterinarians do their own monitoring as well. Mitigation measures including a fallow period, surveillance, and other monitoring activities are also undertaken. NSDFA veterinarian to provide additional information.

6. Status of the Application Review

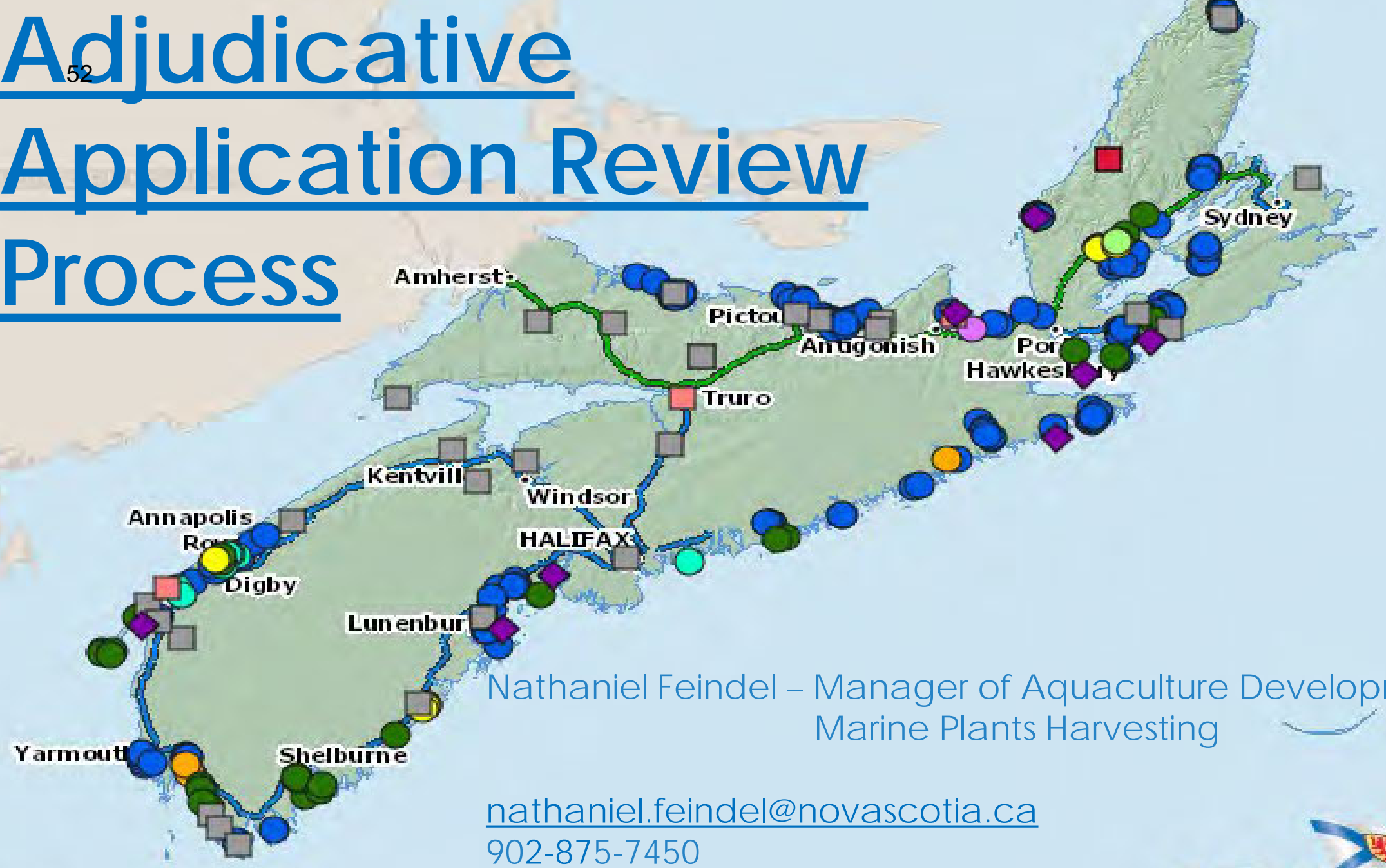
- To be addressed at future meeting.

7. Action Items/next steps

- a. Next meeting to be scheduled early in 2021.
- b. NSDFA to share video of existing site and environmental monitoring activities at next meeting.
- c. NSDFA to share additional information on current modelling at next meeting.
- d. NSDFA to share additional information on disease prevention and mitigation measures at next meeting.
- e. Acadia First Nation to discuss potential proponent engagement with community members, Band Council and KMKNO before advancing conversations with proponent directly.
- f. NSDFA to provide KMKNO and Acadia First Nation with a map including the depth and currents around the proposed aquaculture sites.
- g. Acadia First Nation to provide NSDFA with community contact to discuss local FSC activities.



# 52 Adjudicative Application Review Process

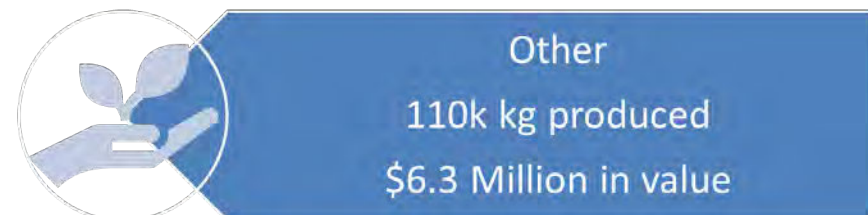
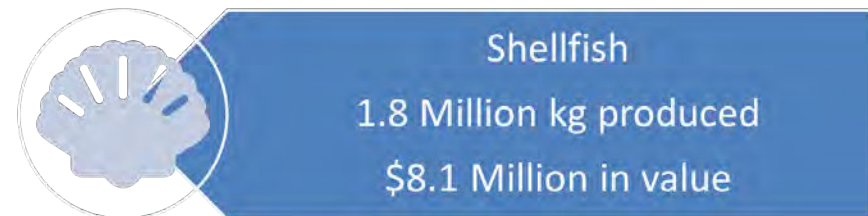


Nathaniel Feindel – Manager of Aquaculture Development and Marine Plants Harvesting

[nathaniel.feindel@novascotia.ca](mailto:nathaniel.feindel@novascotia.ca)  
902-875-7450



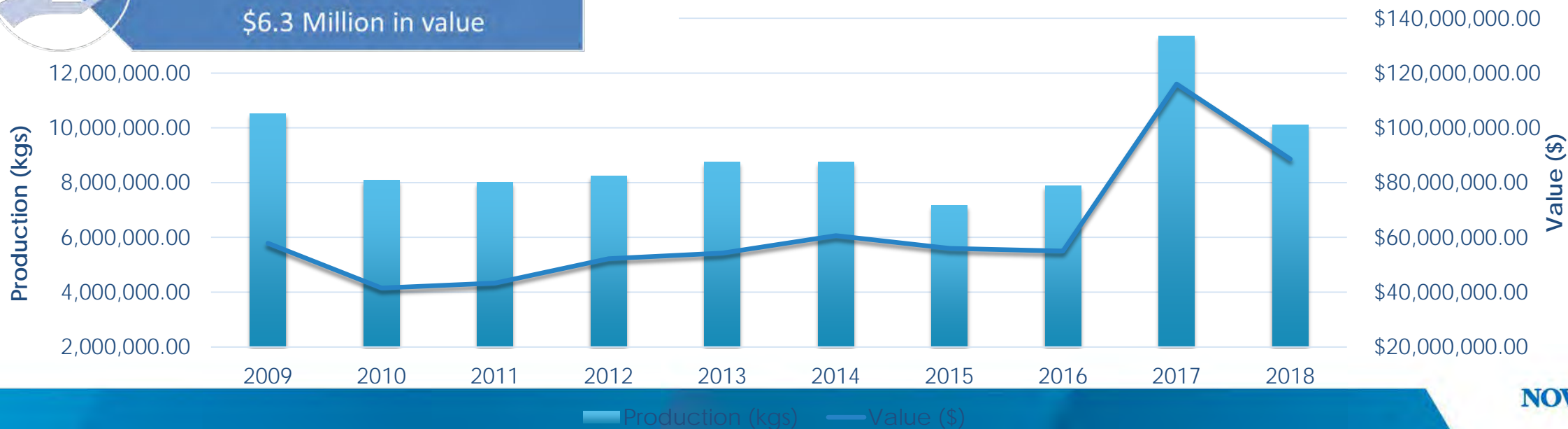
## 2018 Aquaculture Production



## Production History

### Maximize Production from Existing Sites

	Issued	Active
Finfish	35	11
Shellfish	166	101
Land-based	28	19
<b>Total</b>	<b>229</b>	<b>131</b>



# Types of Aquaculture Decisions

## Administrative Decisions

- ▶ Renewals
- ▶ Land-based
- ▶ Assignments
- ▶ Amendments (gear, species)
- ▶ Boundary (no size increase)
- ▶ Marine Experimental
- ▶ Land-based Experimental
- ▶ Amalgamation, Institutional, Reallocation

## Adjudicative Decisions\*

- ▶ New marine sites
- ▶ Amendment to add finfish species to sites not currently approved to produce finfish
- ▶ Boundary amendment to expand existing sites

## Fisheries and Coastal Resources Act

### Aquaculture Management Regulations

### Aquaculture Licence and Lease Regulations

#### Aquaculture Licence and Lease Regulations, Section 3

- a) The optimum use of marine resources;
- b) The contribution of the proposed operation to community and Provincial economic development;
- c) Fishery activities in the public waters surrounding the proposed aquacultural operation;
- d) The oceanographic and biophysical characteristics of the public waters surrounding the proposed aquacultural operation;
- e) The other users of the public waters surrounding the proposed aquacultural operation;
- f) The public right of navigation;
- g) The sustainability of wild salmon and;
- h) The number and productivity of other aquaculture sites in the public waters surrounding the proposed aquacultural operation

56  
Request to  
Department

Proponent  
Scoping  
Phase

Application  
Submission

Application  
Review

NSARB  
Public  
Hearing

NSARB  
Decision



PRE-OPTION  
MEETING



REQUEST REVIEW



PRELIMINARY  
REVIEW



PRE-NETWORK  
REVIEW



FIRST NATION  
CONSULTATION



SCOPING REVIEW



VERIFICATION &  
EVALUATION



VALIDATION OF  
NETWORK  
COMMENTS



NSARB  
PREPARATION

# Adjudicative Application Review

Request to  
Department

Proponent  
Scoping  
Phase

Application  
Submission

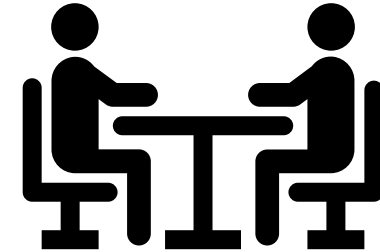
Application  
Review

NSARB  
Public  
Hearing

NSARB  
Decision

## Pre-Option Meeting

- ▶ First engagement with DFA on a potential aquaculture license and lease
- ▶ Serves as a formal introduction for the proponent to the Department for all parties wishing to learn about:
  - ▶ the application process
  - ▶ Indicate their interest in an aquaculture site



58  
Request to  
Department

Proponent  
Scoping  
Phase

Application  
Submission

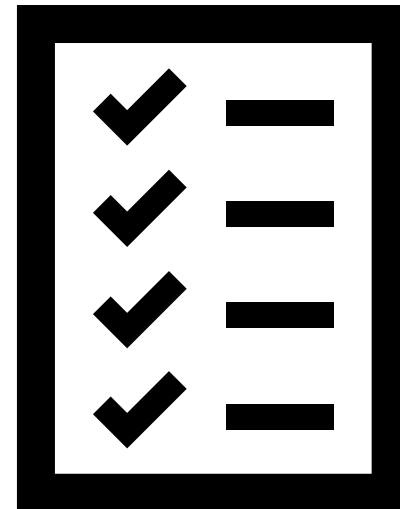
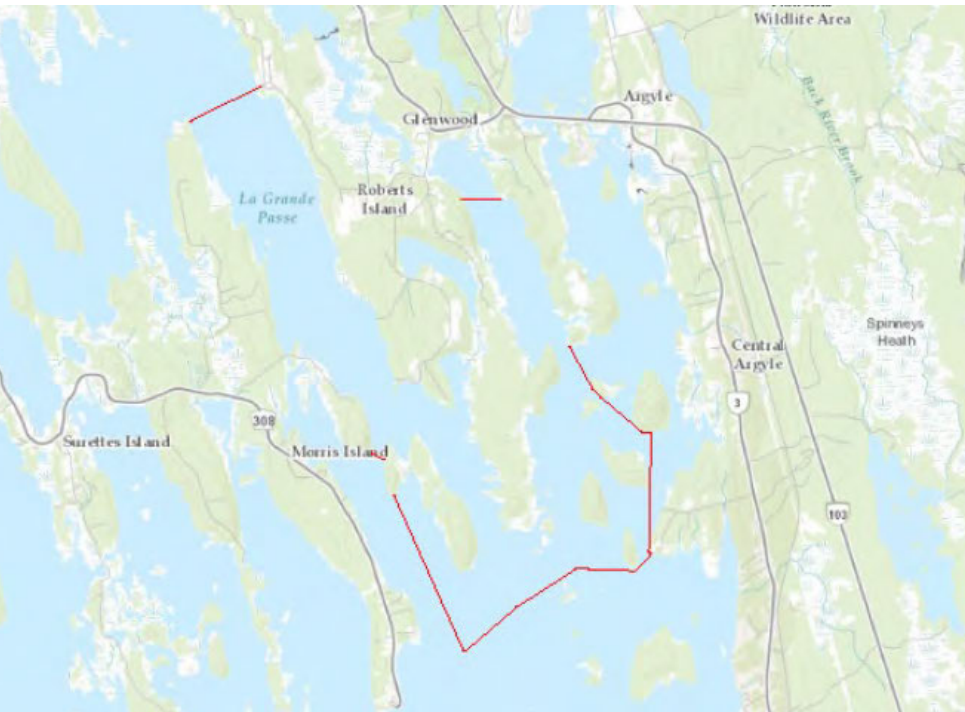
Application  
Review

NSARB  
Public  
Hearing

NSARB  
Decision

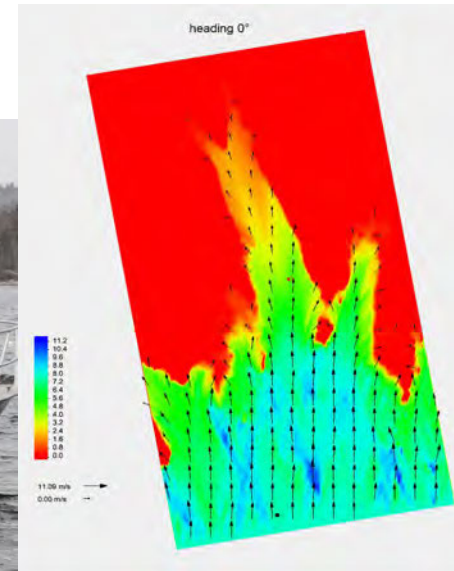
## Request Review

- ▶ Proponent submits *“Option to Lease”* or *“Request to Pursue an Adjudicative Amendment”*
- ▶ Reviewed by DFA staff in Development, Aquatic Animal Health, Operations
- ▶ Forwarded for decision to Minister



# Scoping Phase

- ▶ Scoping is a process to determine the suitability of an area for aquaculture, to engage local stakeholders and identify potential concerns.
- ▶ It is a tool through which the effects of a proposed undertaking are predicted and evaluated.
- ▶ 6 months (possible 6 month extension)
- ▶ Results in application
  - ▶ Generic template
  - ▶ Development Plan
  - ▶ Scoping Report





Request to Department

Proponent Scoping Phase

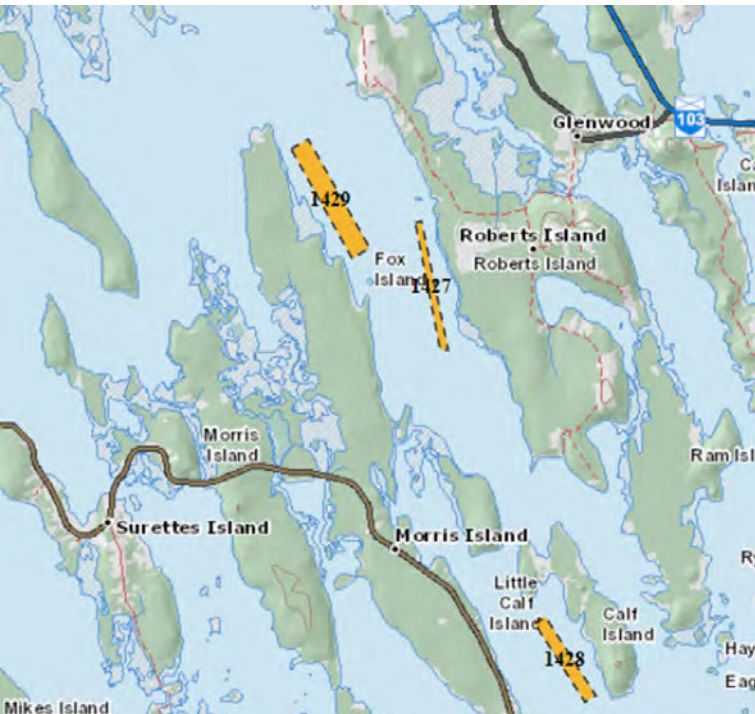
Application Submission

Application Review

NSARB Public Hearing

NSARB Decision

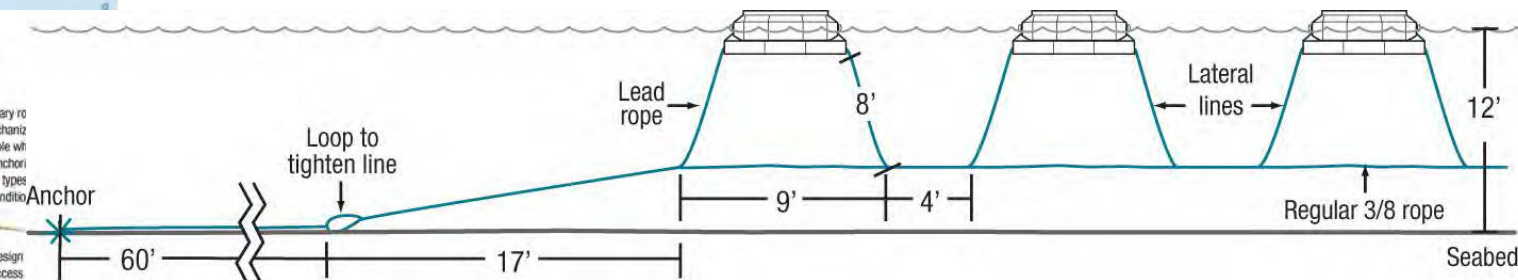
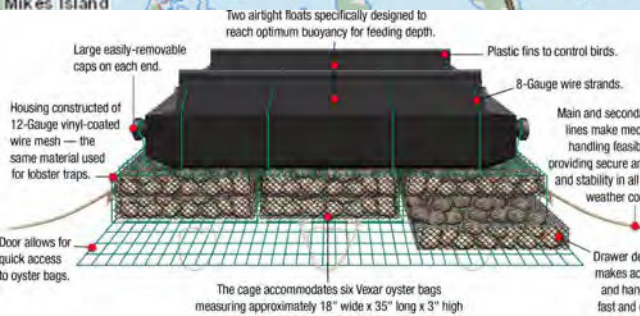
# Preliminary Review



- ▶ Application submitted to DFA
  - ▶ Generic template
  - ▶ Development Plan
  - ▶ Scoping Report



- ▶ Initial check for completeness
- ▶ Ensures documents and fees that are required to accompany an application have been submitted





## Pre-Network Review

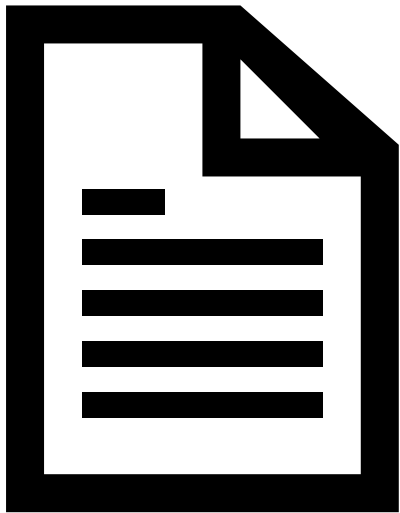


- ▶ Aquaculture Advisor-led
- ▶ Reviewed by GIS Analyst, Lis. Coord., EMP
- ▶ Identification of any missing or inadequately presented information prior to sending application to Network Reviewers.

This is meant to be a high-level review to expedite the review process by determining if the application contains, *at a minimum*, the information required by all parties to start a fulsome review of the application.



## Scoping Review



- ▶ Advisor-led
- ▶ Document should include outcomes of public engagement.

The intent of this stage is ensure the applicant has submitted the information requested in the Scoping Guide. It is not meant to be a detailed assessment of the adequacy of the scoping carried out by the applicant.



## Verification and Evaluation

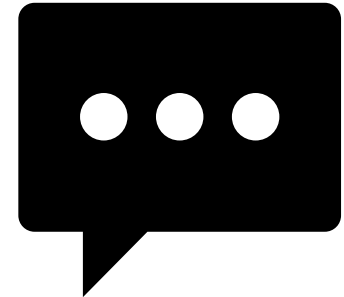
- ▶ Advisor-led, reviewed by Development, AAH, Operations
- ▶ Some sections of the review template requires verification by staff from other DFA divisions
- ▶ Specific questions with evaluation criteria to guide reviewer comments





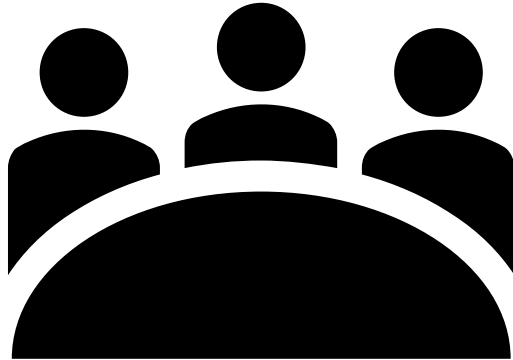
## Validation of Network Comments

- ▶ Network comments review by DFA: Advisor-led
- ▶ Requires input from multiple DFA Divisions
- ▶ May require additional information from Network Reviewer or applicant
- ▶ Final stage in DFA Review portion of Adjudicative Application Review Process





# NSARB Preparation



## ▶ Required NSARB Documents

- ▶ Application, Development Plan, Scoping Report
  - ▶ Report of the outcomes of consultation\*
  - ▶ Report on the outcomes of a performance review (Adj. Amend. only)
- 
- ▶ 'DFA Assessment of Aquaculture Application #XXXX'
    - ▶ Suggest T&C for NSARB consideration

# 66 Network - Department/Agency

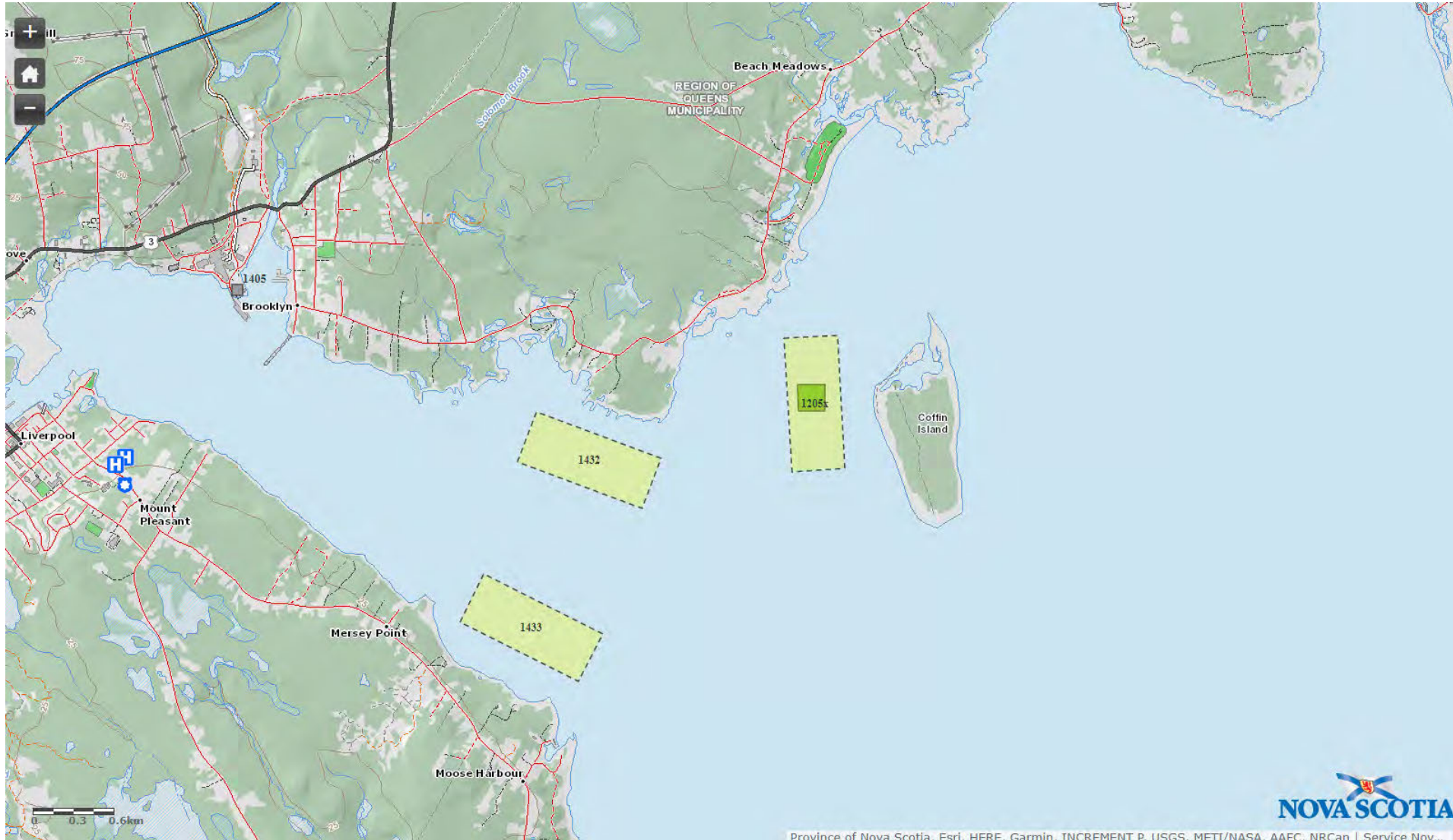
15

- ▶ NS Lands and Forestry - Wildlife; Crown Land; Parks
- ▶ NS Agriculture - Agricultural activities
- ▶ NS Environment - Protected Lands; Compliance and Enforcement
- ▶ Transportation and Infrastructure Renewal - Roads and Bridges
- ▶ Fisheries and Aquaculture (Inland Fisheries Division) - Recreational Fisheries
- ▶ NS Communities, Culture and Heritage - Archeological Interests
- ▶ Municipal Affairs (Notified) - Municipal Interests
- ▶ NS Office of Aboriginal Affairs - Consultation Screening
- ▶ Fisheries and Oceans (DFO) - Impacts on wild fisheries, habitat, species at risk; Shellfish classifications
- ▶ Transport Canada (TC) - Navigation
- ▶ Canadian Food Inspection Agency (CFIA) - Food Safety; Disease Management; Shellfish classifications
- ▶ Environment and Climate Change Canada (ECCC) - Water Quality Monitoring; Shellfish classifications; Migratory Wildlife
- ▶ NS Energy And Mines – Energy and mineral resources

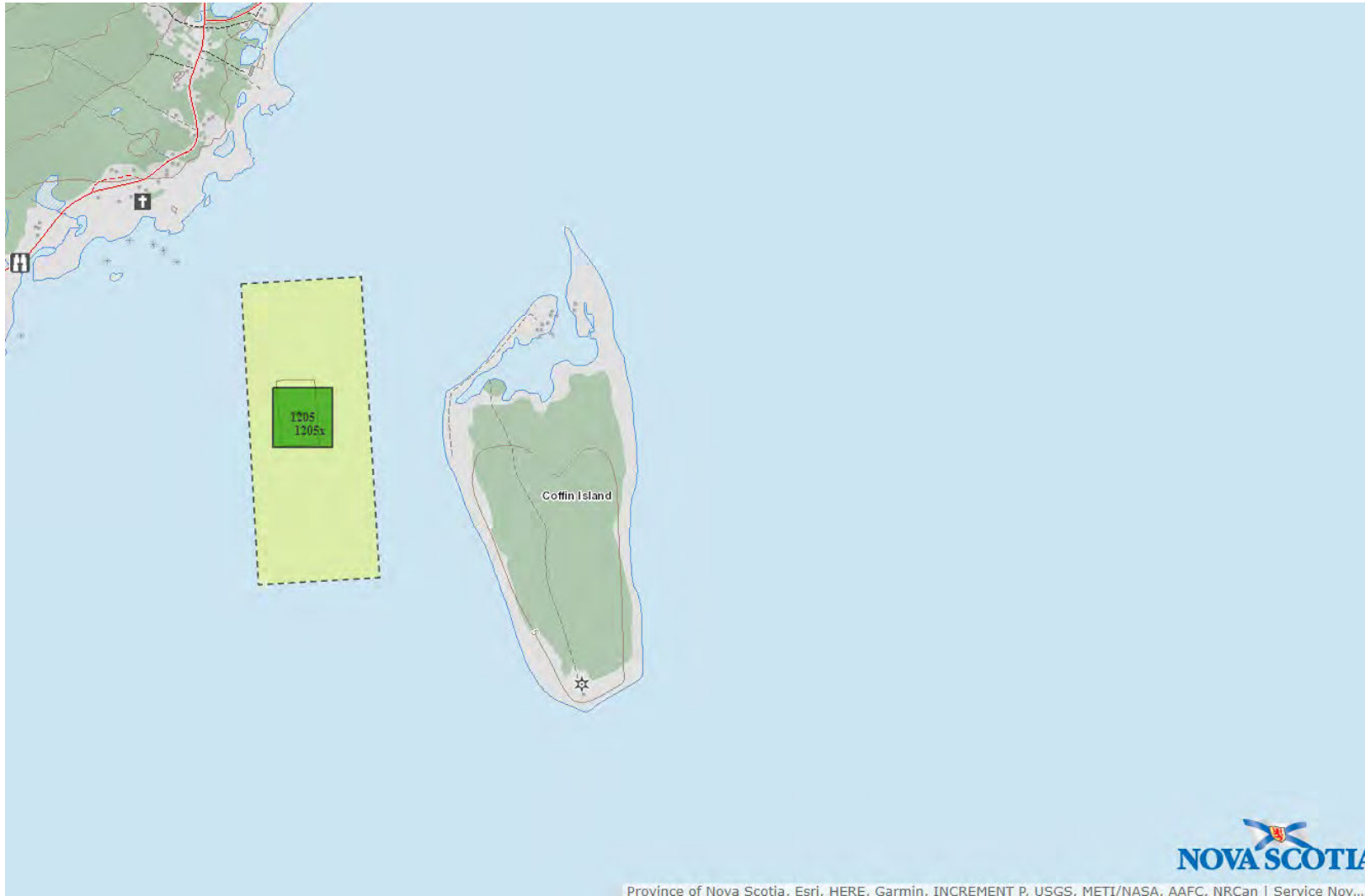
# Questions?



# 68 Marine Finfish Aquaculture in Liverpool Bay



# AQ#1205 Liverpool Boundary Amendment



# AQ#1205 Liverpool

## Site History

- AQ#1205 (originally AQ#8349) was first issued to Sun Salmon Ltd. in 2000
- Assigned to Ocean Trout Farms Inc. in 2004
- Assigned to Kelly Cove Salmon Ltd. (KCS) in 2012 and renewed in 2015 for a five-year term
- Renewed in April 2020 (10-year licence; 20-year lease)
- Boundary amendment application submitted to NSDFA in March 2019
- Site is licensed for Atlantic salmon and rainbow trout

# AQ#1205 Liverpool

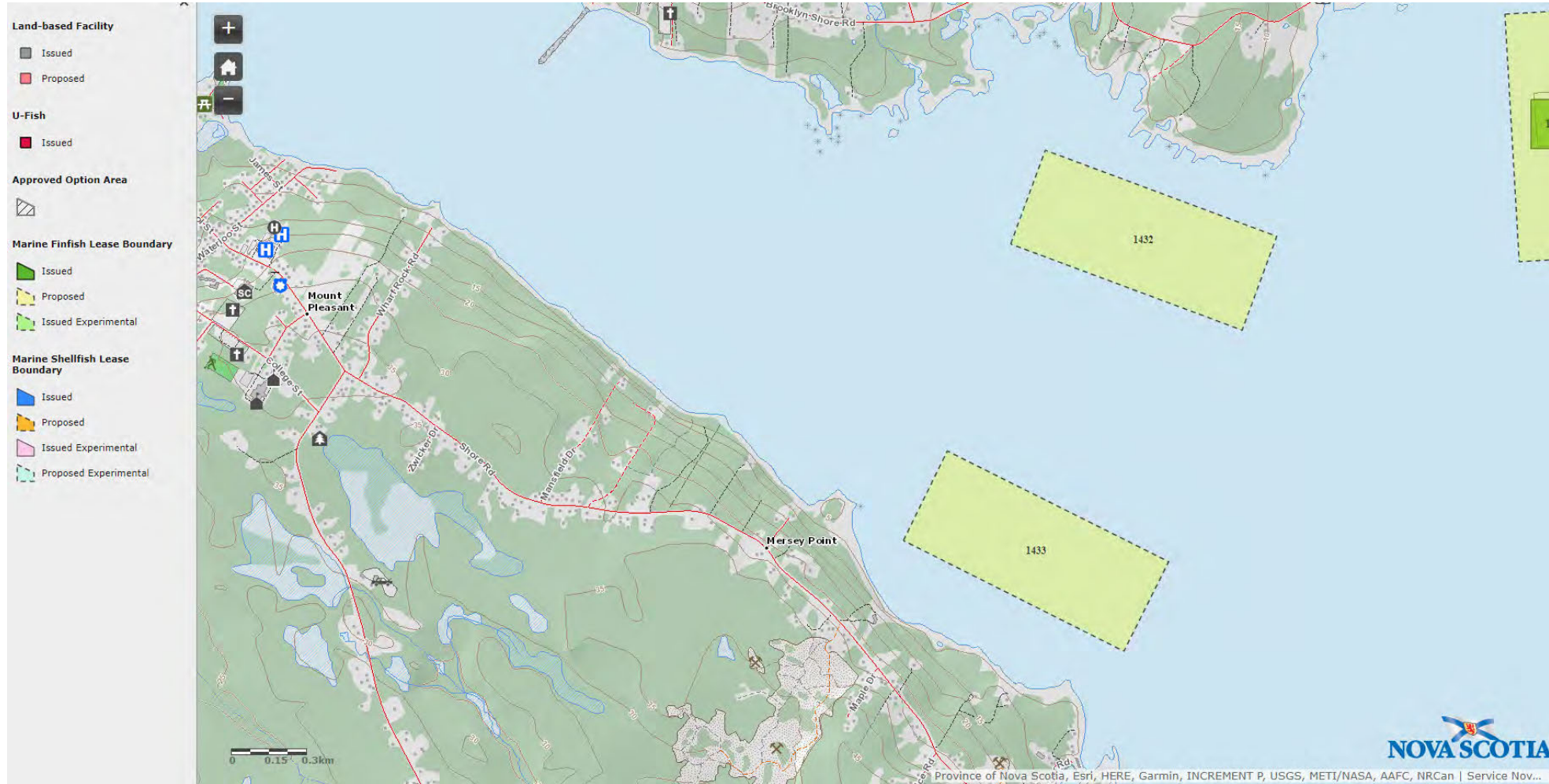
## Site Overview

- Over 1.4 million kg of Atlantic salmon sales reported to NSDFA in 2019
- KCS currently has 8 staff employed full-time and 4 employed part-time in the Liverpool area
- Suppliers used by KCS in Nova Scotia include:
  - Mechanics & boat repair facilities
  - Hardware providers, welders, heavy equipment operators, crane operators
  - Marine supplies & fuel distribution companies
  - Environmental consultants
  - Electricians, boat brokers, boat builders, engine suppliers
  - Hotels, restaurants, and ferries
- Site has been operating in the same waters as commercial lobster fisherman (allowing traps to be set within the lease boundaries), herring and mackerel fisheries along with rockweed licence holders without any known adverse impacts
  - No concerns noted during public comment period for 2020 renewal

# AQ#1205 Liverpool Boundary Amendment

Current Site	Proposed Site
14 x 100 m circular plastic cages (200 ft grid cells)	20 x 100 m circular plastic cages (200 ft grid cells)
2 x 7 configuration	2 x 10 configuration
Total area - 3.99 hectares	Total area - 40.70 hectares
2,420,000 kg maximum site biomass	3,630,000 kg maximum site biomass

# Proposed New Marine Sites AQ#1432 (Brooklyn) and AQ#1433 (Mersey Point)



# Proposed New Marine Sites

## AQ#1432 (Brooklyn) and AQ#1433 (Mersey Point)

### Overview of Proposed Sites

- Application for new sites submitted to NSDFA in March 2019
- Incorporate all aquaculture related gear, above and below the water line
- Installation of specific buoy markers to outline the lease area will be completed as per Transport Canada's approval
- Each site - 40.703 hectares
- 20 cages, 200 ft grid cells in a 2 x 10 cage configuration
- Maximum site biomass - 3,630,000 kg
- Total number of Atlantic salmon introduced at each site - 660,000

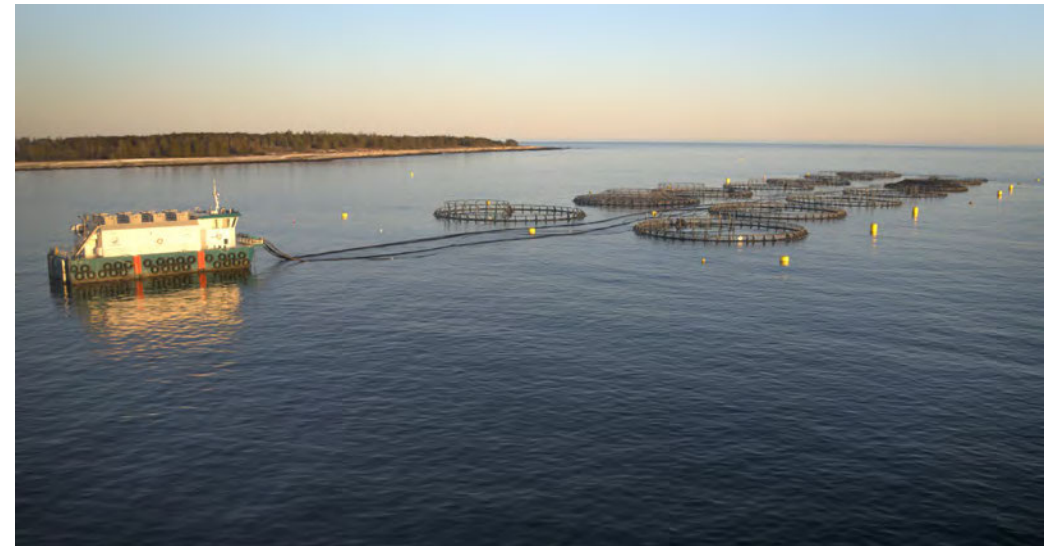
# Liverpool Bay Project

- Addition of 20 new direct jobs
- Oceanographic conditions have been modelled and new infrastructure will be engineered to meet containment management standards for design and installation
- Benthic and water quality monitoring programs are in place which will be applied to the new sites
- Applicant operates with a Wildlife Interaction Plan that outlines all control measures and special requirements as they relate to wildlife encounters
- KCS participates in various salmon restoration projects throughout Atlantic Canada
- Proposed sites will be maintained in good working order in accordance with site-specific Farm Management Plans, as approved by NSDFA



# Liverpool Bay Applications

- Public consultation (open house in Liverpool) complete
- Environmental Baseline monitoring complete
- Lobster Telemetry Project ongoing
- NSDFA internal review ongoing
- Network review ongoing

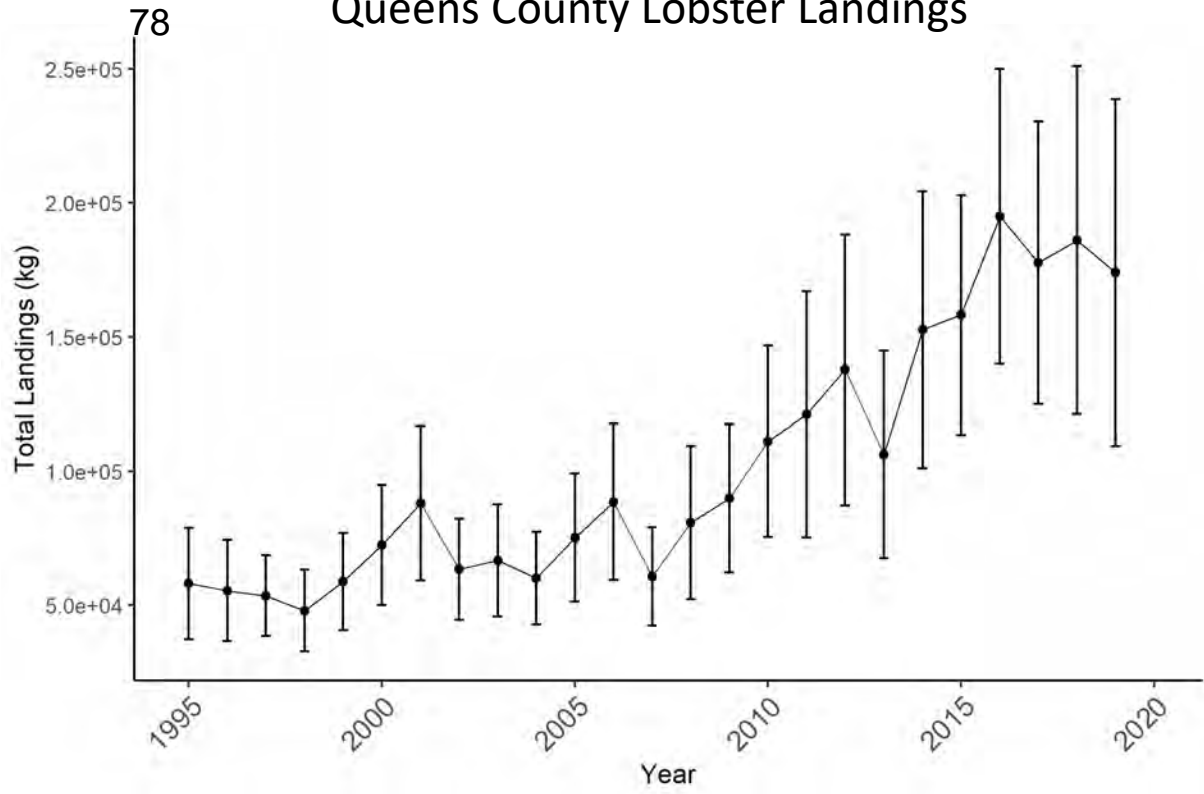




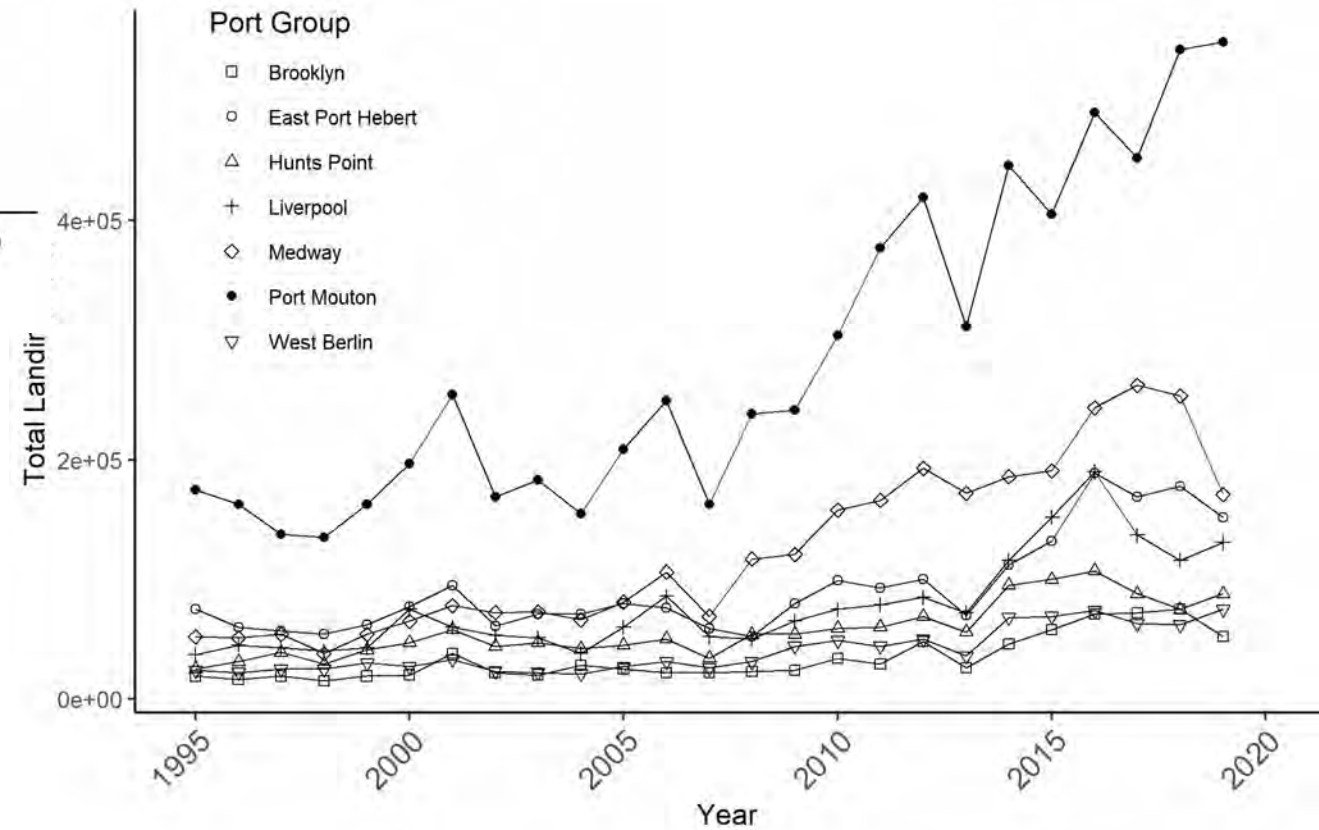
# Farmed and Wild Interactions with Lobsters

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# Queens County Lobster Landings



# Queens County by Community Group

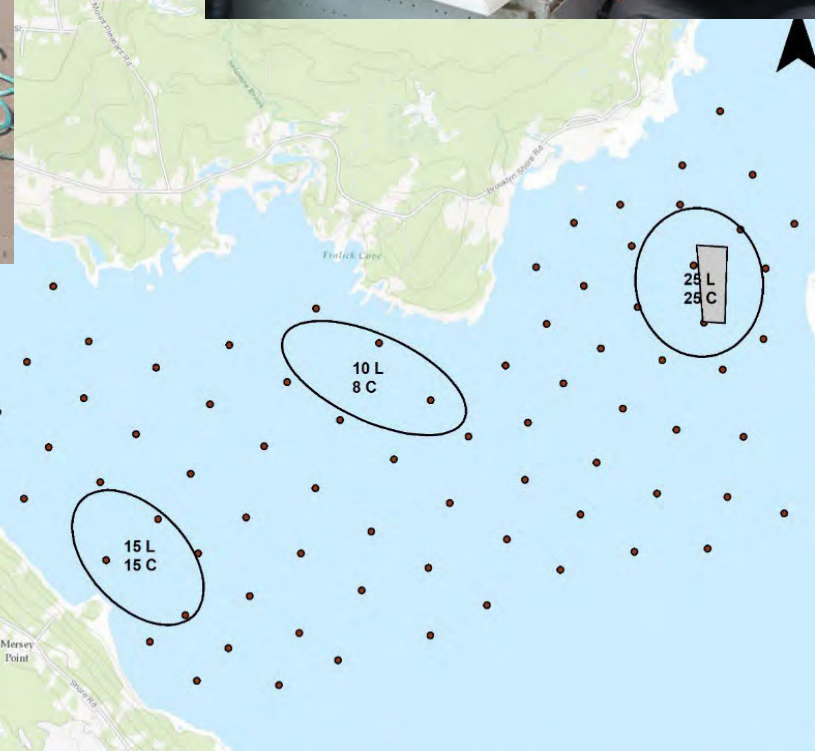
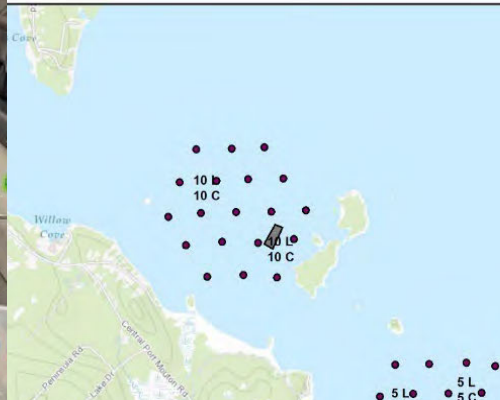


# Lobster Telemetry Study

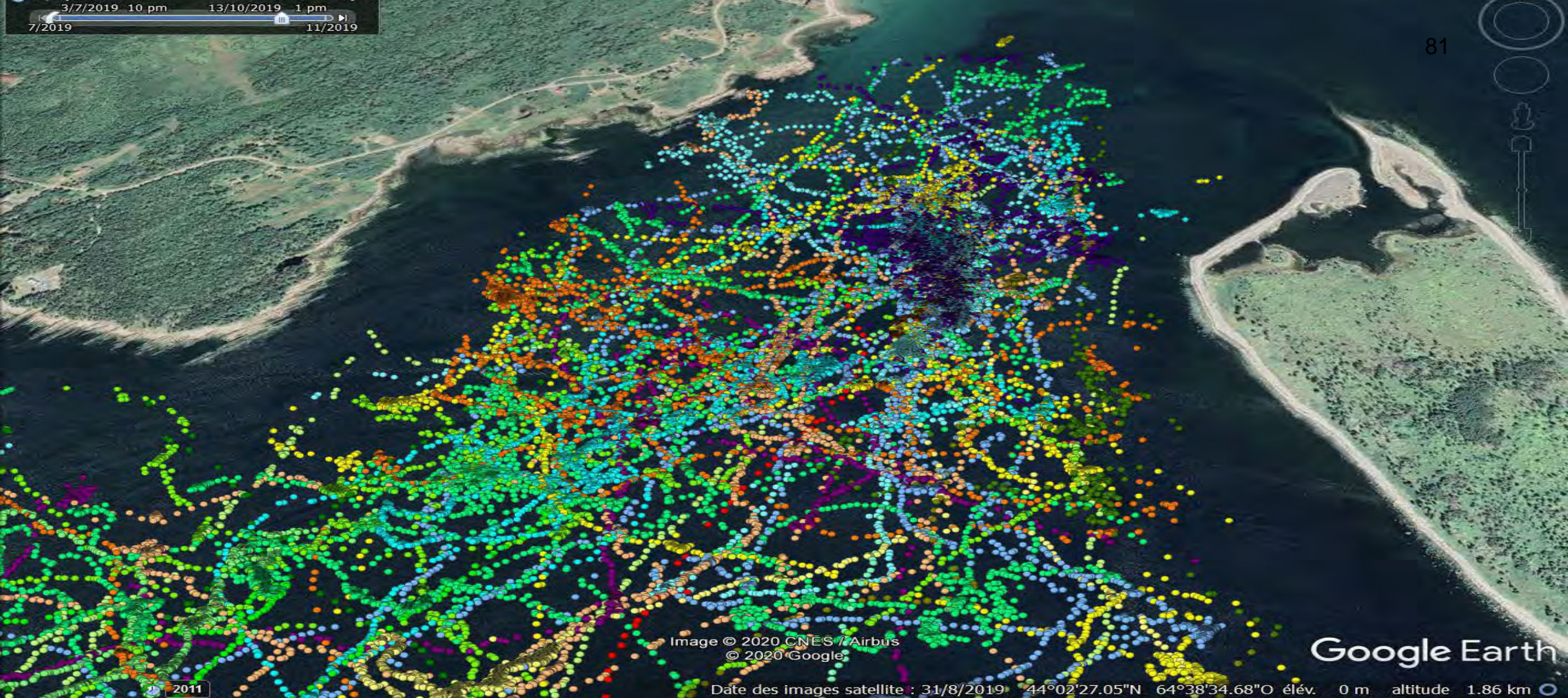


Fisheries and Oceans  
Canada

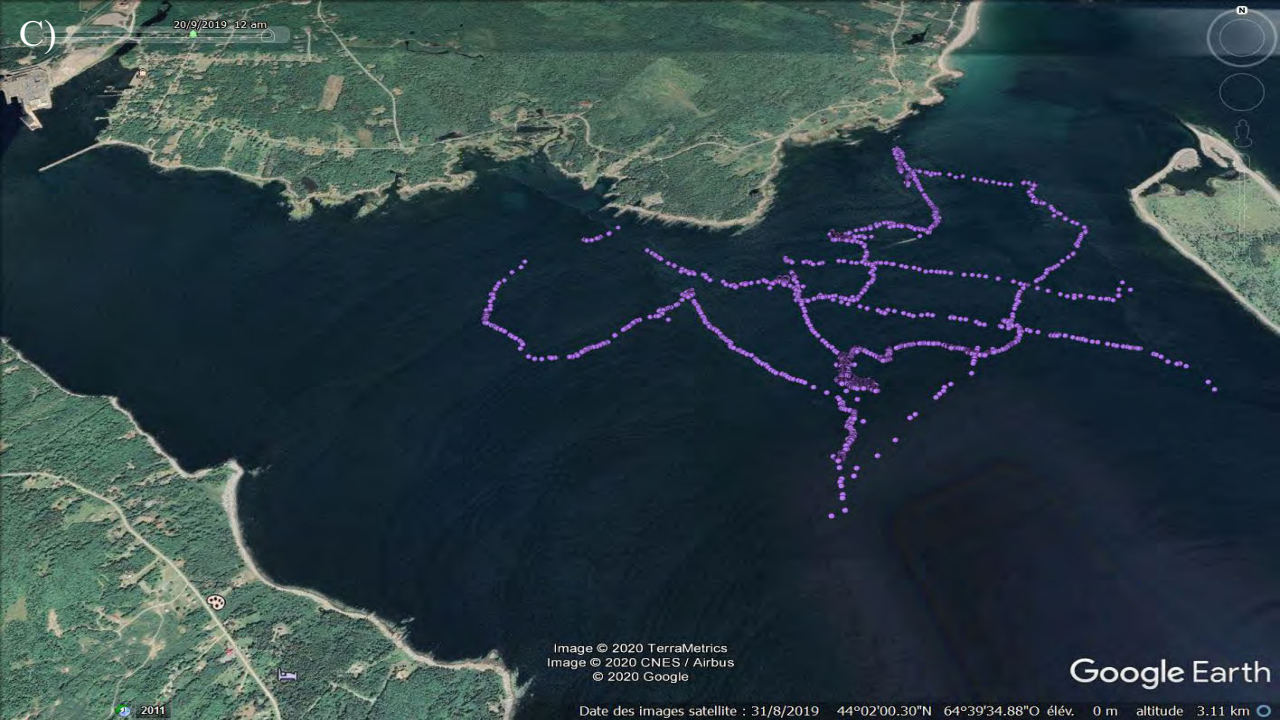
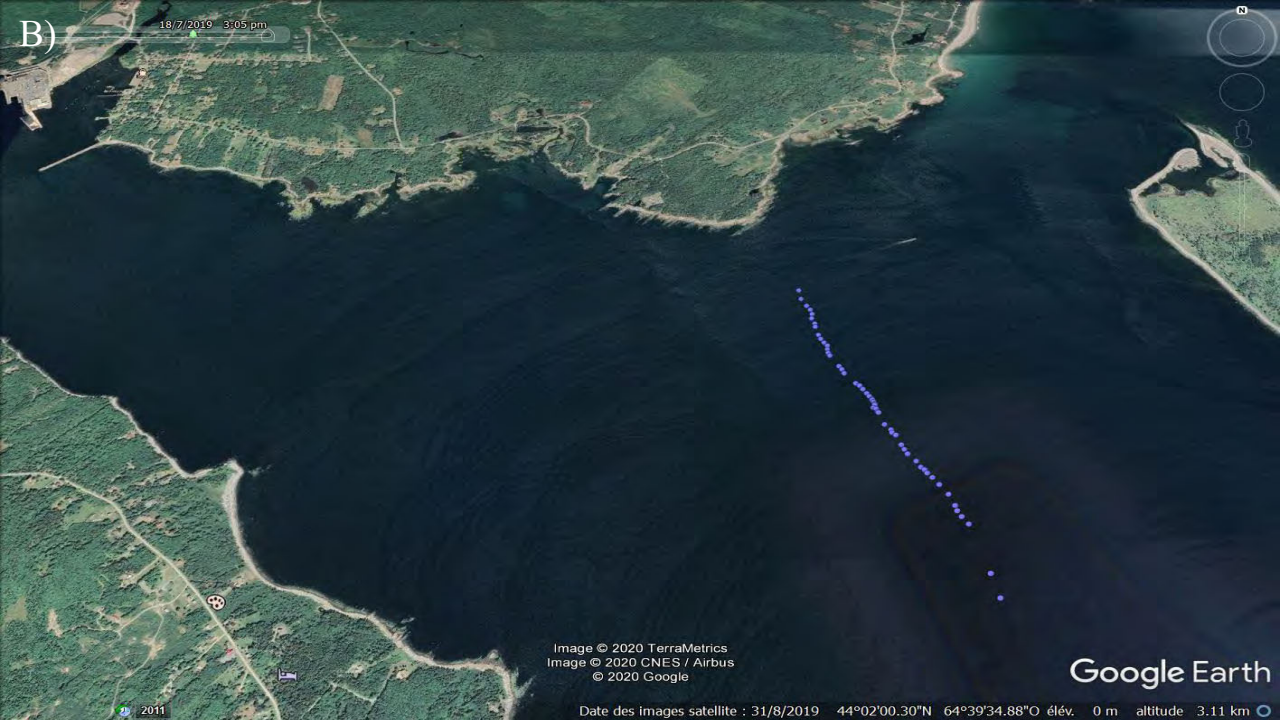
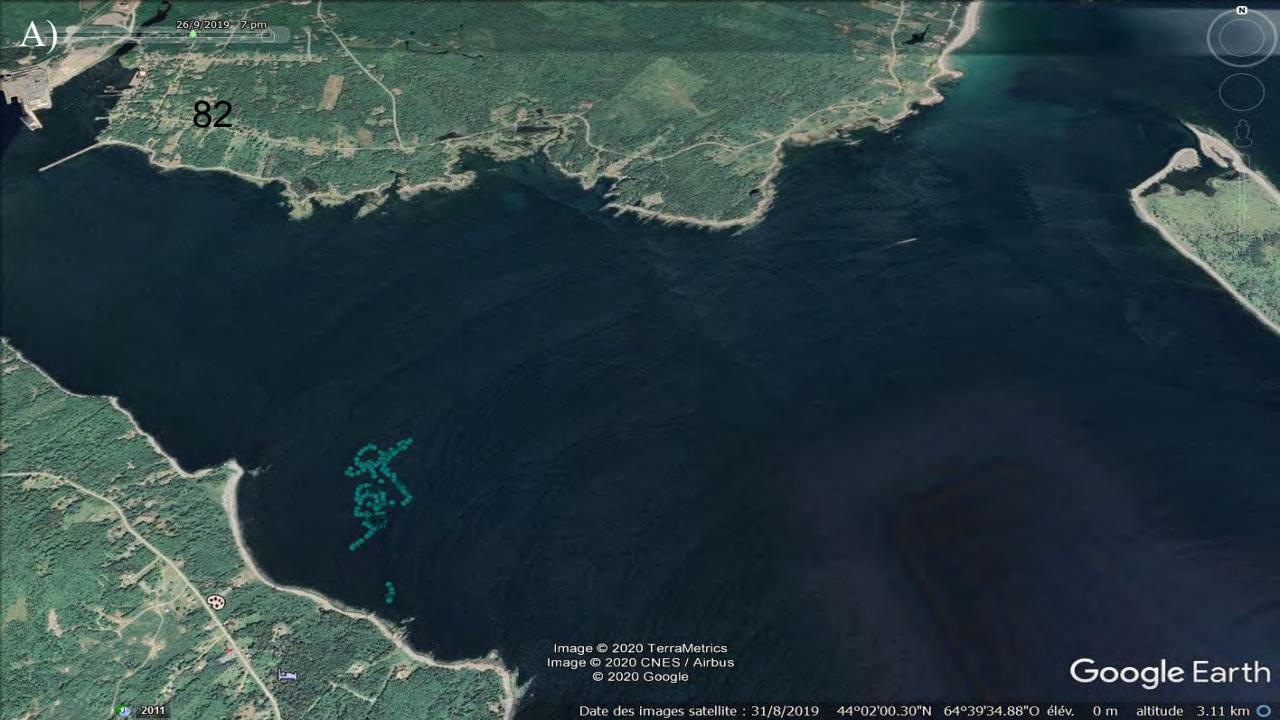
- Characterize interactions between aquaculture and fisheries through lobster and crab movements around finfish
- Document the microbial populations that colonize the guts of lobsters and crabs (the microbiome) and examine for any changes due to proximity to the salmon farms.



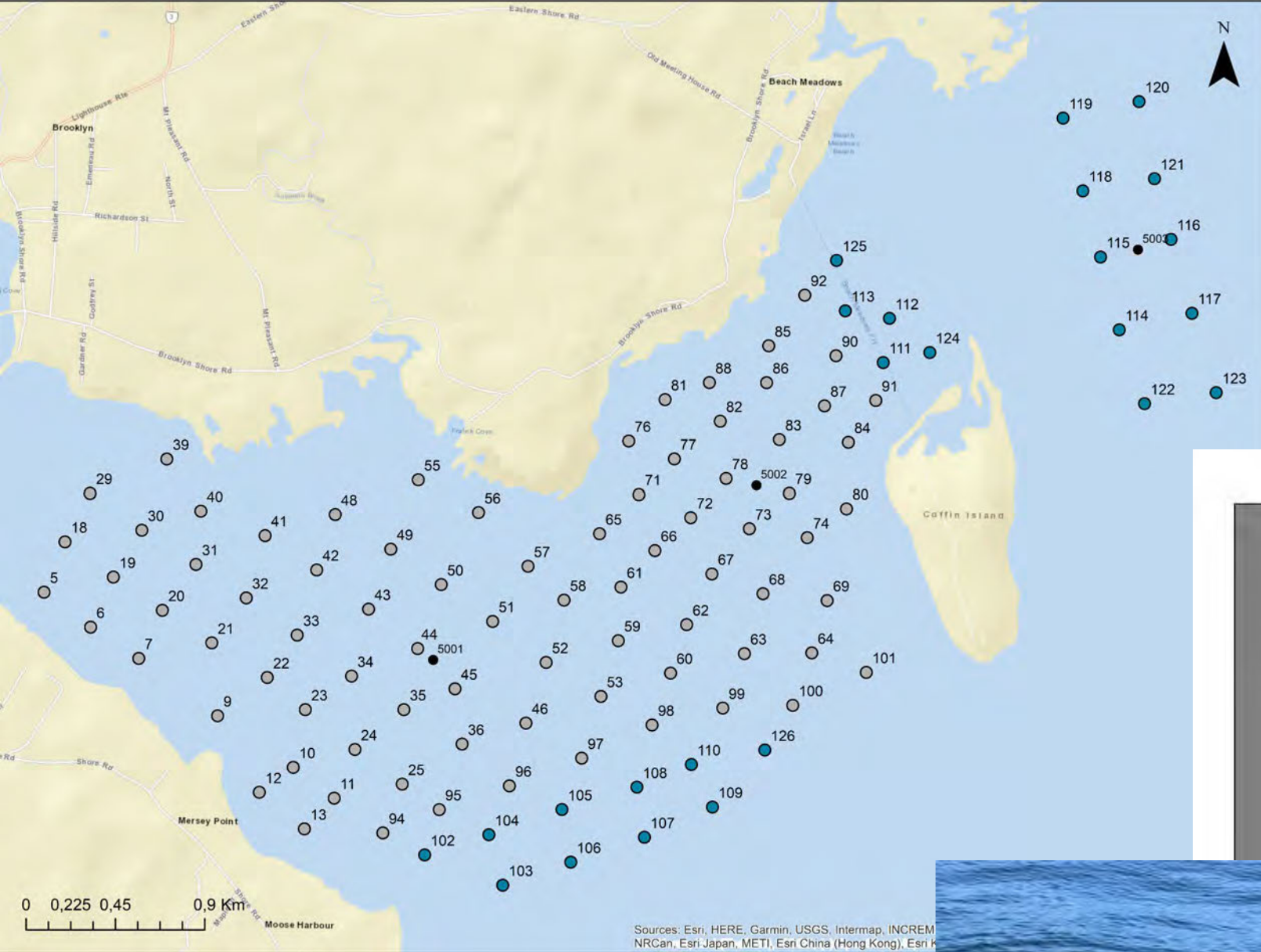




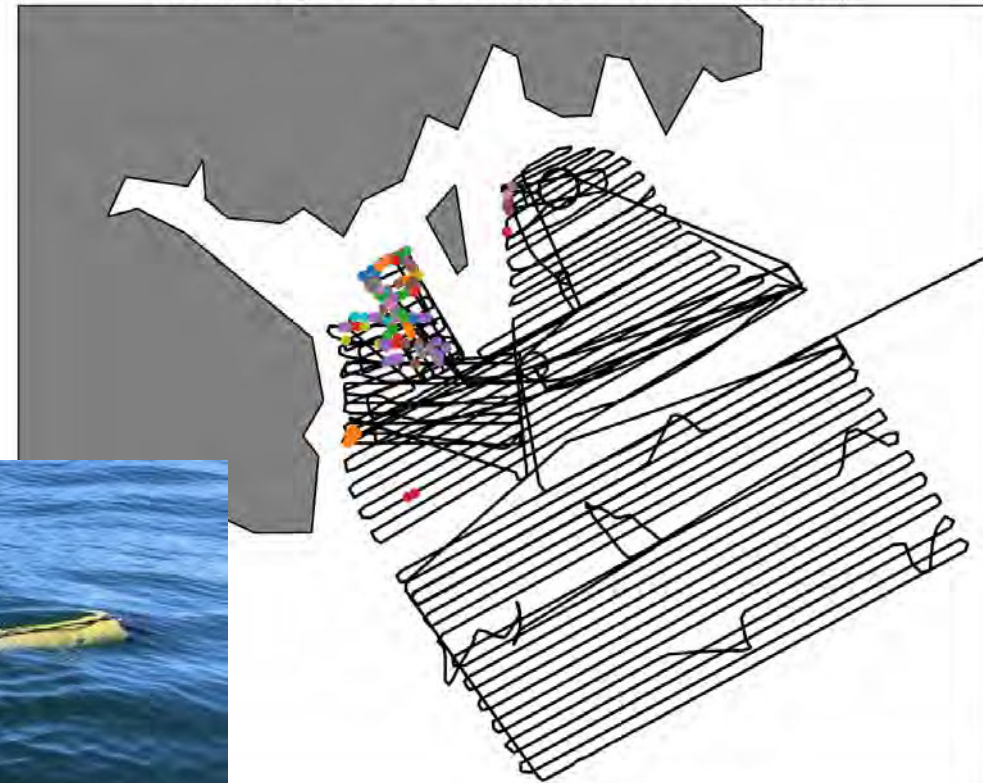
The movements of the 25 lobsters tagged in the Farm Site. The red polygon represents the Farm site.



# 2020 Hydrophone Array and Ocean Glider Track



Acoustic Tag Detections During SV3 Wave Glider Survey



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENTAL, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri Korea



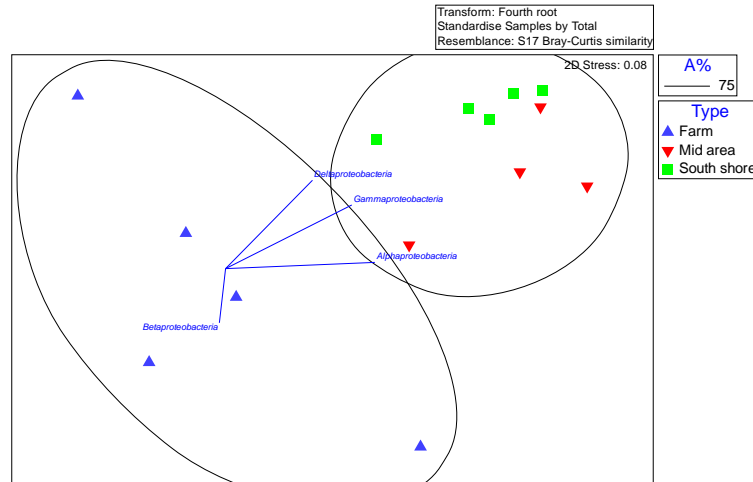
# Preliminary Results

84

## Environmental microbiome

- Analysis at the Class level was used to look for differences in bacterial populations in the sediment at the farm versus reference sites
- There are significant differences in the microbiome on farms versus reference sites. These differences were seen both in Liverpool and in Port Mouton.
- There is no difference between the two reference sites with regard to bacterial populations based on Class
- The differences appear to be driven mostly by the Betaproteobacteria, Deltaproteobacteria, Gammaproteobacteria and the Alphaproteobacteria
- These bacterial groups have been found in other studies on the benthic environmental microbiome in association with aquaculture farms in New Brunswick and have the potential to have a diagnostic value for monitoring aquaculture.

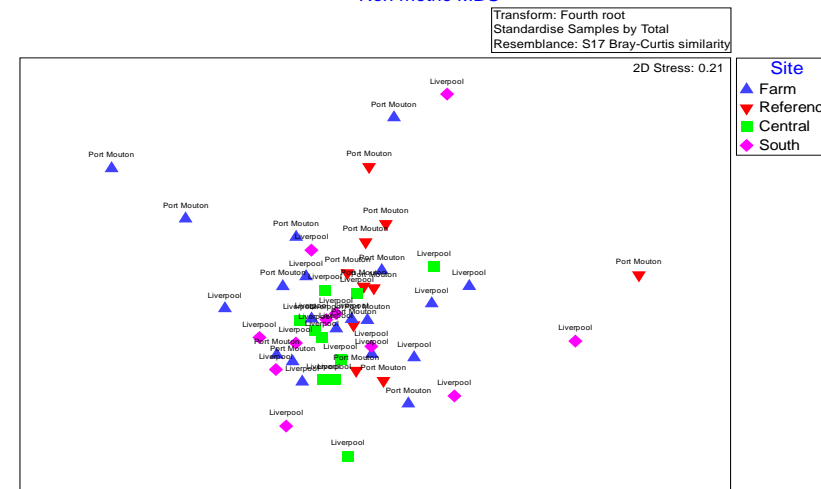
Classes of bacteria in sediment - Liverpool  
Non-metric MDS



## Gut microbiome

- Looking at the Class level, there were no significant differences in any of the lobster microbiomes between study areas or the reference and farm locations within the study area
- There is also no significant difference at the genus level for lobsters within a site or between sites
- The non-significant differences raise several implications
- The gut microbiome of lobsters is reasonably stable and not unduly influenced by changes to the environmental microbiome it lives in. Remember that the environmental microbiome was different on farms versus the reference areas at both sites
- The area has been fallowed for a year prior to sampling and therefore any potential changes to the microbiome from the farming have been ameliorated. The goal of sampling during the production cycle would hopefully resolve this question.
- There does not appear to be any residual effect on the internal microbiome of the lobsters, if there ever were any, so this should make subsequent analyses easier. It would have been harder to compensate for existing differences in testing the effect of farms on lobsters.

Gut microbiome of lobsters - Class  
Non-metric MDS



May 3, 2021

Twila Gaudet  
Director of Consultation  
Kwilmu'ku Maw-klusuaqn Negotiation Office (KMKNO)  
75 Treaty Trail  
Truro, NS B6L 1W3

Dear Ms. Gaudet:

**RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205  
AQ#1432, & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

I am writing in response to the virtual meeting previously held on December 9, 2020. We acknowledge both the NSDFA and the Mi'kmaq of Nova Scotia's intentions to proceed with consultation on the above applications. The Nova Scotia Department of Fisheries and Aquaculture (NSDFA) appreciates the time and effort you have invested in responding to these proposed projects.

The purpose of this letter is to continue consultation on three aquaculture applications (AQ1432, AQ1433 and AQ1205) submitted by Kelly Cove Salmon Ltd. with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

#### Continuing Consultation with the Mi'kmaq of Nova Scotia

As a follow-up to the previous meeting, on April 12, 2021, Claire Rillie sent you a record of the meeting held on December 9, 2020. In the record of the meeting a list of action items and next steps were listed, the first of which was to schedule another meeting early in 2021. The Nova Scotia Department of Fisheries and Aquaculture would like to propose that two individual meetings should be held: One meeting to further discuss the concerns regarding environmental impact and the other meeting to discuss the concerns regarding fish health and disease. The department will reach out to you shortly to discuss this proposal and, if agreed upon, arrange the next meetings.

The Nova Scotia Department of Fisheries and Aquaculture will continue to lead Aboriginal consultation on these applications at the provincial level and coordinate the process with any departments (provincial or federal) that will be involved.

~~86~~KNO  
ATTN: Twila Gaudet  
May 3, 2021

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

C:

Tamara Young, Jr. Consultation Researcher  
Kwilmu'ku Maw-klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Edward Parker, Senior Aquaculture Advisor (Maritimes)  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada

**Winfield, Lynn**

---

**From:** Ceschiutti, Robert  
**Sent:** July 16, 2021 10:30 AM  
**To:** twilagaudet@mikmagrights.com; Mirel Abram  
**Cc:** Rillie, Claire Z; Tamara Young; Edward Parker; linda.babineau-leblanc@tc.gc.ca; Hancock, Bruce H; Rillie, Claire Z; Winfield, Lynn  
**Subject:** Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ# 1205 AQ#1432, & AQ#1433

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Ms. Gaudet

I'm contacting you to follow up on our plan to continue consultation on Kelly Cove Salmon's aquaculture lease and licence application Nos. 1205, 1432 and 1433 for Liverpool Bay, as mentioned in the letter sent to you dated May 3, 2021. Based on the action items/next steps listed in the December 9, 2020 record of meeting, the NSDFA would like to suggest we split the next consultation into two separate meetings, to address the following actions:

Meeting #1: Environmental Topics (plan for 2 hours)

- b) NSDFA to share video of existing site and environmental monitoring activities at next meeting
- c) NSDFA to share additional information on current modelling at next meeting
- f) NSDFA to provide KMKNO and Acadia First Nation with a map including the depth and currents around the proposed aquaculture sites

Meeting #2: Fish Health Topics (plan for 2 hours)

- d) NSDFA to share additional information on disease prevention and mitigation measures at next meeting.

In addition, the NSDFA would like to hear from Acadia First Nation on their progress from the following action items/next steps:

- e) Acadia First Nation to discuss potential proponent engagement with community members, Band Council and KMKNO before advancing conversations with proponent directly
- g) Acadia First Nation to provide NSDFA with community contact to discuss local FSC activities

THE NSDFA would like to suggest meeting virtually using Microsoft Teams. Could you please respond on behalf of the KMKNO and Acadia First Nations if this plan is suitable and if you are available during any of the following dates and times?

Tuesday August 10, between 10:30am and 4:00pm

Wednesday August 11, between 9:00am and 4:00pm

Thursday August 12, between 9:00am and 4:00pm

Regards,

Robert Ceschiutti

Manager, Licensing and Leasing

NS Department of Fisheries and Aquaculture

1575 Lake Road

Shelburne, Nova Scotia

B0T 1W0

Phone: 902-875-7430

[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**From:** [Ceschiutti, Robert](#)  
**To:** [Rillie, Claire Z](#)  
**Cc:** [Winfield, Lynn](#); [Watts, Melinda](#); [Dera, Beata E](#)  
**Bcc:** [Ceschiutti, Robert](#)  
**Subject:** No responses from KMKNO for Kelly Cove Liverpool applications (1205, 1432, 1433)  
**Date:** August 25, 2021 11:29:00 AM  
**Attachments:** [2021.07.16 Email for Continuing consultation on AQ#'s 1205, 1432, and 1433.pdf](#)

---

Hi Claire, when you are back in, could you please bring up the Kelly Cove Salmon applications (AQ#1205, AQ#1432 and AQ#1433) with the KMKNO at your next routine check-in? I have yet to receive a response from them from the e-mail I sent to them on July 16, 2021 (attached). Our department needs to know when KMKNO is available to meet next, considering they did not respond to our previous proposal. Please let me know what their response is, thanks.

Regards,  
Robert Ceschutti  
Manager, Licensing and Leasing  
NS Department of Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, Nova Scotia  
B0T 1W0  
Phone: 902-875-7430  
[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

From: Rillie, Claire Z

Sent: August 30, 2021 11:10 AM

To: Twila Gaudet <tgaudet@mikmaqrights.com>; Tamara Young <tyoung@mikmaqrights.com>; Mise'l Abram <MAbram@mikmaqrights.com>

Cc: Ceschiutti, Robert <Robert.Ceschiutti@novascotia.ca>

Subject: FW: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

Hi Twila and Team,

Just a little nudge to remind you that we haven't heard back from you on NSDFA's request to continue our consultation on Kelly Cove's Liverpool Bay applications by scheduling consultation meetings specific to environmental concerns and fish health. Perhaps you could suggest some times in September or early October that might work for you and representatives of Acadia First Nation?

Thanks,  
Claire

**From:** [Ceschiutti, Robert](mailto:Ceschiutti, Robert)  
**To:** [Winfield, Lynn](mailto:Winfield, Lynn)  
**Subject:** FW: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433  
**Date:** August 31, 2021 9:28:15 AM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)

For the record, thanks.

Regards,  
Robert Ceschiutti  
Manager, Licensing and Leasing  
NS Department of Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, Nova Scotia  
BOT 1W0  
Phone: 902-875-7430  
[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**From:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>  
**Sent:** August 30, 2021 11:42 AM  
**To:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>; Twila Gaudet <[tgaudet@mikmaqrights.com](mailto:tgaudet@mikmaqrights.com)>;  
Mise'l Abram <[MAbram@mikmaqrights.com](mailto:MAbram@mikmaqrights.com)>  
**Cc:** Ceschiutti, Robert <[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)>  
**Subject:** RE: Continuing Consultation on the Aquaculture Licence and Lease Application  
Nos. AQ#1205 AQ#1432, & AQ#1433

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Thank you for that nudge, Claire. I will get back to you all once I have a date range of availability from Acadia First Nation.

Wela'lin,  
**Tamara Young**  
*Consultation Researcher*  
Kwilmu'kw Maw-Klusuaqn Negotiation Office  
Mi'kmaq Rights  
75 Treaty Trail  
Truro, Nova Scotia  
B6L 1W3

P: 902-843-3880  
F: 902-843-3882  
C: 902-305-5849

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From: Rillie, Claire Z <Claire.Rillie@novascotia.ca>

Sent: September 24, 2021 1:37 PM

To: Tamara Young <tyoung@mikmaqrights.com>; Mise'l Abram <MAbram@mikmaqrights.com>

Cc: Ceschiutti, Robert <Robert.Ceschiutti@novascotia.ca>

Subject: RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

Hi Tamara,

Have you had any luck reaching out to Acadia to schedule our next meeting on these sites? I think we are certainly overdue for one and NSDFA is eager to share information with the community and KMKNO and to hear more about potential impacts to rights resulting from the proposed applications.

Thanks,

Claire



From: Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>

Sent: October 1, 2021 4:33 PM

To: Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>; Mise'l Abram <[MAbram@mikmaqrights.com](mailto:MAbram@mikmaqrights.com)>

Cc: Ceschiutti, Robert <[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)>

Subject: RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

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Hi Claire,

Acadia did get back to me and would like to set something up for early October if possible.

Wela'lin,

**Tamara Young**

*Consultation Researcher*



Kwilmu'kw Maw-Klusuaq  
Mi'kmaq Rights Initiative

Kwilmu'kw Maw-Klusuaq Negotiation Office  
Mi'kmaq Rights Initiative 75  
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**From:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>  
**Sent:** October 4, 2021 9:19 AM  
**To:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>; Mise'l Abram <[MAbram@mikmaqrights.com](mailto:MAbram@mikmaqrights.com)>  
**Cc:** Ceschiutti, Robert <[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)>  
**Subject:** RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#143

Hi Tamara,

It will likely be very tricky to get everyone on our end together for early October (given we're in early October already) – would early November work? Schedules are pretty tight!

Thanks,  
Claire

From: Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>  
Sent: October 4, 2021 9:19 AM  
To: Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>; Mise'l Abram <[MAbram@mikmaqrights.com](mailto:MAbram@mikmaqrights.com)>  
Cc: Ceschiutti, Robert <[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)>  
Subject: RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

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Hi Claire,

That will be fine, it was some time ago that we offered Acadia early October so its understandable that that time is no longer available. Send me some dates to offer them.

Wela'lin,  
**Tamara Young**  
*Consultation Researcher*



Kwilmu'kw Maw-Klusuaqn Negotiation Office  
Mi'kmaq Rights Initiative 75  
Treaty Trail  
Truro, Nova Scotia  
B6L 1W3

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**From:** Rillie, Claire Z  
**Sent:** October 13, 2021 3:53 PM  
**To:** 'Tamara Young' <[tyoung@mikmagrights.com](mailto:tyoung@mikmagrights.com)>; Mise'l Abram <[MAbram@mikmagrights.com](mailto:MAbram@mikmagrights.com)>  
**Cc:** Ceschiutti, Robert <[Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)>  
**Subject:** RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

Hi Tamara,

DFA is busy with ARB hearings that will happen in mid-November so they've asked if we could look towards the end of November – do any of the following time slots work for your team and Acadia?

Wednesday November 24: 12 – 2 pm  
Wednesday November 24: 230 – 430 pm  
Friday November 26: 12 – 2 pm

Please let me now and I'll send a hold for our calendars. If those dates don't work I can look at early December (eek!).

Thanks again!  
Claire

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**From:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>

**Sent:** November 23, 2021 3:24 PM

**To:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>

**Cc:** Twila Gaudet <[tgaudet@mikmaqrights.com](mailto:tgaudet@mikmaqrights.com)>; Dera, Beata E <[Beata.Dera@novascotia.ca](mailto:Beata.Dera@novascotia.ca)>

**Subject:** RE: Continuin Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

Hi Tamara,

We haven't received a response to this request and I'm wondering the best way to proceed with consultation on these files. I can certainly appreciate that folks are pressed for time, especially at this time of year, but NSDFA does have an obligation to proceed with decision-making in the continued absence of engagement. Are we able to schedule a time to meet before the holidays?

Thank,  
Claire

**From:** Tamara Young  
**Sent:** November 24, 2021 11:09 AM  
**To:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>  
**Cc:** Twila Gaudet <[tgaudet@mikmaqrights.com](mailto:tgaudet@mikmaqrights.com)>; Dera, Beata E <[Beata.Dera@novascotia.ca](mailto:Beata.Dera@novascotia.ca)> **Subject:**  
RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205  
AQ#1432, & AQ#1433

Hi Claire,

Acadia cannot attend this Friday, how about next wed or thur?

Wela'lin,  
**Tamara Young**  
*Consultation Researcher*



Kwilmu'kw Maw-Klusuaqn Negotiation Office  
Mi'kmaq Rights Initiative  
75 Treaty Trail  
Truro, Nova Scotia  
B6L 1W3  
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**From:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>

**Sent:** November 29, 2021 1:25 PM

**To:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>

**Subject:** FW: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

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Hi Claire,

Any chance we can meet this week?

Wela'lin,

**Tamara Young** (she/her)

*Consultation Researcher*



Kwilmu'kw Maw-Klusuaqn Negotiation Office

Mi'kmaq Rights Initiative

75 Treaty Trail

Truro, Nova Scotia

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----- Original message -----

From: "Rillie, Claire Z" <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>

Date: 2021-11-29 1:33 p.m. (GMT-04:00)

To: Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>

Subject: RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

Hi Tamara,

Our schedules look completely blocked for this week but I've sent an email to Bruce and his team to see if they can make the time work and I've also asked them to send some other options. Do you have any availability next weekend or the week after? It's likely prudent to have a few choices.

Thanks,  
Claire



**From:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>  
**Sent:** November 29, 2021 3:48 PM  
**To:** Rillie, Claire Z <[Claire.Rillie@novascotia.ca](mailto:Claire.Rillie@novascotia.ca)>  
**Subject:** RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433

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Mon or Wednesday am next week works for Acadia.

Wela'lin,  
**Tamara Young** (she/her)  
*Consultation Researcher*

Kwilmu'kw Maw-Klusuaqn Negotiation Office  
Mi'kmaq Rights Initiative  
75 Treaty Trail  
Truro, Nova Scotia  
B6L 1W3  
P: [902-843-3880](tel:902-843-3880)  
F: [902-843-3882](tel:902-843-3882)  
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**From:** Winfield, Lynn <Lynn.Winfield@novascotia.ca>  
**Sent:** January 18, 2022 2:04 PM  
**To:** Twila Gaudet <tgaudet@mikmaqrighs.com>  
**Cc:** Babineau-LeBlanc, Linda <linda.babineau-leblanc@tc.gc.ca>; Rillie, Claire Z <Claire.Rillie@novascotia.ca>; Edward.Parker@dfo-mpo.gc.ca; Ceschiutti, Robert <Robert.Ceschiutti@novascotia.ca>; Tamara Young <tyoung@mikmaqrighs.com>  
**Subject:** Continuing Consultation on Aquaculture Licence and Lease Nos. 1205, 1432 and 1433

Good Afternoon,

Please see the attached letter.

Thanks,



*E. Lynn Winfield*

**Licensing Coordinator,  
Nova Scotia Department of Fisheries and Aquaculture**

1575 Lake Road Shelburne,

NS BOT 1W0

Phone: 902-875-7440

Fax: 902-875-7429

Email: [Lynn.Winfield@novascotia.ca](mailto:Lynn.Winfield@novascotia.ca)

[NS Department of Fisheries & Aquaculture Website](#)



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January 18, 2022

Twila Gaudet  
Director of Consultation  
Kwilmu'ku Maw-klusuaqn Negotiation Office (KMKNO)  
75 Treaty Trail  
Truro, NS B6L 1W3

Dear Ms. Gaudet:

**RE: Continuing Consultation on the Aquaculture Licence and Lease Application Nos. AQ#1205  
AQ#1432, & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

The purpose of this letter is to continue consultation on three aquaculture applications (AQ1432, AQ1433 and AQ1205) submitted by Kelly Cove Salmon Ltd. with the Mi'kmaq of Nova Scotia under the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference.

You will find the Development Plans for all three sites at:

<https://novascotia.ca/fish/aquaculture/Routine-disclosure-of-Kelly-Cove-Salmon-site-application-documents.pdf>

#### Chronology of Consultation to date with the Mi'kmaq of Nova Scotia

On September 25, 2019, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) sent Offer to Consult letters to the 11 Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaq Chiefs, copying KMKNO. NSDFA described the application and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. NSDFA then requested details on potential adverse impacts the above applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights.

On November 22, 2019 a response was received by the KMKNO advising that the Mi'kmaq of Nova Scotia wished to proceed with consultation.

On February 6, 2020 the NSDFA sent a letter to the KMKNO to continue consultation. The letter provided information about 2 specific issues that were raised in the letter dated November 22, 2019 (American eel & FSC fisheries in the vicinity). The letter also responded directly to the more general issues related to Aquaculture activities that were raised in KMKNO's letter dated November 22, 2019. These issues included aquaculture facility waste and uneaten feed, disease and medication, use of oxygen and fish escapes. In the February 6, 2020 letter, the NSDFA offered a meeting with KMKNO and concerned Mi'kmaq community members.

On March 5, 2020 a response was received by the KMKNO agreeing to a consultation meeting.

KMKNO  
ATTN: Twila Gaudet  
January 18, 2022

On December 9, 2020 a consultation meeting was held with representatives from KMKNO, Acadia First Nations, NSDFA and Nova Scotia Office of L'Nu Affairs (OLA).

On April 12, 2021, the OLA sent to the KMKNO and Acadia First Nations a record of the meeting held on December 9, 2020. In the record of the meeting a list of action items and next steps were listed. A copy of the record of this meeting has been included with this correspondence.

The following is a list of action items resulting from the meeting:

1. Next meeting to be scheduled early in 2021.
2. NSDFA to share video of existing site and environmental monitoring activities at next meeting.
3. NSDFA to share additional information on current modelling at next meeting.
4. NSDFA to share additional information on disease prevention and mitigation measures at next meeting.
5. Acadia First Nation to discuss potential proponent engagement with community members, Band Council and KMKNO before advancing conversations with proponent directly.
6. NSDFA to provide KMKNO and Acadia First Nation with a map including the depth and currents around the proposed aquaculture sites.
7. Acadia First Nation to provide NSDFA with community contact to discuss local FSC activities.

On May 3, 2021 the NSDFA sent a letter to the KMKNO to continue consultation. The letter suggested the next consultation meeting be separated into two separate meetings; one meeting to discuss environmental impacts and the other meeting to discuss fish health impacts. On July 16, 2021 the NSDFA sent an email to the KMKNO as a reminder of the offer for arranging the next consultation meetings. Dates were suggested between August 10 and 12, 2021.

On August 30, 2021 the OLA sent an email to the KMKNO as a reminder of the offer for arranging the next consultation meetings, and requested times of availability in September or October. The following day, a response was received by the KMKNO indicating that the OLA will be contacted once the KMKNO has a date range of availability from Acadia First Nation. On September 24, 2021, the OLA sent an email to the KMKNO as a reminder of the offer for arranging the next consultation meetings and asked for an update on the KMKNO reaching out to Acadia First Nations.

On October 1, 2021, a response was received by the KMKNO stating that they are available for a meeting in early October. On October 4, 2021 the OLA responded to the KMKNO stating that there is not enough time to arrange the meeting, given that it was already early October. A request was made for early November. The same day, the KMKNO responded stating that early November would be acceptable and requested dates. On October 12, 2021 the OLA responded providing November 24 to 26 as dates to meet, and if those dates were not possible to request dates for December.

#### Current Status of Applications

The above applications have completed the internal review process and advice has been received by network partners. The next step in the process is to submit the applications to the Aquaculture Review Board (ARB) for a decision.

KMKNO

ATTN: Twila Gaudet

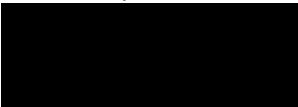
January 18, 2022

Continuing Consultation with the Mi'kmaq of Nova Scotia

NSDFA has made several attempts to continue consultation with the Mi'kmaq of Nova Scotia, as indicated above. Since the December 9, 2020 consultation meeting on this file, KMKNO and Acadia First Nation have not reciprocated NSDFA's efforts to re-engage in consultation. Section 9.e. of the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference stresses the importance of timeliness to the consultation process, stating that "reasonable time" be given "to consider and discuss the information, having regard to any time constraints". NSDFA would like to remind KMKNO that the network review process has now been completed and the application is ready for submission to the ARB. Jurisprudence directs Parties not to "frustrate" the consultation process. Moreover, governments have a duty to balance Indigenous interests with those of the wider society. For these reasons, NSDFA would like to make a final offer to continue consultation on the above applications by requesting the availability of the KMKNO and Acadia First Nation for two virtual meetings between February 28 and March 11, 2022.

Please provide a specific response by Friday, February 4<sup>th</sup>, 2022 indicating your availability to meet during the proposed date range or suggesting alternative times if the suggested range does not work. If a response is not received by this date, the department will consider consultation to be concluded and proceed to submit the above applications to the ARB for decision.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

Enclosed: Record of Meeting (December 9, 2020)

C:

Tamara Young, Jr. Consultation Researcher  
Kwilmu'ku Maw-klusuaqn Negotiation Office

Claire Rillie, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Edward Parker, Senior Aquaculture Advisor (Maritimes)  
Fisheries and Oceans Canada

Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada

## RECORD OF MEETING

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon**

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**December 9, 2 – 4 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abram, Patrick Butler, Gerard Francis (KMKNO), Charmaine Stevens (Acadia FN), Curtis Falls (Acadia FN), Gail Tupper (Glooscap FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Robert Ceschiutti, Nathaniel Feindel, Danielle St. Louis, Dr. Roland Cusack, Lynn Winfield, and Melinda Watts

Office of Aboriginal Affairs: Claire Rillie, Kendra Marshman

### PURPOSE

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### AGENDA

1. Opening Prayer (Optional)
2. Introduction (KMKNO)
  - Roundtable
  - NSDFA provided introductory remarks noting that aquaculture regulations have changed and that a considerable amount of time has passed since significant finfish applications have come through.
  - NSDFA reiterated a desire for the Mi'kmaq to set the pace on this consultation –and expressed a desire to keep lines of communication open so everyone has good understanding of project and impacts.

### 3. Consultation Update (OAA)

- Consultation on these applications was initiated by NSDFA via written correspondence on September 25, 2019.
- KMKNO responded in writing on November 22, 2019 voicing opposition to the expansion plan and noting concerns related to the proposed applications. Concerns included:
  1. potential for damage to the ocean floor and coastal ecosystems due to waste generated by fish farms;
  2. possible ill effects from parasites, use of antibiotics and changes in water temperature and salinity; and
  3. other challenges related to escaped farmed salmon on wild populations of salmon and American eel.
- On February 6, 2020, NSDFA responded to the concerns outlined in KMKNO's November letter, noting measures in place to decrease the risk of pathogens and stating that sea lice have not historically been an issue in the Liverpool Bay area. NSDFA suggested a meeting with KMKNO to enable a discussion that would help the department better understand the connection between the contemplated applications and potential adverse impacts to Aboriginal and/or treaty rights.
- KMKNO responded in March of 2020, providing contact information and agreeing to a meeting.

### 4. Overview of the Aquaculture Application Process (NSDFA)

- NSDFA began their presentation by noting there are two kinds of decisions – adjudicative application review process and administrative decisions (please refer to the presentation materials provided for further detail).
- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. How does NSDFA evaluate how adequately the applicant has engaged the Mi'kmaq of Nova Scotia during the scoping process?
  2. Were FSC fisheries and fishers in the area identified and engaged during the scoping phase? Impacts on FSC fisheries around the expansion area are of concern to the Mi'kmaq on Nova Scotia.
  3. What is the function and composition of the Aquaculture Review Board (ARB)?
- How are pathogens/parasites like sea lice monitored, how often does monitoring occur and what types of treatments would be used if lice were detected on farmed fish? NSDFA responded to questions from the Mi'kmaq as follows:
  1. NSDFA's assessment is limited to what is outlined in the regulations. The regulations require the applicant to hold one public meeting and to advertise that meeting, record that meeting, and submit a scoping report. NSDFA

assesses whether the applicant meets these requirements. Beyond these requirements, the evaluation of the adequacy of proponent engagement efforts is undertaken by the ARB.

2. DFO evaluates the types of fisheries undertaken in the proposed project area, including commercial and Aboriginal fisheries. NSDFA networks with DFO on commercial fisheries but not Aboriginal (FSC and livelihood) fisheries, thus the consultation and engagement processes. NSDFA is also interested in hearing specific concerns about potential adverse impacts on local FSC fisheries from the Mi'kmaq during the consultation process – at this table. NSDFA asks who at Acadia First Nation the department could contact to discuss local FSC activities. Curtis identified himself as being able to meet with the applicant and connect the applicant to other Mi'kmaq fishers in the area.
3. The ARB it is an independent adjudicative board that appointed by the Minister of Fisheries and Aquaculture through the provincial government's Agencies, Boards and Commissions (ABC) process. The Board was a key feature of the new aquaculture regulations. ARB hearing proceedings are similar to those of a Court of law, the Board relies on testimony from folks in room (experts, etc.) to make its decision. The Board is comprised of the following individuals: Jean McKenna, Dr. Richard Patterson, and Michael McKinnon. Further information on ARB members is available here: <https://arb.novascotia.ca/board>.
4. Sea lice are generally monitored monthly, though throughout the year monitoring may be increased to once a week – less frequently when the water is colder. There has been no history of lice or treatment since the farm at this site went in. Having more space can reduce the likelihood of a lice outbreak, so the goal is to provide more room so that fish are not closely packed at the site. Different options for treatment include:
  - cleaner fish in cages – small native species such as gunner or lumpfish are added to the cage to interact with salmon in symbiotic way – they remove lice from surface of salmon,
  - salmon baths with warm waters,
  - gentle pressure washing, and
  - hydrogen peroxide and Salmosan (though these have never been used in NS)
  - The tool used depends on the unique circumstance. Only one single year class of fish is allowed on each site, fallow periods of between 2 and 6 months – with no fish on site – are also employed. KMKNO advised NSDFA that Cooke Aquaculture/Kelly Cove Salmon hadn't yet reached out.
5. Project Description (NSDFA)
  - Please refer to the presentation materials provided.



- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. Why is the projected increase in production not consistent with the increase in lot size?
  2. Does expanding the lot size increase the likelihood that migrating wild fish such as elvers or glass eels would encounter cages (which can be traumatizing and/or lethal for smaller fish or those in earlier phases of their lifecycle)?
  3. Is eel grass present at these sites? If so, could any copper present have an adverse impact the species?
  4. Has the impact of ocean currents on the deposition of waste been considered?
  5. What are the anticipated impacts of these farms on local or transient lobster populations?
  6. Could there be adverse impacts on lobster populations from the potential use of therapeutants on farmed salmon?
  7. Sea lice may not be an issue now, but may be in the future if sites continue to expand. Can NSDFA assure the Mi'kmaq of Nova Scotia that chemicals such as hydrogen peroxide will not be used to treat potential future sea lice outbreaks?
  8. What causes farmed salmon to escape, how can proponents protect against escape? Could the presence of ice increase the likelihood of escape?
  9. Is Infectious Salmon Anemia (ISA) a factor and could it be transmitted to live fish?
- NSDFA responded to questions from the Mi'kmaq as follows:
  1. Scrutiny applied to gear on site has increased with the new regulations – gear must now fall completely within site boundaries. Additionally, more space means less crowding.
  2. NSDFA shares concern related to impact of increased sizes of leases on the likelihood of migrating wild fish encountering cages. Limited literature on the subject is available, specifically as it applies to glass eels. It is thought that wild fish would avoid the obstacle presented by cages but if they did go inside it would likely lead to trauma or consumption. Aquaculture has been undertaken in NS since the late 70s-early 80s and the potential impacts are well understood. Regulations have been developed to mitigate potential impacts on wild species – NSDFA is not aware of any evidence that the eel population has declined because of salmon farming and the issue has not been flagged by DFO.
  3. Eel grass is not thought to be present at the proposed sites – the species has not been flagged by DFO, the Canadian Wildlife Service or the provincial Department of Lands and Forestry. Further, copper is no longer used in aquaculture industry – nets are now pressure cleaned by underwater ROVs.

Baseline monitoring for the proposed sites is now complete – extensive fish and fish habitat surveys have been completed. No eel grass, critical habitat or species at risk were noted.

4. Ocean currents were measured in all three proposed aquaculture sites and modelling was undertaken to determine where potential waste would be deposited. According to the models, most of deposition happened immediately beneath cages – this is generally what we have seen through environmental monitoring program as well. NSDFA to provide more information.
5. Interactions between salmon farms and lobster are currently being studied by the department (please refer to presentation materials for additional details). Lobster were found to be present in the vicinity of sites – and moving through them - in August, during the molting season. Lobsters and crabs were both tagged. FSC fishers in the area were present during tagging – NSDFA communicated with fishers, advising them to look out for tags and to return any tagged animals to the water. The study will continue into net season.
6. NSDFA is also concerned with any potential future use of therapeutants on the ecosystem. Therapeutants are highly regulated and studied by a number of government regulators including Health Canada, Environment and Climate Change Canada, and DFO. Human health implications are also well documented and have been studied extensively. Therapeutants would be used as a last resort with less invasive and damaging treatments preferred. Every step taken would be subject to robust regulation and any approvals granted would be subject to rigorous tests by regulators.
7. The aquaculture industry is very well regulated and is presenting more biological treatment methods as the public becomes more chemical adverse. Accumulative effects are factored into decision making.
8. The risk of farmed salmon escaping fish farms is mitigated in several ways:
  - All sites require the approval of a professional engineer and are required to withstand a 50 to 100-year storm.
  - NSDFA uses a fish tracing program (based on a model used in Maine).
  - The department can also access each site and audit how and why fish escaped and identify any risks for breach.
  - All fish farmers are required to have a marking/traceability plan – physically or genetically – if fish are not marked, operators can be prosecuted.

Ice is certainly a factor and has been considered for the current applications in Liverpool Bay.

9. Eggs for these salmon aquaculture sites come as small fry from a main hatchery in NB. They are screened in NB and cleared of reportable disease (e.g. ISA) before being transferred to NS. The federal government is responsible for overseeing the transfer process. Once small fry are brought to the local sites they are subject to a surveillance program administered by

veterinarians. The provincial veterinary team visits sites 4 times a year to complete screening activities. Cooke Aquaculture veterinarians do their own monitoring as well. Mitigation measures including a fallow period, surveillance, and other monitoring activities are also undertaken. NSDFA veterinarian to provide additional information.

6. Status of the Application Review

- To be addressed at future meeting.

7. Action Items/next steps

- a. Next meeting to be scheduled early in 2021.
- b. NSDFA to share video of existing site and environmental monitoring activities at next meeting.
- c. NSDFA to share additional information on current modelling at next meeting.
- d. NSDFA to share additional information on disease prevention and mitigation measures at next meeting.
- e. Acadia First Nation to discuss potential proponent engagement with community members, Band Council and KMKNO before advancing conversations with proponent directly.
- f. NSDFA to provide KMKNO and Acadia First Nation with a map including the depth and currents around the proposed aquaculture sites.
- g. Acadia First Nation to provide NSDFA with community contact to discuss local FSC activities.

**From:** Tamara Young <[tyoung@mikmaqrights.com](mailto:tyoung@mikmaqrights.com)>  
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**Subject: RE: Continuing Consultation on Aquaculture Licence and Lease Nos. 1205, 1432 and 1433**

**\*\* EXTERNAL EMAIL / COURRIEL EXTERNE \*\***

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Good afternoon,

To conclude consultation on the above mentioned aquaculture sites, Acadia First Nation is available for a virtual meeting on March 1<sup>st</sup> & 2<sup>nd</sup>, preferably in the mornings. Do these dates work for everyone?

-Tamara

Wela'lin,  
**Tamara Young** (she/her)  
*Consultation Researcher*

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## Record of Meeting

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon - Fish Health**

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**March 1, 2022 10:00 am - 12:00 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Gerard Francis, Bec Borchert, Shawn Taylor (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Carla Buchan, Robert Ceschiutti, Lynn Winfield, Anthony Snyder, Melinda Watts, Nathaniel Feindel

Transport Canada: Linda Babineau-LeBlanc

Office of Aboriginal Affairs: Beata Dera, Claire Rillie

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on items related to fish health.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Opening Prayer (Optional)
2. Introduction
3. Consultation Update (OLA)
  - Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
  - KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.

- Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.
  - This is our first consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.
4. Status of Application (NSDFA)
- NSDFA advised they are working with network advisors to collect feedback.
  - NSDFA added that they are waiting DFO's final report. Upon receipt of final report and completion of consultation, NSFDA will send the application and network review findings to the ARB for their decision.
  - NSDFA stressed that given the amount of time that has passed, they are now very close to sending the application to the Board and that they are working on submission documents already.
  - KMKNO asked if traditional use knowledge will be included in application package.
  - NSDFA underscored that they rely on the Mi'kmaq to provide traditional use information, adding that DFO provides some limited fisheries-related information as a part of the network review process.
  - NSDFA noted that many network partners are involved (9 or 10) and that they are now 2 years into the process from when the application was first submitted.
  - NSDFA stressed that they really do want to hear from the Mi'kmaq on this and that they don't want to leave the impression everything consultation has been completed, noting consultation plays an important role in decision-making.
  - NSDFA stated that it is essential to hear from the Mi'kmaq on fisheries undertaken in the project area.
  - OLA reiterated that Mi'kmaw knowledge and information about the practice of rights in the specific areas identified helps the department make this decision, again stressing that this table needs to hear that information.
5. Overview of Aquatic Animal Health Section (NSDFA)
- *Please see presentation deck for details.*
  - NSDFA stressed the importance of the Marine Finfish Health Surveillance Program to proposed applications.
  - Acadia asked about monitoring and potential of pathogens to jump from cage to cage.
    - NSDFA clarified that the department, along with private veterinary practitioners, monitor the health status at the marine farms on a regular basis, and that the monitoring involves looking to see if bacteria, parasites or viruses of concern are present.
    - NSDFA reiterated the importance of monitoring – and that the monitoring program allows the Province and the Operator to act quickly if action is needed regarding potential health findings, and that sometimes removing one cage is enough to remedy health concerns if

they were present. Veterinarians involved in the health monitoring, must follow the marine health surveillance program that is dictated by the Province.

- NSDFA noted that the health surveillance program monitors for pathogens that are known to our environment, but others that may be new or emerging to Nova Scotia.
- KMKNO asked about timing of surveillance.
  - i. NSDFA clarified:
    1. Both the Provincial Aquatic Animal Health Veterinarians and the Private Veterinary Practitioners (The Designated Aquaculture Veterinarians) are responsible for the health surveillance program and completing the associated diagnostics. If a pathogen of concern is suspected or identified, it must be immediately reported to the Chief Aquatic Animal Health Veterinarian's Provincial Office.
    2. On average, the routine health surveillance at a marine finfish farm is completed every 6 weeks by a licenced veterinarian; though the monitoring may be increased at the discretion of the attending veterinarian.
    3. Routine Dives are required every week on every cage, unless limited by uncontrollable factors such as severe weather - if mortality is found at the site and meets the threshold for mandatory reporting, as per the Regulatory Requirement, that mortality must be reported to the Chief Aquatic Animal Health Veterinarian's Provincial Office.
- 6. Status of Action Items Identified at December 9, 2020 Consultation Meeting (NSDFA):
  - NSDA information on disease prevention and mitigation measures (e.g. sea lice monitoring, testing, therapeutics) - *see above and presentation materials for additional information.*
- 7. Closing Prayer (Optional)

# Review of Aquatic Animal Health Programs, Operations and Regulations



*Liverpool Consultation Meeting  
March 1, 2022  
Dr. Anthony Snyder*





# 116 Discussion Topics

- Aquatic Animal Health Services
- Health Surveillance Programs
- Disease Management, Reporting, and Treatment
- Sea Lice Monitoring and Management

## Aquatic Animal Health Services

Service consists of 5 members:

**Dr. Roland Cusack (Chief Aquatic Animal Health Veterinarian)**

**Dr. Amanda Swim (Aquatic Animal Health Veterinarian)**

**Dr. Anthony Snyder (Aquatic Animal Health Veterinarian)**

**Carl Huntington (Aquatic Animal Health Coordinator)**

**Adam Ogilvie (Aquatic Animal Health Biologist)**

# 118 The Aquatic Animal Health Laboratory



# Aquatic Animal Health Section Roles and Responsibilities

- Routine Veterinary Service
- Emergency Veterinary Service
- Surveillance and Pre-movement health testing
- Laboratory Services
- Disease Prevention
- Sea lice monitoring
- Compliance Requirements
- Mandatory Reporting
- FMPs
- Others:
  - Fed/Prov – Inland Fisheries
  - R and D / Education / file review
  - Etc.

Clinical Services

Regulatory



# Disease Surveillance

## Certificate of Health For Transfer (COHFT)

*All finfish stocked at a marine farm must have a COHFT (Provincial) and an I & T Permit (Federal)*

The COHFT program is a Pan-Atlantic Program that dictates the number of visits a facility will receive per year, the type of diagnostics that will be performed, and uses a Risk Based Stochastic Analysis Statistical Tool (referred to as the Epitool) to determine the appropriate sample size based on disease prevalence, probability of disease introduction to the farm, biosecurity, as well as other factors.

The COHFT program involves the Provincial Aquatic Animal Health Veterinarians having knowledge of the health status of each farm involved in the movement of live fish and will only issue a transfer certificate if the COHFT program objectives have been satisfied.

# Disease Surveillance

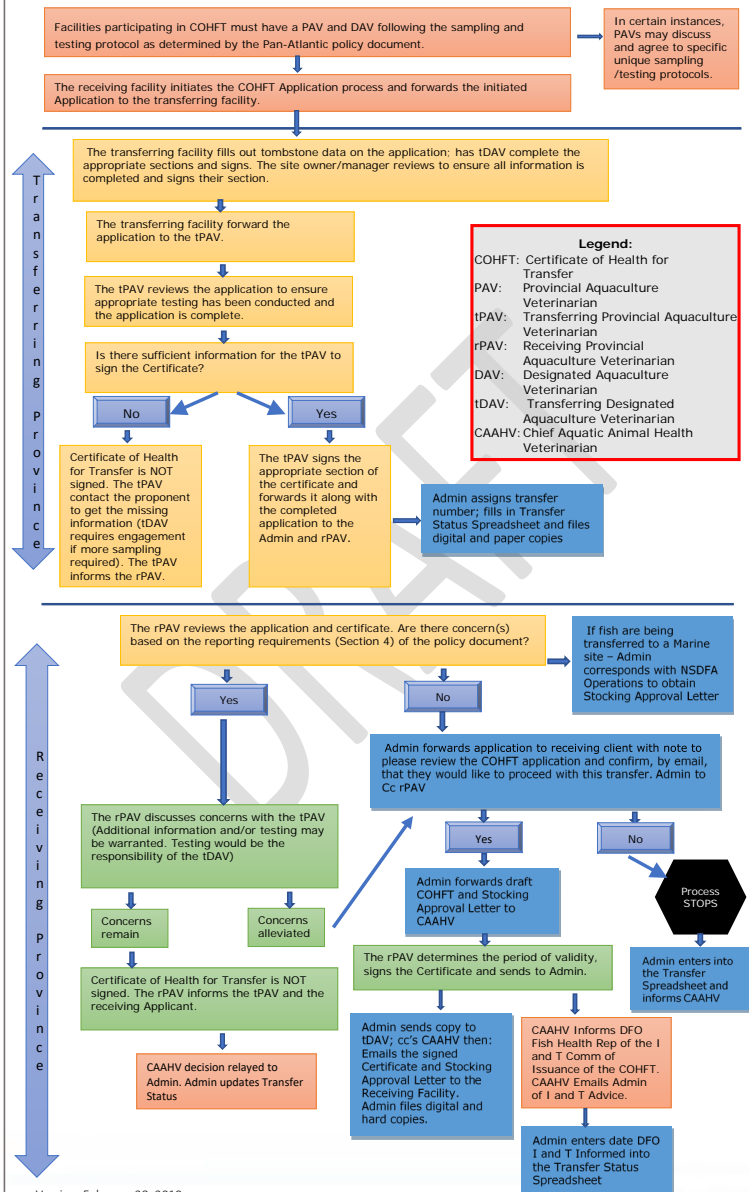
## Certificate of Health For Transfer (COHFT)

### The COHFT Program provides guidance on:

- Operator reporting obligations
  - Health status changes, etc.
- Diagnosis of Pathogens of Concern
- Aquaculture Facility visit requirements
- Records and communications
- Roles and Responsibilities
  - Operator / Veterinarians
- Period of validation
- Decision making process
  - Inter / Intra-provincial transfers
  - New or emerging pathogens
- Sampling and Testing Requirements



# Certificate of Health for Atlantic Interprovincial Transfer Process



Version: Februarv 28. 2019



# Disease Surveillance

## Certificate of Health For Transfer (COHFT)

Facility enrollment in the COHFT program involves the AAH section maintaining reliable and accurate health records, in order to make an informed decision on fish transfers.

- All COHFT site visits and data are recorded
  - Period
  - Sampling date
  - Populations present at the farm
  - Population size
  - Sample size
  - Lot/PAR description
  - Biosecurity Audit results (Pintro values)
  - All veterinary diagnostics performed
  - Epitool Statistical factors
  - Epittol sampling table



# Disease Surveillance

## DFO – Introductions and Transfers

DFO's National Code on Introductions and Transfers of Aquatic Organisms provides federal, territorial and provincial governments with a process for assessing potential impacts of moving aquatic organisms from one water body or facility to another.

This process enables each jurisdiction to work with applicants to **minimize the risks** of unintentionally spreading diseases or pests, altering the genetic makeup of native species, or otherwise negatively impacting surrounding ecosystems.

The Code and the establishment of **Introductions and Transfers Committees** provide a good example of federal, territorial and provincial collaboration that results in increased environmental sustainability.

DFO issues licences to authorize the intentional release and transfer of live aquatic organisms into fish-bearing waters or fish-rearing facilities in Nova Scotia.

### The National Code on Introductions and Transfers of Aquatic Organisms (Code)

The Code established an objective decision-making framework and consistent national process for assessing and managing the potential **ecological**, **disease** and **genetic** risks associated with intentionally moving live aquatic organisms into, between, or within Canadian watersheds and fish rearing facilities.

Under the legislative authority of the Health of Animals Act and associated regulations, the **Canadian Food Inspection Agency** (CFIA) fully implemented the National Aquatic Animal Health Program (NAAHP) on December 31, 2015. Under the NAAHP, the CFIA assumed the federal lead for managing disease risks associated with movements of aquatic animals—a role that had been traditionally performed by Fisheries and Oceans Canada (DFO).

# Disease Surveillance

## DFO – Introductions and Transfers

### The National Code on Introductions and Transfers of Aquatic Organisms (Code)

The CFIA assesses disease risks associated with aquatic animal imports and domestic movements under a risk framework based on internationally accepted principles of the **World Organization for Animal Health (OIE)**.

For the purposes of import and domestic movements, this framework provides the foundation for assessing permit applications under the NAAHP. The **CFIA manages disease risks** associated with international and domestic trade and other domestic movements of live aquatic animals, their products, pathogens, and other high risk items in collaboration with the provinces, territories and industry.

In Atlantic provinces, provided the applicant has met the CFIA requirements, the Introductions and Transfers Committee will recognize the **Certificate of Health for Transfer for live cultured finfish (COHFT)** under the Health Policy for the Transfer of Live Cultured Finfish in Atlantic Canada as the disease risk evaluation.

# Disease Surveillance

**Land-based health monitoring for non-transferring facilities**

All licensed land-based finfish facility has at least one Veterinary Site Visit annually to monitor the Facility's health status and to maintain a VCPR.

# Disease Surveillance

## Marine Finfish Health Surveillance

The Marine Finfish Health Surveillance Program is a program that all Aquaculture Operators in the marine environment must be enrolled in.

The Program dictates that a Veterinarian must make a surveillance health visit every 4-8 weeks (6-week average) to the marine farm.

Samples must be taken, and specific diagnostics performed on those samples.

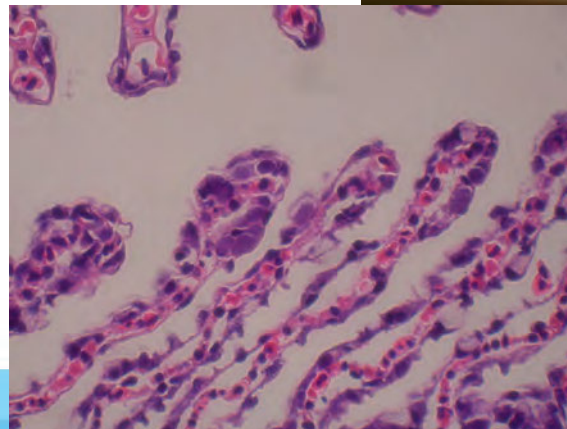
At least 2 of the mandatory visits per year will be completed by the Provincial Fish Health Veterinary Service, and the others (a minimum of 4) can be completed by Private Licenced Veterinarians (Designated Aquaculture Veterinarians – DAV).

# Disease Surveillance

## Marine Finfish Health Surveillance

### Veterinary Sampling:

- Sample collection (moribunds)
- Site evaluation (parameters)
- Necropsies
- Bacteriology
- Virology
- Molecular Testing - ISAv PCR
- BKD DFATs
- Histopathology





# Disease Surveillance

## Marine Finfish Health Surveillance

### Pathogens of Concern

#### Bacterial

- *Aeromonas salmonicida* (typical and atypical furunculosis)
- *Renibacterium salmoninarum* (bacterial kidney disease)
- *Yersina ruckeri* (enteric red mouth disease)

#### Viral:

- *Infectious Hematopoietic Necrosis (IHN) Virus*
- *Infectious Pancreatic Necrosis (IPN) Virus*
- *Infectious Salmon Anemia (ISA) Virus*
- *Viral Hemorrhagic Septicemia (VHS) Virus*
- *Nodavirus (Viral encephalopathy retinopathy)*
- *Pancreas Disease (PD)*

# Disease Surveillance

## Marine Finfish Health Surveillance

### Pathogens of Concern

Identification of a pathogen of concern, or a new and emerging disease would result in the following:

- Nova Scotia leads the response and management in coordination with the company
- Nova Scotia reports and collaborates with the CFIA

Responses based on OIE and hazard specific approaches, as well as Federal and Provincial Regulations



# Mandatory Reporting

Reporting requirements are the responsibility of the following people:

- (1) an aquaculture licence holder;
- (2) a member of the personnel of an aquacultural operation;
- (3) a veterinarian;
- (4) a member of the personnel of a laboratory.

Those persons listed above must **immediately** report any of the following to the Chief Aquatic Animal Health Veterinarian by **telephone**, followed by a written report no later than **24 hours** after the telephone report:

- (1) knowledge or suspicion that a fish may have a reportable disease
- (2) mortality event
- (3) Known or suspect breach

# Managing Disease

Upon identification of a disease, and the Chief Aquatic Animal Health Veterinarian deems extraordinary means for control are required, the following may occur at each aquaculture site where the disease was reported:

- (1) take samples of fish or other organisms in the water;
- (2) undertake an epidemiological investigation;
- (3) order the treatment of a group of fish;
- (4) order vaccination of a group of fish;
- (5) order that no fish be moved to or from the site;
- (6) require the aquaculture licence holder to take enhanced biosecurity measures;
- (7) stop and inspect any vehicle (including the vehicle's load); and
- (8) inspect each aquaculture site where the fish originated or to which a disease-causing agent may have spread.

# Managing Disease

## Treatments

Only drugs or products **approved** by Health Canada may be used at a licenced marine finfish site in Nova Scotia

An established **VCPR** (veterinarian-client-patient-relationship) must exist before a veterinarian can prescribe or dispense medication. This relationship must exist before a veterinarian can treat or prescribe medication for any animals, including fish.

The Prescribing Veterinarian must be **licenced** to practice veterinary medicine in Nova Scotia.

# Managing Disease

## Treatments

The treatment of aquatic species is defined as the act of preventing, mitigating or controlling diseases/pathogens to promote fish health.

All treatments will be coordinated by a veterinarian and a company's manager(s). Decision to treat will be based on the information gathered via observations, examinations, empirical evidence, and experience.

A treatment record must be kept of all treatments.

# Managing Disease

## Treatments

Any product that is given in feed, injected, or used to immerse fish in must be recorded. The **record would include** but is not limited to:

- I. Inventory at the marine site (fish numbers per cage)
- II. Average weight of the fish
- III. Current water temperatures (surface, 4 meter, and maximum cage depths)
- IV. Mortality rate observed when treatment was decided
- V. Type of treatment (in-feed, bath treatment, etc.)
- VI. Product to be used
- VII. Dose to be given
- VIII. Product concentration
- IX. Length of treatment
- X. Response of fish to the treatment including a record of mortality during the treatment period



# Managing Disease

## Quarantine Order

The Minister may make an order designating any aquaculture site or any other area where an outbreak of disease is known or suspected as a “**quarantine area**”.

A quarantine order may include any **conditions or restrictions** with respect to the quarantine area that the Minister considers necessary or advisable in the circumstances, including biosecurity measures.

A quarantine area order must be served on each holder of an aquaculture licence for an aquaculture site within the quarantine area.

# Managing Disease

## Destruction Order

Minister may order slaughter, destruction or disposal

- The Minister may order the slaughter, destruction or disposal of any fish in a quarantine area.
- Nothing in the regulations imposes an obligation on the Minister to pay compensation for any fish slaughtered, destroyed or disposed of under a quarantine order.

# Managing Disease

## Quarantine Order

An aquaculture licence holder whose site is under a quarantine order must provide for approval, **written incident-specific information** indicating how they will take any disease management measures specified below, to the Chief Aquatic Animal Health Veterinarian.

**Disease management measures** are required for all aquaculture licence holders and must be in place before a marine finfish farm is stocked.

Disease management measures may be specified by the Chief Aquatic Animal Health Veterinarian in order to comply with a quarantine order.

# Managing Disease

## Disease Management Measures

These measures include the following standard operating procedures:

- (1) controlling the movement of any fish or thing into or out of the quarantine area;
- (2) operating a disinfection station at the entrance to and exit from any aquaculture site in the quarantine area;
- (3) disinfecting anything in the quarantine area;
- (4) eradicating the disease or disease-causing agents in the quarantine area;
- (5) establishing a fallow period for the quarantine area;
- (6) preventing the spread of the disease or disease-causing agents out of or into the quarantine area; and
- (7) slaughtering, destroying or disposing of any fish in the quarantine area, including mass culling and stock depopulation.

# Managing Disease

## Disease Management Measures

An aquaculture licence holder whose aquaculture site has been under a quarantine order, may be subject to complete **specified testing** of newly stocked fish within a specified period of time after the date the site is restocked, as determined by the Chief Aquatic Animal Health Veterinarian. Samples may also be collected by the Chief Aquatic Animal Health Veterinarian or Veterinary Designate of newly stocked fish for testing.

**Fallow periods** and other disease specific management measures will be considered at a case-by-case level.



# Sea Lice Management

**Integrated Pest Management** is a strategy where all producers in a region, under the direction of a site veterinarian, or Provincial Aquatic Animal Veterinarians, use a multifactorial approach to combatting finfish pests.

These **factors** will include rotation of chemotherapeutants, coordinated treatments, biosecurity protocols, surveillance, siting locations, fallowing, site separation, optimum stocking densities, year-class separation, fish health management, the use of cleaner fish, and monitoring.

# Sea Lice Management

147

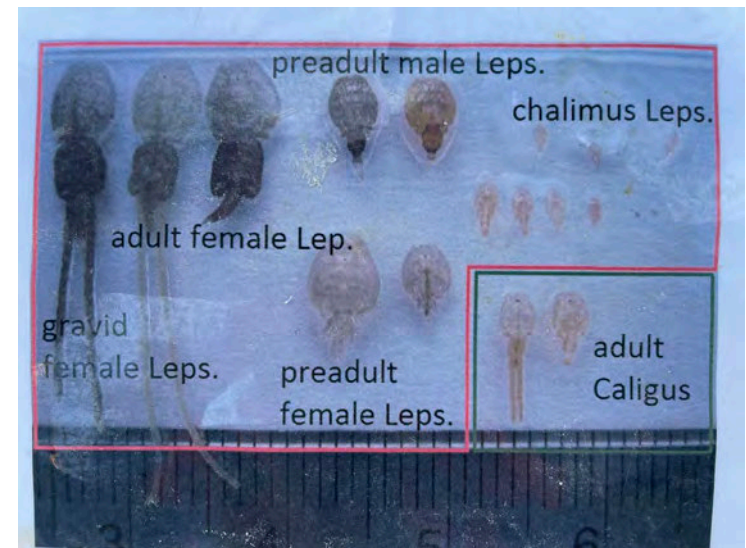
The aquaculture licence holder for trout or salmon is responsible for following an approved sea lice management program.

## Sea lice monitoring

- weekly from April 1 to January 15
- may be suspended if temperatures are below 4 degrees

## Sea lice monitoring procedures

- must count sea lice on a minimum of 5 fish per cage. Minimum of 6 cages of fish per site must be sampled





# Sea Lice Management

## Treatments

**Records** of lice counts must be kept and available for review, at any time, by the Chief Aquatic Animal Health Veterinarian or Veterinary Designate upon request.

When an ectoparasitic burden, such as with sea lice, begins to cause detrimental effects on the host, **treating** may be necessary.

Nova Scotia has a history of low infections of *Lepeophtheirus salmonis*. Having low specific treatment thresholds is important so new significant infections may be quickly controlled.

Operators must describe a **management strategy if thresholds** are met.

Management decisions can be influenced by water temperatures, fish size, time to harvest, product type and availability, as well as treatment technology.

### Treatment Modalities:

- Mechanical delousing
- Fresh water baths
- Chemotherapeutants
  - In-feed medication
  - Bath treatments



CARRIER

AC 650

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1



# QUESTIONS?



## Record of Meeting

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon - Potential Environmental Impacts**

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**March 2, 2022 12:00 - 2:00 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Bec Borchert, Shawn Taylor, Gerard Francis (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Carla Buchan, Robert Ceschiutti, Lynn Winfield, Jessica Feindel, Nathaniel Feindel, Melinda Watts

Transport Canada: Linda Babineau-LeBlanc (absent)

Office of Aboriginal Affairs: Beata Dera, Claire Rillie

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project including potential environmental impacts.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Opening Prayer
2. Introduction
  - OLA made note of the productive conversation held March 1, 2022 about traditional fisheries activities undertaken by Acadia First Nation in Liverpool Bay and suggested this might be a good opportunity to continue the conversation using a map to help guide the location of fishing activities.

- OLA noted it recognizes the sensitivity around any location-specific information provided but underscored the importance of the information to demonstrating traditional use in the area.
- KMKNO noted that the food fishery is not static, adding there is often movement.
- Acadia noted that the project as proposed would be taking away some areas where fishing could occur safely.
- OLA asked the table if using a map would be helpful for the discussion and Parties agreed.
- KMKNO asked if any underwater archaeological work had been undertaken to date.
  - NSDFA noted that no significant concerns were raised by CCTH during the review process but that CCTH advised that if any heritage resources were discovered that the operator should contact the Special Places Coordinator.
- OLA asked for Acadia to provide some additional details on fishing activities undertaken by community members.
  - Acadia noted that lots of fishing occurs in Liverpool Bay itself - people fish all along the Bay and if they are not catching in one place, they move along to another.
  - Acadia further explained that food fishery boats are small vessels with only 1 or 2 people on board, adding that any time a company takes up more ocean bottom, that is another area where community members can't fish.
  - Acadia noted that the community has 1500 - 1600 Band members - in Queens County it has 300 or 400 members and that the membership list is growing.
  - Acadia explained that Coffin Island is an area of importance to the Mi'kmaq and that it has been for hundreds of years, adding that community members have fish shacks there.
  - Acadia voiced explicit opposition to the proposed expansion of the project footprint.
  - Acadia also stated that the Mi'kmaw Grand Council is opposed to the existing site and its expansion.
  - Acadia community members noted personal experience fishing in the area.
  - Acadia underscored their perspective that the proposed expansion will impede the community's FSC and moderate livelihood fisheries "without question".
  - Acadia questioned the visual impacts to users of the area and tourism.
- NSDFA asked about specific impacts on First Nations fisheries - would be helpful for us to understand better what that means.

- KMKNO stressed it may not be able to be communicated more clearly than what has already been said. KMKNO added that the Mi'kmaq have continued to move and change where they fish because of obstacles - fishers have been flexible - aquaculture in this area has already changed how they fish.
  - KMKNO underscored that this application needs to be carefully considered by regulators - the Mi'kmaq have been displaced and need to fish around the existing site already.
- Acadia noted that it provided some rough numbers at yesterday's meeting (approximately 30 community members participate in FSC fishery and those numbers are growing) - numbers of fish tags issued in area - that was minimum fishing in that area, adding that Acadia was describing the summer fishery in that example - when lobsters come inshore (not in winter when the larger commercial fishery is undertaken).
- Acadia added that more fishing happens in skiffs - the Mi'kmaq employ a practice called "hooping" in the area - it may not be apparent to others that fishing has been in the area given that traps are not used.
- NSDFA asked for more information on hooping
  - Acadia described a process whereby bait is applied to the hoop - the hoop is then dropped to the bottom of the ocean and then hauled back - explaining that they are not left overnight.
  - Acadia explained they are handmade hoops - they are important to people and not left on site.
- Acadia noted that there are 10,000 years of recorded artifacts through Mersey corridor and that the area is of high importance to the Mi'kmaq.
- Acadia added that underwater archaeology would be important in that area given the area is of such high importance.
- Acadia described gear loss.
- Acadia stressed the fiduciary duty of government and importance of reconciliation.
- Acadia voiced concern over industry having what appears to be the final say.
- NSDFA noted that their staff had observed FSC fishing in areas surrounding the sites and asked if the presence of aquaculture sites could actually be of benefit to Mi'kmaw fisheries in the area.
  - Acadia did not have any information to support this observation.
- Acadia added that NCNS gives out a lot of food fishing tags in area as well.
- KMKNO returned to the topic of archaeology and importance of Mersey area.
  - NSDFA clarified that no survey was done - CCTH reviewed and suggested that NSDFA asks that operators notify Special Places Coordinator if heritage resources were encountered.



- NSDFA noted that they welcome any specific information that would counter CCTH's advice.
- KMKNO ARD noted that the paleontological information does not necessarily relate to archaeology (referencing information from the development plan).
- NSDFA will follow up with CCTH to ensure nothing was missed in their assessment.
- KMKNO ARD flagged the high risk nature of the area in terms of archaeology - approximately one quarter of all known Mi'kmaw archaeological sites in Nova Scotia are on the Mersey River - the Mersey was an exceptionally important travel route for the Mi'kmaq.
- KMKNO ARD added that shorelines are not currently as they were in the past - could have been dry land in the past that supported human life.
- KMKNO ARD asserted that the project area is extremely high risk and recommends an ARIA be completed.
- KMKNO ARD noted that there is archaeology on the river itself in addition to on the Island so in between wouldn't be a surprise if resources were located in and around the project site.
- NSDFA stated that archaeology was not on the agenda today and that this is a new issue raised.
- KMKNO ARD stressed that archaeology needs to be captured in action items.

### 3. Consultation Update

- Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
- KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.
- Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.
- This is our second consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.

### 4. Status of Action Items Identified at December 9, 2020 Consultation Meeting:

- High-level overview of Environmental Monitoring Program (NSDFA)
  - Please see presentation materials for details.
  - KMKNO asked if sampling is completed outside and inside farms.
    - NSDFA noted that the presence of the grid prevents operators from taking video inside the cages on the sites themselves.
- Bottom video of site (NSDFA)
  - NSDFA walked attendees through techniques employed for video.
- Graphics and information on modelling (NSDFA)
  - Please see presentation materials for details

- NSDFA clarified that modelling is within the purview of DFO and that it is required by DFO as part of any finfish application.
- Map of proposed and existing site, including depth and currents (NSDFA)
  - Please see presentation materials for details.
- Status of engagement on applications with community, Band Council and KMKNO (Acadia)
  - Acadia described a lack of engagement by the company but a significant amount of opposition from community members and Band Council.
  - KMKNO has not received outreach from Cooke.
    - NSDFA asked if there is a willingness to meet with Cooke on behalf of Acadia.
    - Acadia noted they would have to return to Chief and Council to ask if a meeting could occur. Conversation with community members could occur but support is unlikely. This will be added to action items.
- Acadia asked why government appears to support industry and why it's always a fight for the Mi'kmaq.
- Acadia asked if local landowners had been consulted with and where the value of their land and property comes into consideration.
- Acadia asked if impacts to tourism had been considered.
- Acadia noted that government appears to support the farm, adding that the Mi'kmaq are forced to put their case forward in opposition. Cooke doesn't have to fight on their own because government is doing it for them - considerable bias is observed, from Acadia perspective.
  - NSDFA described the application review process, noting that a decision on these applications will be made by an independent board (the Aquaculture Review Board or ARB).
  - NSDFA explained that the department doesn't take a position on applications, noting that it will take views from this table to the Board for consideration.
  - NSDFA noted that the information gathered is based on 8 factors that are laid out in aquaculture regulations, which were developed in accordance with advice received in the Doyle-Lahey report. NSDFA explained that the Mi'kmaq were engaged in the development of regulations, adding that the Chair of Regulatory Advisory Committee is Chief Terry Paul.
  - NSDA ensured the Mi'kmaq that any perspectives on improving those regulations can be shared with the committee.
- NSDFA added that the same application process also applies to all Mi'kmaw commercial aquaculture applications. It's not a process that is meant to exclude the Mi'kmaq. Consideration of other users of the space is a factor in decision-making - e.g. waterfront property owners - the public has an opportunity to provide feedback through this process.

- NSDFA explained that they have engaged with Tourism Nova Scotia who have conveyed that the presence or absence of aquaculture has not impacted tourist's stays in Nova Scotia to date. NSDFA expressed a willingness to consider opposing views and invited comment from the group.
  - Acadia reiterated that impacts to rights and archaeology are of utmost importance and underscored the perception that government is supporting the proponent.
  - OLA added that perception of siding with industry is not the Province's intent - this consultation process is designed to hear and listen to Mi'kmaq concerns and to have a discussion about impacts to Aboriginal and Treaty Rights. OLA also noted that one aspect of consultation requires that government balances the interests of the Mi'kmaq with other users/citizens.
  - OLA expressed an appreciation for the science presented.
  - Acadia reiterated their description of the displacement of Mi'kmaw people, adding that to the Mi'kmaq this is so much more than an aquaculture site - it's culture and near and dear to communities.
  - NSDFA asked if any more general information is needed by the community or the KMKNO.
  - Parties agreed to convene internal discussions including today's learnings and to then reconvene for the next meeting dates.
  - KMKNO noted that discussion on archaeology will be key for next meeting.
  - KMKNO suggested last week of March and first 2 weeks of April for next meeting. Parties will look to timing. (Tamara, Charmaine, and Claire to work together to schedule).
  - NSDFA explained that engagement should occur between Acadia and Cooke and that the ARB would need to consider engagement efforts and consultation in their decision-making process.
  - OLA noted that the Crown does at times rely on proponents for information-sharing and that proponent engagement can feed into consultation.
  - OLA described how it advises on early engagement, adding that on other projects the Crown can rely on successful engagement opportunities for consultation purposes. Engaging is essential to relationship-building.
  - Acadia committed to discussing engagement with Cooke with Chief and Council at next Monday's consultation meeting. Acadia stated that it will advise Twila on the outcome of that conversation.
  - Community contact for information on FSC fisheries (Acadia)
    - Curtis Falls agreed to remain a community contact for FSC fisheries.
5. Action Items/Next Meeting (All)
- NSDFA will follow up with CCTH to ensure nothing was missed in their assessment.

- KMKNO ARD asserted that the project area is extremely high risk and recommends an ARIA be completed.
- KMKNO ARD stressed that archaeology needs to be captured in action items.
- Parties agreed to convene internal discussions including today's learnings and to then reconvene for the next meeting dates.
- KMKNO noted that discussion on archaeology will be key for next meeting.
- KMKNO suggested last week of March and first 2 weeks of April for next meeting. Parties will look to timing. (Tamara, Charmaine, and Claire to work together to schedule).
- Acadia committed to discussing engagement with Cooke with Chief and Council at next Monday's consultation meeting. Acadia stated that it will advise Twila on the outcome of that conversation.

## 6. Closing Prayer

# Consultation Meeting, Day 2

## Kelly Cove Salmon Ltd.'s Liverpool Bay Aquaculture Applications

JESSICA FEINDEL – DEPARTMENT OF FISHERIES AND AQUACULTURE

MARCH 2, 2022

# Agenda



The Environmental Monitoring Program



Baseline Data Collection



Maps, Depths & Currents



Information on Modelling

# Aquaculture Programs

- ▶ Fisheries and Coastal Resources Act
  - Aquaculture Management Regulations
    - Farm Management Plan Program
    - Environmental Monitoring Program

# Farm Management Plan Program

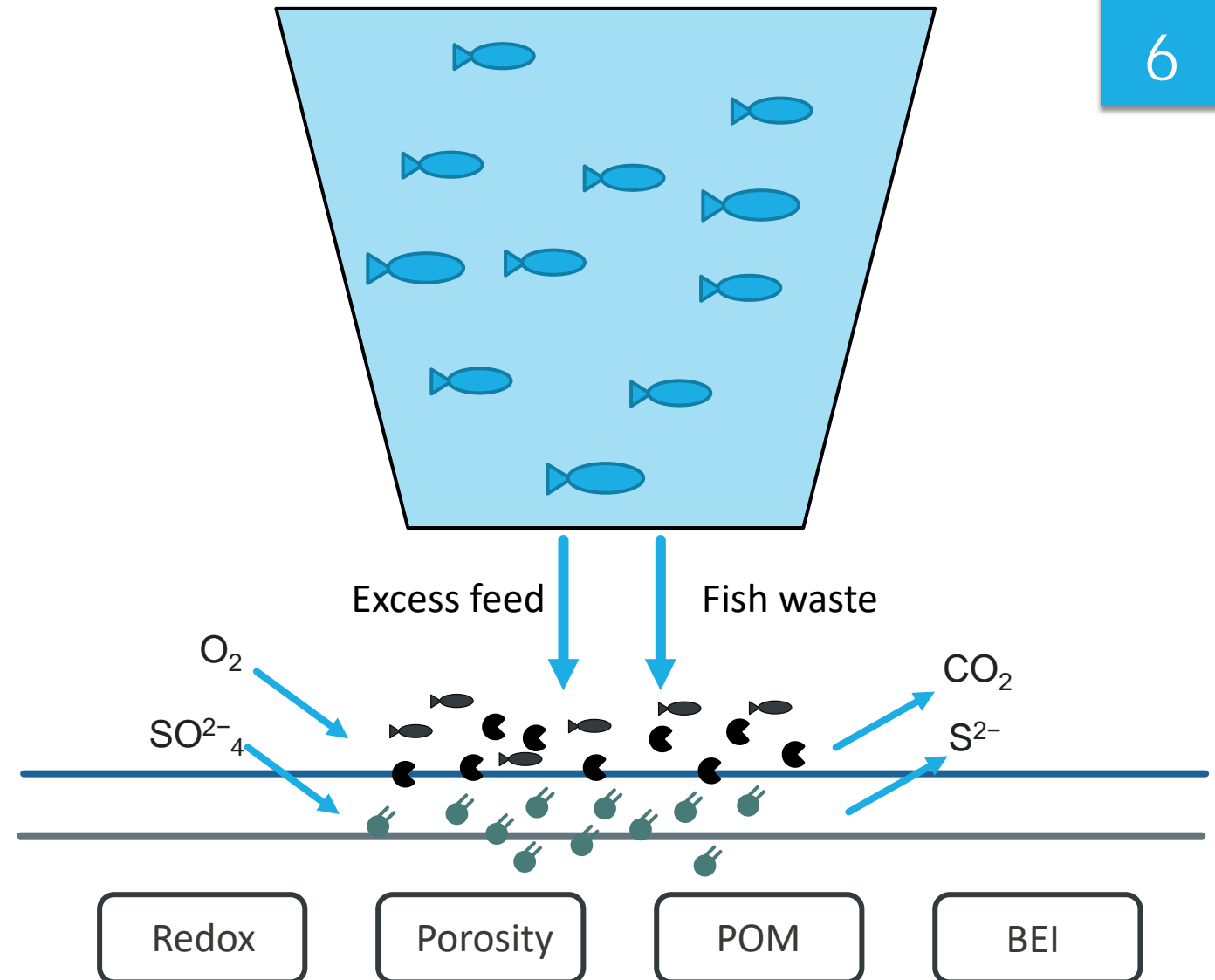
- ▶ Nova Scotia was the first jurisdiction in Canada to adopt Farm Management Plans (FMPs) as a risk-based, adaptive approach to managing aquaculture operations.
- ▶ The preparation of an FMP is a requirement of aquaculture licence holders in Nova Scotia
- ▶ The FMP and its associated documents are reviewed and approved by NSDFA to ensure that the aquaculture licence holder's described farm operations, procedures, and records comply with the Aquaculture Management Regulations
- ▶ The FMP is a comprehensive document prepared by the operator, that includes detailed information and procedures on:
  - Fish Health Management
  - Environmental Monitoring
  - Farm Operations
  - Containment Management



# The Environmental Monitoring Program

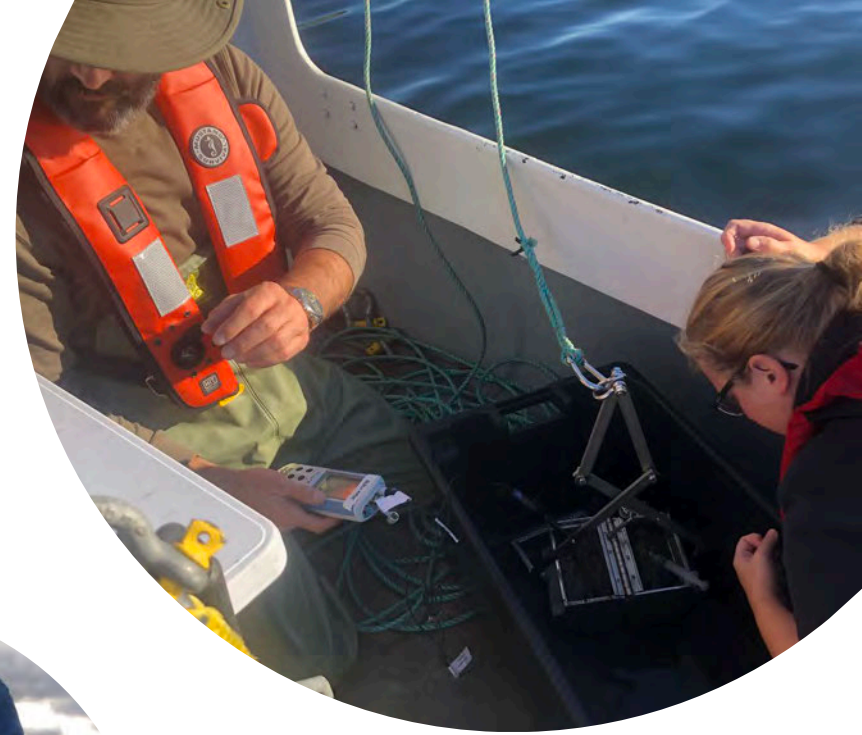
## What is the Environmental Monitoring Program?

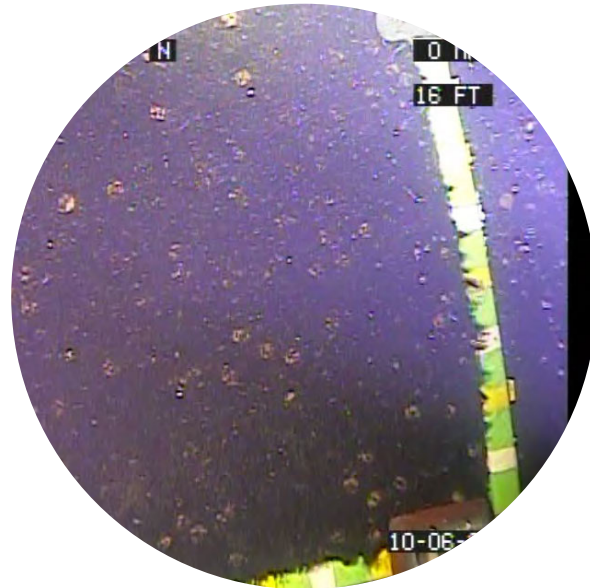
- ▶ Examines the relationship between an aquaculture operation and the surrounding environment



# Grab sediment collection

- ▶ Grabs are lowered off the side of a boat to collect sediment samples
- ▶ Certain criteria they need to meet to be approved

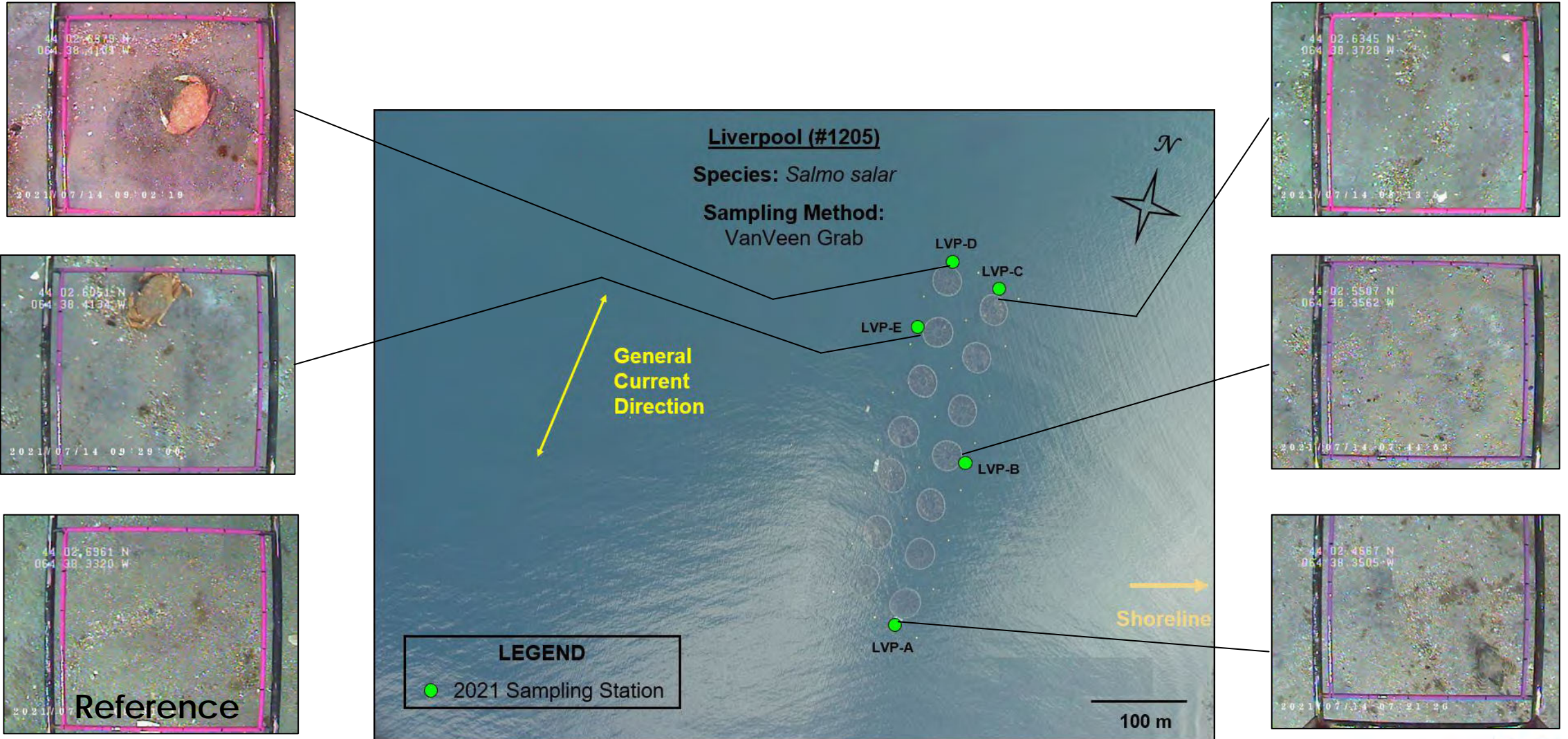




## Visual observations

- ▶ A video camera is lowered at sampling stations and records seafloor conditions for ~2 minutes
- ▶ Visual indication of benthic conditions
- ▶ Main method of evaluating hard bottom stations

# AQ#1205 - 2021 EMP results



# AQ#1205 - 2021 EMP video



# Soft Bottom Site Classification

Site Classification	Sediment Sulfide Concentrations
Oxic A	$\leq 749 \mu\text{M}$
Oxic B	750 - 1499 $\mu\text{M}$
Hypoxic A	1500 - 2999 $\mu\text{M}$
Hypoxic B	3000 - 5999 $\mu\text{M}$
Anoxic	$\geq 6000 \mu\text{M}$

= Mitigation Plan +  
Level II Monitoring +  
Level III Monitoring

## AQ#1205 – Historical EMP Performance

Year	Average Sulfide ( $\mu\text{M}$ )	Classification
2011	2147	Hypoxic A
2012	1750	Oxic* (Hypoxic A)
2013	256	Oxic
2014	288	Oxic
2015	3653	Oxic* (Hypoxic B)
2016	Pass	Pass
2017	351	Oxic A
2018	864	Oxic B
2019	73	Oxic A
2020	253	Oxic A
2021	277	Oxic A



# Enhanced Risk Control Plans for Environmental Impact

- ▶ **Overstocking of site:** Adjust cage stocking level or cage positions according to EMP data analysis.
- ▶ **Settlement of feces affects bottom sediments:** Adjust cage stocking; cage position; feeding method; harvest schedule; site practices all according to monitoring, modelling and data analysis.
- ▶ **Cleaning of net causes release of biofouling:** Adjust biofouling control and procedures according to biofouling monitoring.
- ▶ **Overfeeding or improper feeding:** Adjust feed given according to expected rate; update staff training; switch to dry feed; review camera settings or calibration of feeding equipment.

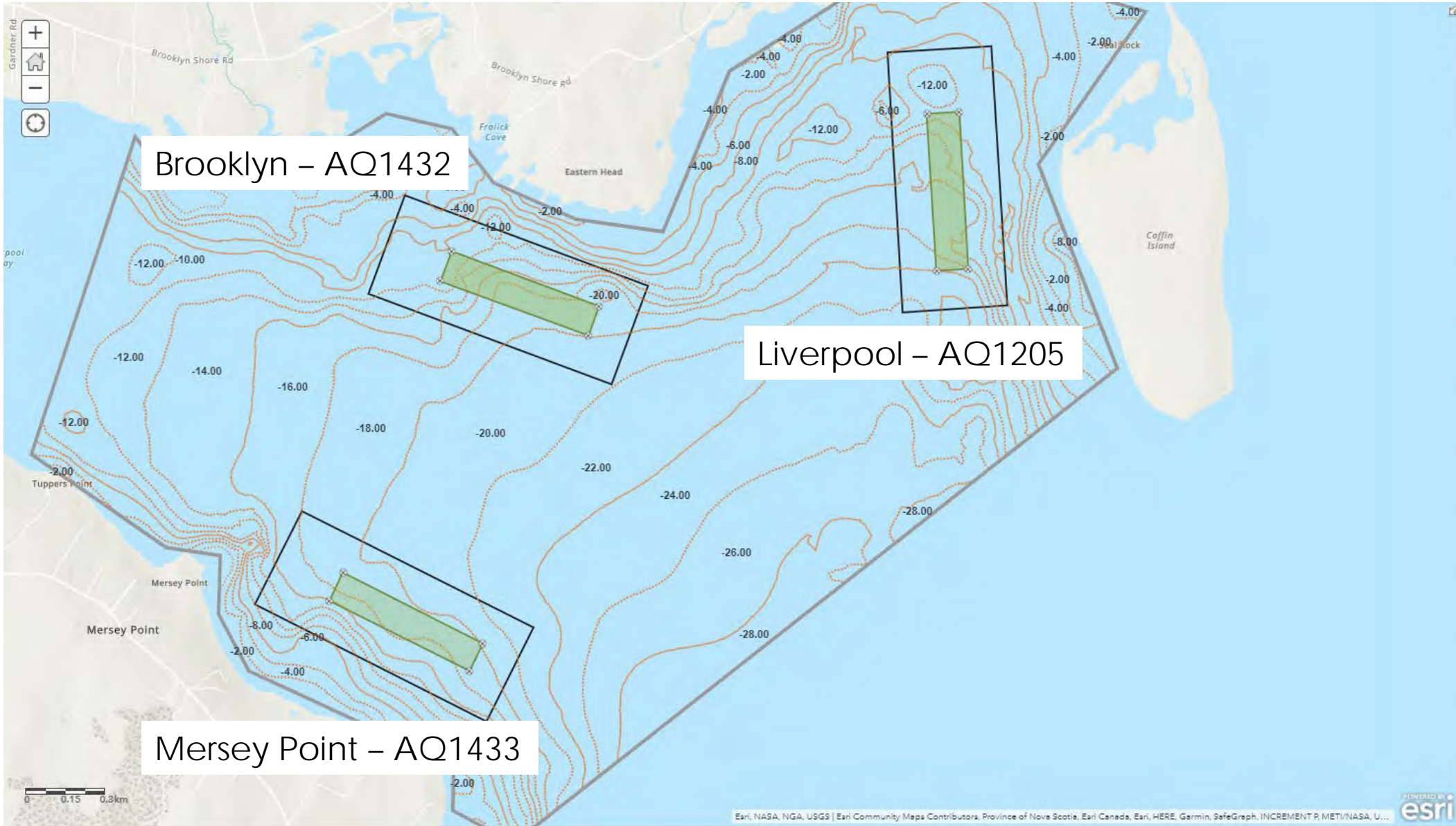
# EMP Audit Program

- ▶ Ensures compliance with standard operating procedures
- ▶ 5 main types of audits

Audit type	Percentage of EMP	Time requirement
QA/QC	100%	½ day to 3 days
Field	20%	1 day + travel
Analytical	20%	2 days
Laboratory	10%	1 day + travel
Independent	10%	3 days + travel

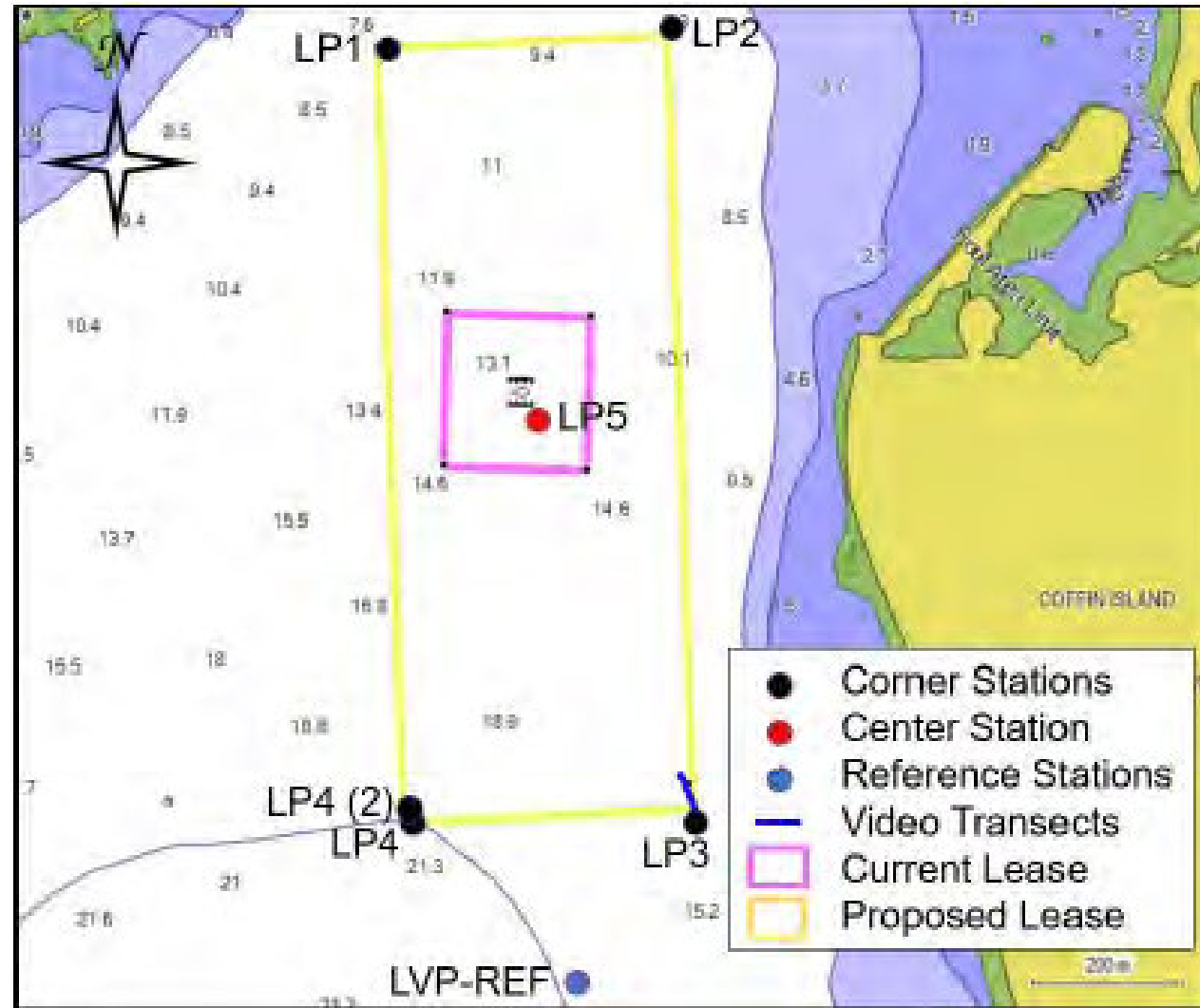


# Baseline Data Collection



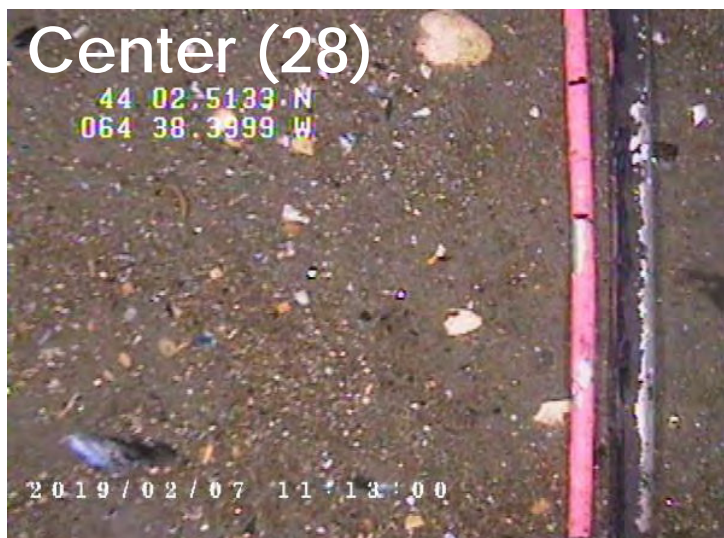
## Overview of Baseline Monitoring requirements

- ▶ In 2019 sediment and video was collected at all corners and in the centre of the lease
- ▶ The average sulfide for the lease was  $151 \mu\text{M}$ , with the highest station average of  $745 \mu\text{M}$  at LP5 (center lease)





# Representative Seafloor from Baseline



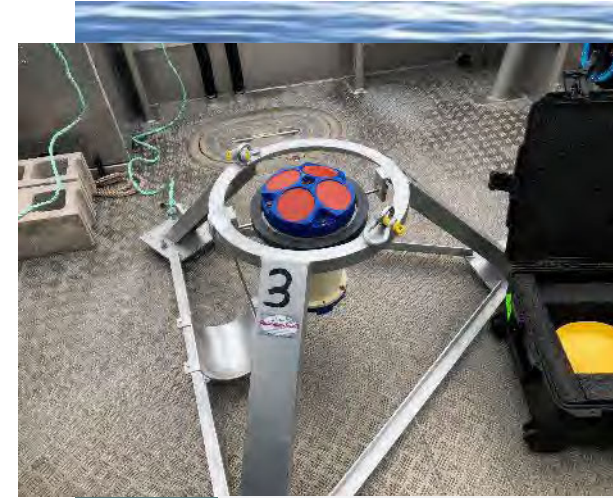
# Maps, Depths & Currents



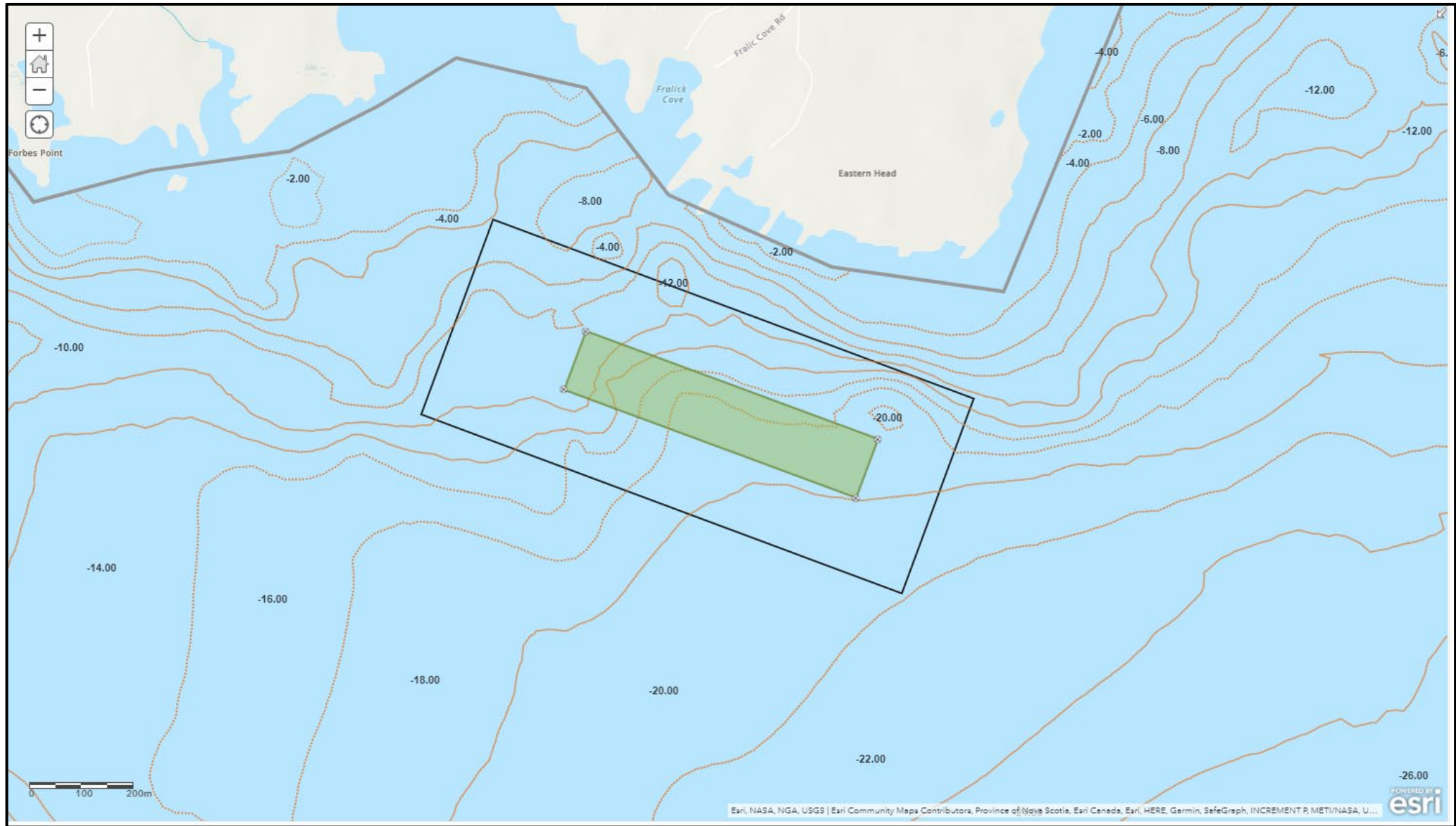
# Acoustic Doppler Current Profiler (ADCP)

## Equipment and Technology

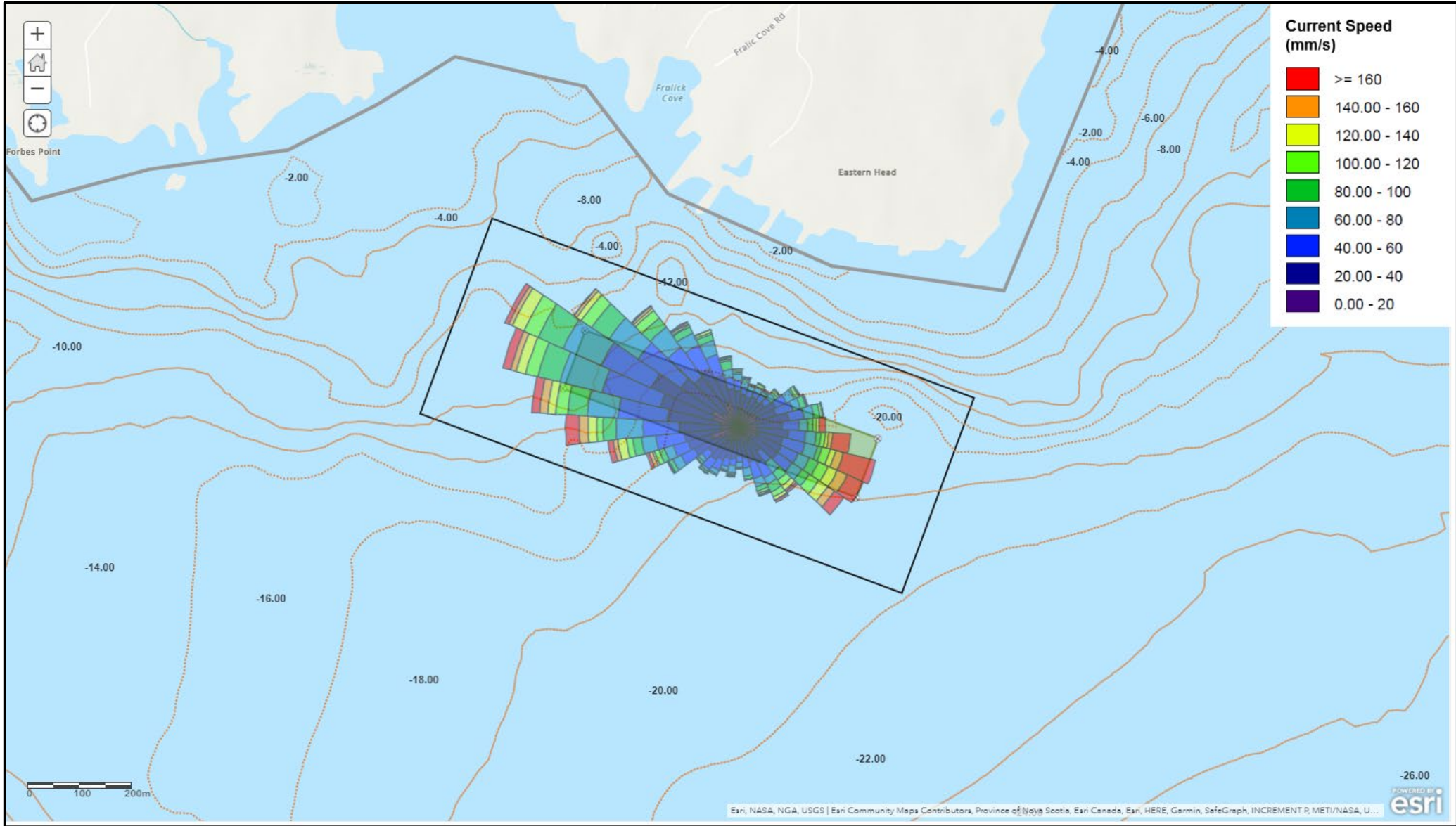
- ▶ Deployment
  - ▶ Mounted to sea floor for 30 to 90+ days
- ▶ Principal
  - ▶ Acoustic beams measure speed and direction at intervals through the water column
- ▶ Data
  - ▶ Hundreds of Thousand of data points per deployment.



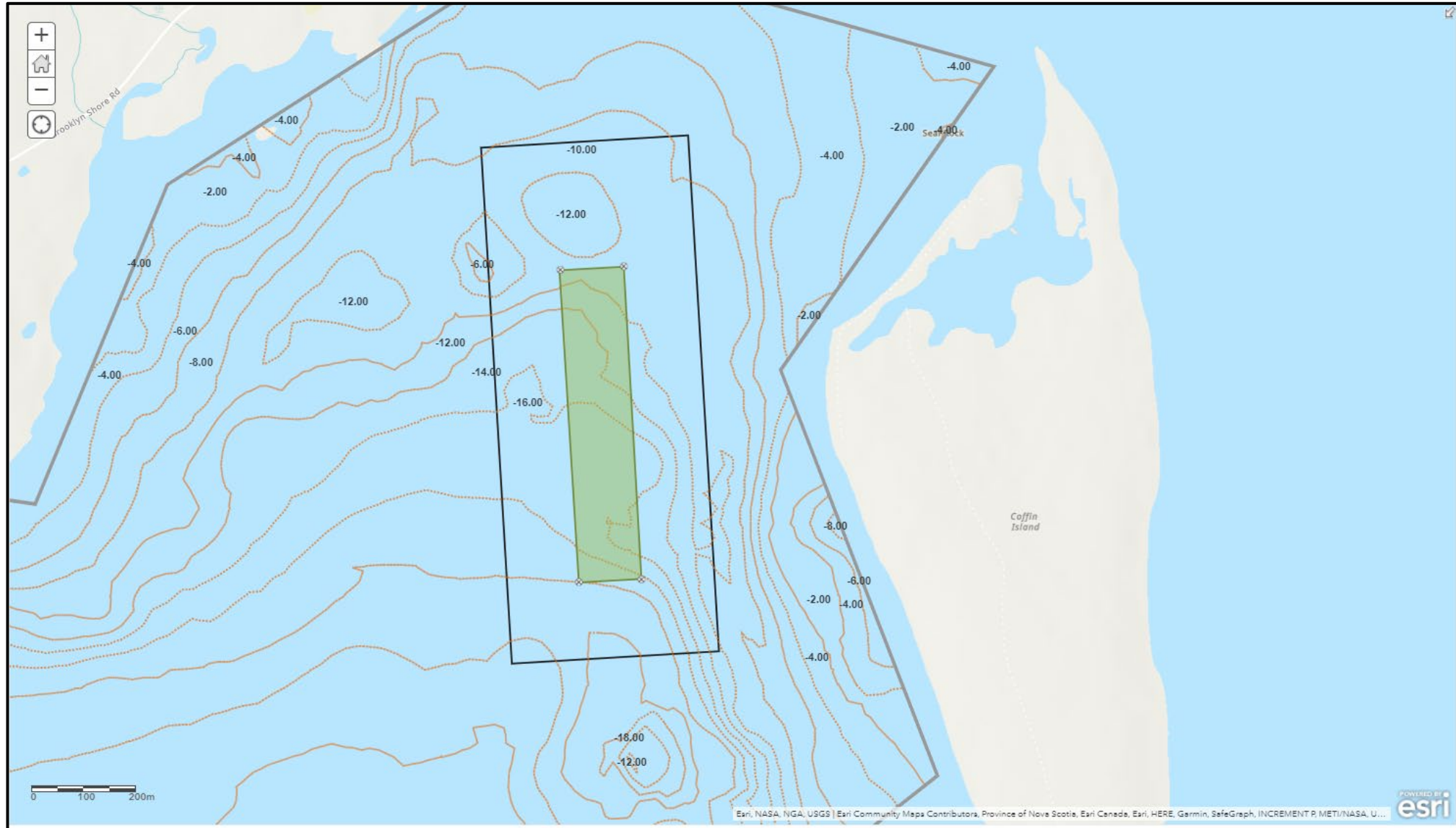
# Brooklyn AQ1432 – Surface Footprint



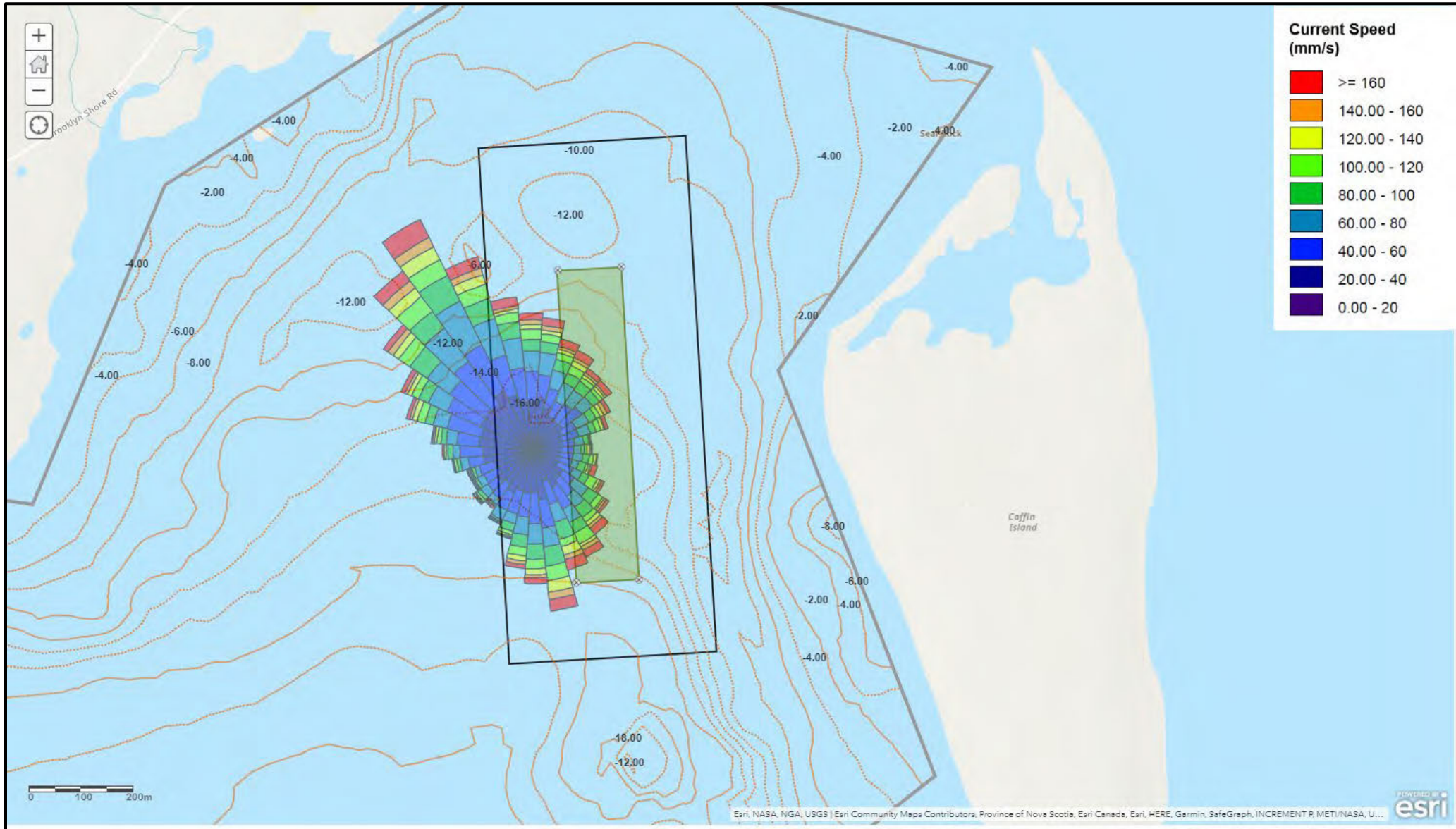
# Brooklyn AQ1432 – Average Current



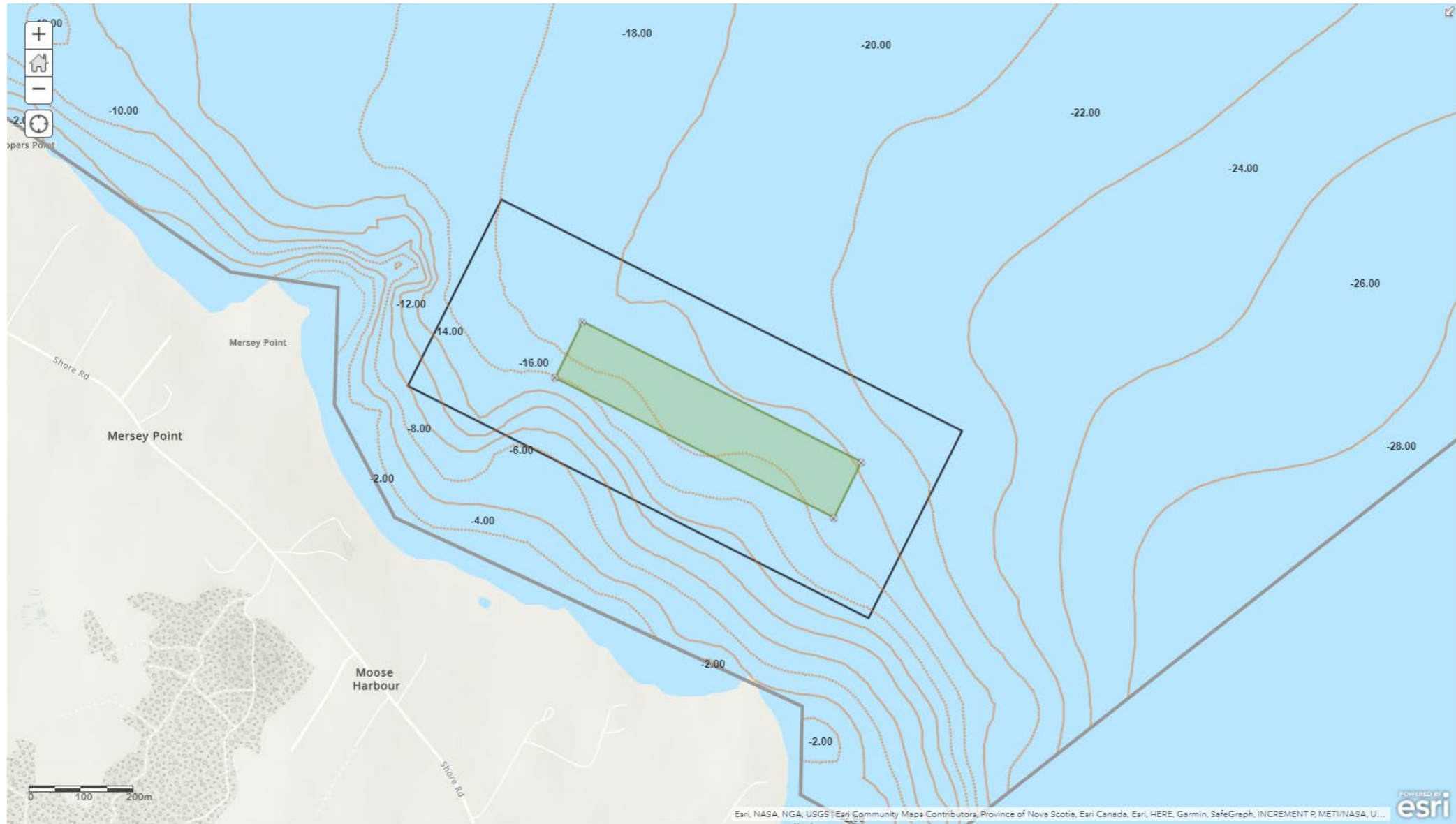
# Liverpool AQ1205 – Surface Footprint



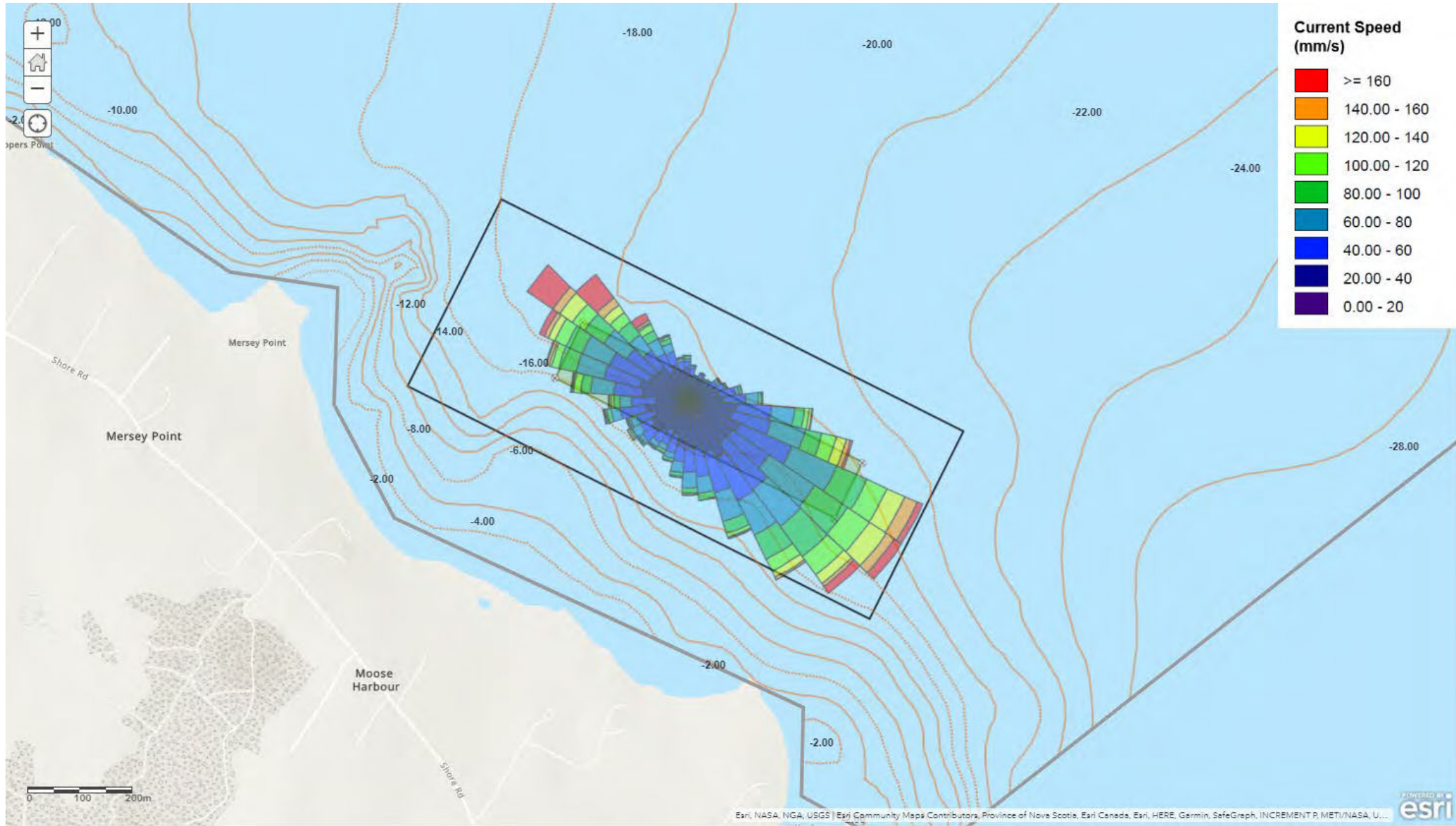
# Liverpool AQ1205 - Average Current



# Mersey Point AQ1433 – Surface Footprint



# Mersey Point AQ1433 – Average Current



# Information on Modelling



# Predictive Simulation Modelling

- ▶ **“Model” – A Digital replication of real-world systems**
  - Input known measurements and conditions
  - Model calculations based on processes and relationships
  - Output of predicted result over time
  
- ▶ **Depositional Modelling**
  - Digital simulation of aquaculture site interactions with the marine environment
  - Predicts deposit of Biological Oxygen Demanding material to seafloor
  - Required by DFO as part of any new finfish application

# AquaModel Software

## Environmental Conditions

- Depth Contours
- Current Speed and Direction
- Bottom Type
- Temperature
- Nutrient Baseline (O<sub>2</sub>, N, P)

## AQUAMODEL

Simulates:

- Fish Physiology
- Ocean Circulation
- Waste Production and Transport

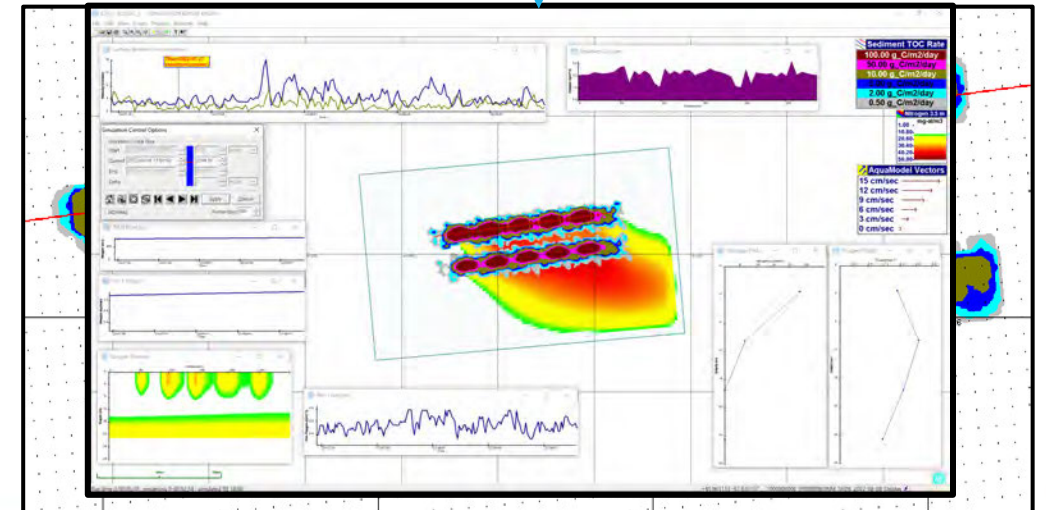
## OUTPUT

Charts, Mapping and Data:

- Fish Growth
- Nutrient Concentrations
- BOD Deposition Rate

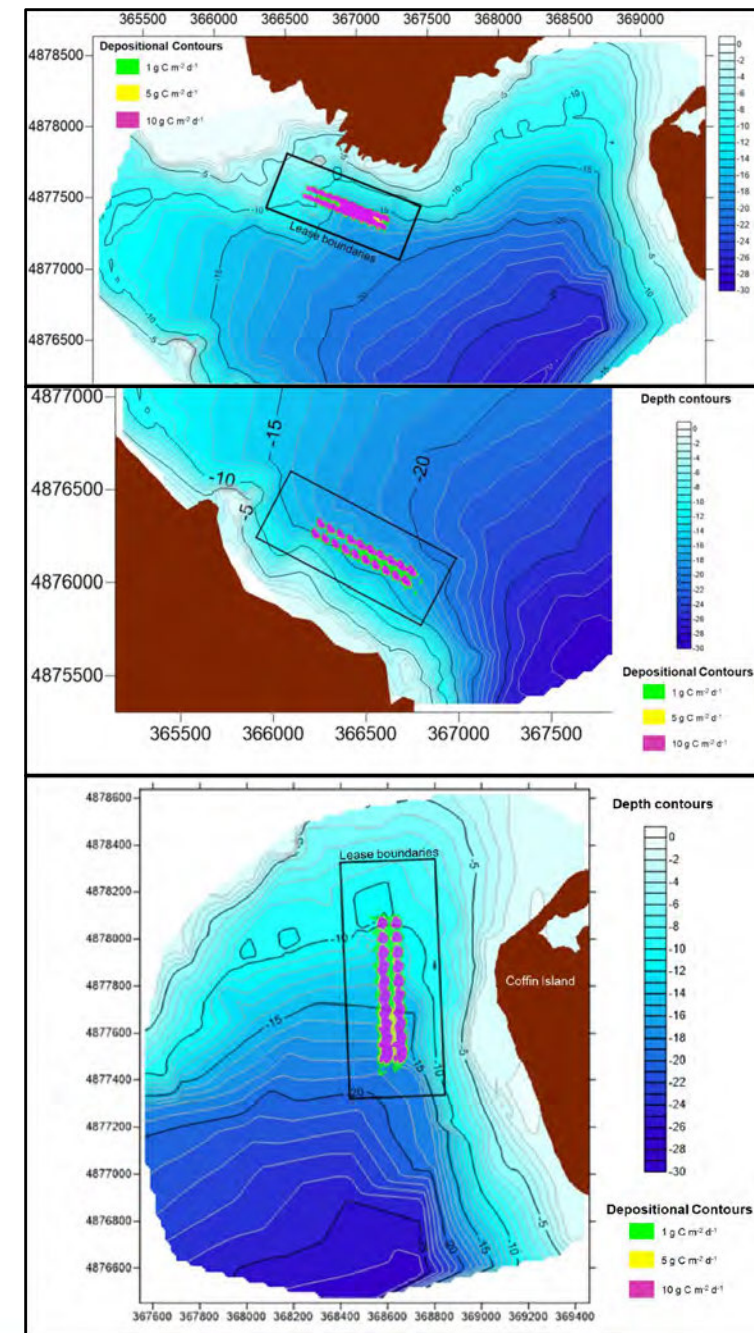
## Operational Parameters

- Species Behaviour
- Pen Size and Location
- Feed Rates
- Mortality Rates
- Production Timeline



# Liverpool Bay Modelling

- ▶ **10+ g C/m<sup>2</sup>/d Contour**
  - Area of greatest impact – Hypoxic to Anoxic
  - Directly beneath and surrounding cage edge
- ▶ **1 g C/m<sup>2</sup> /d Contour**
  - Area of some influence – Likely Oxidic conditions
  - Immediate area of cage grid
- ▶ **Considerations and Limitations**
  - Weather Events – model is limited to input conditions
  - Cage Movement – model assumes stationary cages
  - Resuspension – not required by DFO



Thank you. Questions?

**PLEASE SEE ATTACHED USB TO VIEW:**

<b>Date</b>	<b>Consultation Type</b>	<b>Description</b>
March 2, 2022	Consultation Meeting #3	<b>DFA video of ocean floor under applications sites</b>

## RECORD OF MEETING

### Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference

#### Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon

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**June 1, 2022**

**2:30 - 4:30 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Bec Borchert, Emily Pudden (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Nova Scotia Department of Fisheries and Aquaculture (NSDFA): Bruce Hancock, Carla Buchan, Nathaniel Feindel, Robert Ceschiutti, Melinda Watts

Nova Scotia Department of Communities, Culture, Tourism and Heritage (CCTH): Katie Cottreau-Robins, John Cormier, Susan Jeffries

Office of L'nu Affairs (OLA): Beata Dera, Claire Rillie

#### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To follow up on action items from March 1 and 2, 2022 consultation meetings.
4. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

#### **AGENDA**

1. Introductions (Chair)
2. Consultation update (OLA)
  - Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
  - KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.
  - Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.

- Additional consultation meetings were held on March 1 and 2, 2022.
  - This is our fourth consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.
3. Proponent engagement update (Acadia/KMKNO)
- Engagement meeting between Cooke and Acadia occurred on April 15, 2022.
  - Acadia explained that the turnout was small but fully engaged - all were opposed to the project. One community member from Port Mouton who fishes in Liverpool Bay (commercial/FSC/communal/moderate livelihood fisher) and is very knowledgeable about the area shared information with the company.
  - Acadia described a significant discussion on archaeology in the area and the significance of the Mersey system to the Mi'kmaq.
  - Acadia stated the company was respectful and learned where community was coming from, adding that the company seemed surprised by the archaeology piece - to that point they'd been unaware to a certain degree.
  - Acadia noted the company did not have the map referenced at our last consultation meeting which was disappointing because band members really needed to see the physical layout of the proposed expansions so they could get an understanding of the scope.
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    - KMKNO agreed to follow-up internally and communicate via email or offline if the veterinary team should be invited to the next consultation meeting.
    - Acadia expressed an interest in inviting the veterinarians to next meeting to answer questions the community may have.



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  - KMKNO agreed to help support Acadia's assessment.
  - NSDFA stated that they would be happy to receive questions and circulate them to the veterinary team or bring them back in for the next consultation meeting.
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- KMKNO explained that they have covered areas where rights could be impacted - fisheries primarily plus archaeology, adding that a lot comes down to the areas themselves and the fishing happening in those areas - KMKNO wants to make sure fishing activities not impeded by proposed activities.
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  - OLA voiced view that specificity around the practice of rights is crucial to consultation - from a project planning perspective, looking at immediate area around project - adding that archaeology is being worked through but for fishing or the practice of other rights that could be impacted by these expansions, it would be helpful to know what species being fished, how many community members be impacted.
  - OLA added that they are unable to access information on licences from DFO but that the Province needs information to help government understand the potential specific impacts due to the proposed project expansions. OLA asked for numbers of community members fishing in the specific areas slotted for expansion and if an in-depth conversation on those issues would be possible.
  - KMKNO noted that the number of community members fishing in the area isn't relevant, adding that the Mi'kmaq have continued to be displaced because of commercial fisheries and that the Mi'kmaq have continued to move along, using small vessels, close to shore. KMKNO stressed that it could be 5 members or 500 members - they still have a treaty right to fish.
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  - Acadia further explained that many band members engage in lobster fishing in area - for food fishing (3 tags each) plus moderate livelihood which is growing as it becomes sanctioned by DFO. Acadia noted that the area is very accessible and close to the shore for the small food fishery vessels.
  - Acadia repeated serious concern for the displacement of fishers given the large project area which almost takes up the whole coastline of Coffin Island.
  - Acadia noted there is a food fishery in the area around Coffin Island and that commercial fisheries are located there as well.

- Acadia described Coffin Island as a historic summer place for the Mi'kmaq, stressing the proposed aquaculture expansion could take up the whole shoreline area.
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- NSDFA explained that the maps brought in for the March, 2022 meetings show the lease areas put forward by the proponent but that they do not reflect actual footprint of pens in water, adding there is a big difference between actual space occupied by pens and gear and size they are requesting in their application.
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- NSDFA shared that operators allow people to fish within boundaries of their lease right up to the cages, adding that departmental staff have observed lobster traps set around pens.
- NSDFA stressed that they rely heavily on advice from federal partners, adding that DFO's responsibility is to comment on impacts to fish and fish habitat and that they rely on DFO for advice on impacts to FSC, moderate livelihood and commercial fisheries in the area.
- NSDFA reminded Parties about the project tracking lobsters in vicinity of fish farms, suggesting that it might be worth talking about the latest findings. NSDFA explained that the department looks the impacts of aquaculture on lobster and added that there is no evidence of decrease in landings at this time. NSDFA stressed the importance of specificity: they need to know how what's being proposed here would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss.
- OLA explained that in their experience with DFO, the department don't participate unless they are issuing an authorization or unless specific issues about fish and fish habitat are raised.
- KMKNO asked if DFO could be brought to the table.
- NSDFA reiterated the importance of learning where the best/most productive fishing is done, suggesting that maybe one or more of the proposed sites is actually better for expansion. NSDFA stressed the need to balance interests with other groups.
- Acadia underscored the colonial approach of government regulation and support for industry development and suggested the incorporation of a two-eyed seeing approach.
- NSDFA stressed that there are opportunities for the Mi'kmaq in aquaculture development as well.
- Acadia expressed a desire to work together to find the places where aquaculture development can happen.

- OLA explained that the more information the Province receives, the more informed the decision can be, adding that quantifying use does matter.
- OLA added that government must manage and balance various interests - that is the difficult business of governing.
- OLA stressed that the more information received about rights, the more equipped they are to inform our leadership on the extent of what's happening and where. Without details, they lack information to inform decision-makers.
- NSDFA underscored that the decision before them is not a yes or no. All information will be shared with the ARB for decision but that the department has a duty to consult on potential impacts to rights.
- CCTH noted concern that the table may not be at a place to discuss archaeology at present.
- Acadia highlighted difference between big lobster boats and small community fishers who can't move far offshore to fish.
- Acadia reiterated the colonial government approach is in conflict with the Mi'kmaw perspective of having an open mind.
- Acadia explained that community members teach their children and grandchildren where hunting and fishing occurred in the past, stressing that Mi'kmaw knowledge is vast.
- NSDFA stated they are not aware of lobster fishers being displaced by aquaculture operations anywhere in the province. NSDFA reminded Parties that they have provided evidence about stocks in the Bay with the telemetry study, adding knowledge about how lobsters behave around fish farms, and suggesting they can get landings to compare with if that helps.
- NSDFA noted they think there is ability to practice rights and grow salmon in the same area.

#### 7. Next steps/action items (All)

- NSDFA to consider the request by KMKNO ARD to completing an ARIA for the project area.
- KMKNO to follow-up with NSDFA on whether or not another technical session on fish health is required.
- Acadia to provide NSDFA with questions from the community regarding fish health.
- KMKNO to provide NSDFA with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project.
- Parties agreed to work towards a way of illustrating specific adverse impacts to Mi'kmaw Aboriginal and treaty rights from proposed site expansions.
- OLA suggested looking at a map together or one the community can provide to ascertain what fishing happens in the proposed areas for expansion.
  - KMKNO agreed to touch base with Mi'kmaw team on that item.
- Acadia will also return to Chief and Council for further conversation.





200 Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

75 Treaty Trail  
Truro, NS B6L 1W3

**Tel** (902) 843 3880 **Fax** (902) 843 3882

**Toll Free** 1 888 803 3880

**Email** [info@mikmaqrightrights.com](mailto:info@mikmaqrightrights.com)

**www.mikmaqrightrights.com**

Our Rights. Our Future.

June 16<sup>th</sup>, 2022

Robert Ceschiutti  
Manager, Licensing and Leasing  
Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, N.S., B0T 1W0  
Email: [Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**RE: Consultation with the Mi'kmaq on Licence and Lease Application Nos. AQ#1205, AQ#1432 & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County.**

Mr. Ceschiutti,

I write to reiterate the discussions from our June 1<sup>st</sup>, 2022, consultation meeting and to highlight concerns raised by Acadia First Nation. The Kwilmu'kw Maw-Klusuaqn Negotiation Office (KMKNO) supports the following concerns raised by Acadia First Nation as the expansion of Liverpool Bay will directly impact Mi'kmaq Rights and Title.

The Mi'kmaq have witnessed immense changes to the landscapes and shorelines of Mi'kma'ki over millennia. The Mi'kmaq and their ancestors have occupied the Liverpool Bay region since time immemorial and the area is significant for traditional gathering and fishing practices including reliance on lobster, cod, mackerel and other species. As sea levels rose, coastal lands including areas within Liverpool Bay were inundated. These now submerged shorelines are considered to represent areas of elevated archaeological potential for Precontact Mi'kmaw cultural heritage.

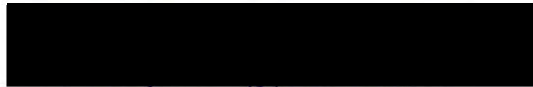
Acadia First Nation, as well as the Mi'kmaq of Nova Scotia, are very concerned with the archaeological significance of the entire Mersey River corridor, including Liverpool Bay. The Mersey River formed part of a natural inland waterway, which served as an essential transportation route connecting the Atlantic coast with the Bay of Fundy. Approximately one quarter of all registered Precontact Mi'kmaw archaeological sites in Nova Scotia are located along this corridor. The presence of Mi'kmaw place names around Liverpool Bay, including Oqomkikiaq (Liverpool, NS) and Qamaku'jk (Brooklyn, NS), highlights the importance of the area for the Mi'kmaq. The proximity of known archaeological sites, including one located within Liverpool Harbour, Mi'kmaw place names, and longstanding traditional use of the area validate the request for a proper underwater archaeological assessment in Liverpool Bay.

Underwater archaeology of submerged landscapes is still an emerging discipline in Nova Scotia; while Mi'kmaw concerns regarding potential archaeological impacts may not have been communicated effectively in our initial consultation meeting, the KMKNO certainly noted the

archaeological and cultural significance of Liverpool Bay. Archaeological sites are a non-renewable resource and physical impacts have the potential to damage or disturb buried cultural remains. Impacts to Mi'kmaw archaeological heritage, including loss, disturbance or a lack of detection have the potential to negatively impact Mi'kmaw Rights and Title. Therefore, the KMKNO strongly recommends that a full Archaeological Resource Impact Assessment (ARIA) be carried out prior to any decision by the Aquaculture Review Board (ARB) and that any such investigation be developed collaboratively with the Mi'kmaq.

The Assembly of Nova Scotia Mi'kmaw Chiefs (ANSMC) expects a high level of archaeological investigative diligence and cultural attention as research is conducted. Acadia First Nation and the KMKNO also raised concerns over shoreline appearance and tourism value, loss of traditional and current fishing space for Food, Social & Ceremonial (FSC) fishers who are unable to locate elsewhere, fish health and environmental disturbances.

Yours in Recognition of Mi'kmaw Rights and Title,



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Twila Gaudet, B.A., LL.B.  
Director of Consultation  
Kwilmu'kw Maw-Klusuaqn Negotiation Office

c.c.:

Keptin Jeff Purdy, Acadia First Nation  
Councillor Charmaine Stevens, Acadia First Nation  
Claire Rillie, Consultation Advisor, Nova Scotia Office of L'nu Affairs  
Linda Babineau-LeBlanc, Consultation Officer, Transport Canada  
Edward Parker, Senior Aquaculture Advisor (Maritimes), Fisheries and Oceans Canada

November 23, 2022

Kwilmu'kw Maw-klusuaqn Negotiation Office  
Attention: Twila Gaudet  
75 Treaty Trail  
Truro, NS  
B6L 1W3

Dear Twila Gaudet;

**RE: Continuing Consultation with the Mi'kmaq of Nova Scotia on the Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433 located in Liverpool Bay, Queens County**

The purpose of this letter is to continue consultation with the Mi'kmaq of Nova Scotia, under the August 31, 2010 *Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference*, concerning three aquaculture applications (AQ#1205, AQ#1432 and AQ#1433) submitted by Kelly Cove Salmon Ltd. This letter provides information about:

1. Current Status of Applications
2. Continuing Consultation with the Mi'kmaq of Nova Scotia

#### Current Status of Applications

The above applications have completed the internal review process and advice has been received by network partners. The next step in the process is to submit the applications to the Aquaculture Review Board (ARB) for a decision.

#### Continuing Consultation with the Mi'kmaq of Nova Scotia

On June 1, 2022, the fourth consultation meeting for the above-noted applications was held with representatives from KMKNO, Acadia First Nation, the Nova Scotia Department of Fisheries and Aquaculture (NSDFA) and the Nova Scotia Office of L'nu Affairs (OLA). During the consultation meeting Acadia First Nation and the KMKNO raised concerns over shoreline appearance and tourism value, loss of traditional and current fishing space for Food, Social & Ceremonial (FSC) fishers who are unable to locate elsewhere, fish health and environmental disturbances. During the consultation meeting a list of action items and next steps were listed. The final record of this consultation meeting has been included with this correspondence.

The following is a list of action items resulting from the meeting:

1. NSDFA to consider the request by KMKNO-Archaeology Research Division (ARD) to complete an Archaeological Resource Impact Assessment (ARIA) for the project area.

2. KMKNO to follow up with NSDFA on whether or not another technical session on fish health is required.
3. Acadia to provide NSDFA with questions from the community regarding fish health.
4. KMKNO to provide NSDFA with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project.
5. Parties agreed to work towards a way of illustrating specific adverse impacts to Mi'kmaw Aboriginal and treaty rights from proposed site expansions.
6. OLA suggested looking at a map together or one the community can provide to ascertain what fishing happens in the proposed areas for expansion. KMKNO agreed to touch base with Mi'kmaw team on this item.
7. Acadia will also return to Chief and Council for further conversation.

Thank you for your letter dated June 16, 2022 sent to the NSDFA as a follow-up to the June 1, 2022 consultation meeting. In the letter, the KMKNO strongly recommended that a full ARIA be carried out prior to any decision by the Aquaculture Review Board (ARB). The KMKNO wrote that the Mi'kmaq and their ancestors have occupied Liverpool Bay since time immemorial and have fished lobster, cod, mackerel among other species. In regards to action item #1 resulting from the meeting, following direct discussions with Acadia First Nation and KMKNO and considering the concerns in KMKNO's June 16, 2022 letter regarding the elevated archaeological potential for Precontact Mi'kmaw cultural heritage in Liverpool Bay, Kelly Cove Salmon Ltd. completed an ARIA for the project area. A copy of the resulting final report will be shared with KMKNO's Archaeology Research Division once finalized by the Nova Scotia Communities, Culture, Tourism and Heritage (CCTH).

Apart from action item #1, the Department has received no follow-ups with respect to action items from the June 1, 2022 meeting. The Department notes that more than 5 months have elapsed since that meeting and would like to move forward with sending the applications to the ARB for a decision. The Department requests that you please provide an update on the above action items numbered 2 – 7 resulting from the June 1, 2022 consultation meeting.

As part of the continuing consultation, we would like to hear from the Assembly of Nova Scotia Mi'kmaw Chiefs about details of any asserted Aboriginal or Treaty rights that could be adversely impacted by this project. Please provide a response, including information to address action items #2 -7 resulting from the June 1, 2022 Consultation meeting, within 30 days. The Department has significant timing concerns associated with the advancement of these applications to the ARB for a decision. If feedback is not received by the above-noted date, the Department will consider consultation to be concluded and proceed to submit the above applications to the ARB for a decision.

Sincerely,



Robert Ceschiutti,  
Manager of Licensing and Leasing

Enclosed: Record of Consultation Meeting (June 1, 2022)

C:



Keptin Jeff Purdy  
Acadia First Nation

Councillor Charmaine Stevens  
Acadia First Nation

Tamara Young, Jr. Consultation Researcher  
Kwilmu'ku Maw-klusuaqn Negotiation Office

Claire Rillie, Senior Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Kendra Gorveatt, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Edward Parker, Senior Aquaculture Advisor (Maritimes)  
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Linda Babineau-LeBlanc, Consultation Officer  
Transport Canada

## FINAL DRAFT RECORD OF MEETING

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon**

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**June 1, 2022**

**2:30 - 4:30 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Bec Borchert, Emily Pudden (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Nova Scotia Department of Fisheries and Aquaculture (NSDFA): Bruce Hancock, Carla Buchan, Nathaniel Feindel, Robert Ceschiutti, Melinda Watts

Nova Scotia Department of Communities, Culture, Tourism and Heritage (CCTH): Katie Cottreau-Robins, John Cormier, Susan Jeffries

Office of L'nu Affairs (OLA): Beata Dera, Claire Rillie

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To follow up on action items from March 1 and 2, 2022 consultation meetings.
4. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Introductions (Chair)
2. Consultation update (OLA)
  - Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
  - KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.

- Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.
  - Additional consultation meetings were held on March 1 and 2, 2022.
  - This is our fourth consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.
3. Proponent engagement update (Acadia/KMKNO)
- Engagement meeting between Cooke and Acadia occurred on April 15, 2022.
  - Acadia explained that the turnout was small but fully engaged - all were opposed to the project. One community member from Port Mouton who fishes in Liverpool Bay (commercial/FSC/communal/moderate livelihood fisher) and is very knowledgeable about the area shared information with the company.
  - Acadia described a significant discussion on archaeology in the area and the significance of the Mersey system to the Mi'kmaq.
  - Acadia stated the company was respectful and learned where community was coming from, adding that the company seemed surprised by the archaeology piece - to that point they'd been unaware to a certain degree.
  - Acadia noted the company did not have the map referenced at our last consultation meeting which was disappointing because band members really needed to see the physical layout of the proposed expansions so they could get an understanding of the scope.
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community was on guard and needed to take time to consider before being comfortable moving ahead.

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- NSDFA shared that operators allow people to fish within boundaries of their lease right up to the cages, adding that departmental staff have observed lobster traps set around pens.
- NSDFA stressed that they rely heavily on advice from federal partners, adding that DFO's responsibility is to comment on impacts to fish and fish habitat and that they rely on DFO for advice on impacts to FSC, moderate livelihood and commercial fisheries in the area.
- NSDFA reminded Parties about the project tracking lobsters in vicinity of fish farms, suggesting that it might be worth talking about the latest findings. NSDFA explained that the department looks the impacts of aquaculture on lobster and added that there is no evidence of decrease in landings at this time. NSDFA stressed the importance of specificity: they need to know how what's being proposed here would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss.
- OLA explained that in their experience with DFO, the department don't participate unless they are issuing an authorization or unless specific issues about fish and fish habitat are raised.
- KMKNO asked if DFO could be brought to the table.
- NSDFA reiterated the importance of learning where the best/most productive fishing is done, suggesting that maybe one or more of the proposed sites is actually better for expansion. NSDFA stressed the need to balance interests with other groups.
- Acadia underscored the colonial approach of government regulation and support for industry development and suggested the incorporation of a two-eyed seeing approach.
- NSDFA stressed that there are opportunities for the Mi'kmaq in aquaculture development as well.
- Acadia expressed a desire to work together to find the places where aquaculture development can happen.

- OLA explained that the more information the Province receives, the more informed the decision can be, adding that quantifying use does matter.
  - OLA added that government must manage and balance various interests - that is the difficult business of governing.
  - OLA stressed that the more information received about rights, the more equipped they are to inform our leadership on the extent of what's happening and where. Without details, they lack information to inform decision-makers.
  - NSDFA underscored that the decision before them is not a yes or no. All information will be shared with the ARB for decision but that the department has a duty to consult on potential impacts to rights.
  - CCTH noted concern that the table may not be at a place to discuss archaeology at present.
  - Acadia highlighted difference between big lobster boats and small community fishers who can't move far offshore to fish.
  - Acadia reiterated the colonial government approach is in conflict with the Mi'kmaw perspective of having an open mind.
  - Acadia explained that community members teach their children and grandchildren where hunting and fishing occurred in the past, stressing that Mi'kmaw knowledge is vast.
  - NSDFA stated they are not aware of lobster fishers being displaced by aquaculture operations anywhere in the province. NSDFA reminded Parties that they have provided evidence about stocks in the Bay with the telemetry study, adding knowledge about how lobsters behave around fish farms, and suggesting they can get landings to compare with if that helps.
  - NSDFA noted they think there is ability to practice rights and grow salmon in the same area.
7. Next steps/action items (All)
- NSDFA to consider the request by KMKNO ARD to completing an ARIA for the project area.
  - KMKNO to follow-up with NSDFA on whether or not another technical session on fish health is required.
  - Acadia to provide NSDFA with questions from the community regarding fish health.
  - KMKNO to provide NSDFA with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project.
  - Parties agreed to work towards a way of illustrating specific adverse impacts to Mi'kmaw Aboriginal and treaty rights from proposed site expansions.
  - OLA suggested looking at a map together or one the community can provide to ascertain what fishing happens in the proposed areas for expansion.
    - KMKNO agreed to touch base with Mi'kmaw team on that item.
  - Acadia will also return to Chief and Council for further conversation.



Kwilmu'kw Maw-klusuaqn Negotiation Office  
**Mi'kmaq Rights Initiative**

Our Rights. Our Future.

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 Truro, NS B6L 1W3

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November 30, 2022

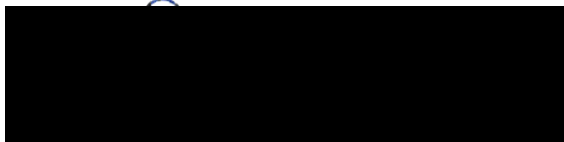
Robert Ceschiutti  
 Manager, Licensing and Leasing  
 Fisheries and Aquaculture  
 1575 Lake Road  
 Shelburne, NS B0T 1W0  
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**Re: Continuing Consultation with the Mi'kmaq on Licence and Lease Application Nos. AQ#1205, AQ#1432 & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

Mr. Robert Ceschiutti,

I write to acknowledge your letter dated November 23<sup>rd</sup>, 2022, on the above noted. Our office requires additional time to review the archaeological resource impact assessment (ARIA) provided by the proponent. This would ensure that we are providing accurate feedback/concerns prior to any application approvals.

Yours in Recognition of Mi'kmaq Rights and Title,



Twila Gaudet, BA, LL.B  
 Director of Consultation  
 Kwilmu'kw Maw-Klusuaqn Negotiation Office

cc:

Keptin Jeff Purdy, Acadia First Nation  
 Councillor Charmaine Stevens, Acadia First Nation  
 Claire Rillie, Consultation Advisor, Nova Scotia Office of L'nu Affairs  
 Kendra Gorveatt, Consultation Advisor, Nova Scotia office of L'nu Affairs  
 Linda Babineau-LeBlanc, Consultation Officer, Transport Canada  
 Edward Parker, Senior Aquaculture Advisor (Maritimes), Fisheries and Oceans Canada





December 14<sup>th</sup>, 2022

Robert Ceschiutti  
Manager – Licensing and Leasing  
Nova Scotia Department of Fisheries and Aquaculture  
1575 Lake Road  
Shelburne, N.S., B0T 1W0  
Email: [Robert.Ceschiutti@novascotia.ca](mailto:Robert.Ceschiutti@novascotia.ca)

**RE: Continuing Consultation with the Mi'kmaq on Licence and Lease Application Nos. AQ#1205, AQ#1432 & AQ#1433 Kelly Cove Salmon Ltd., Marine Finfish, Liverpool Bay, Queens County**

Mr. Ceschiutti,

I write to acknowledge receipt of your letter dated November 23, 2022, with respect to continued consultation under the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process* (ToR) as ratified on August 31, 2010, on the above noted project.

In the letter, action item #4 reads: Kwilmu'kw Maw-Klusuaqn Negotiation Office (KMKNO) to provide Nova Scotia Department of Fisheries and Aquaculture (NSDFA) with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project. We reiterate that there remains concerns in providing that information. This is an ongoing exercise.

Action item#5: Parties agreed to work towards a way of illustrating specific adverse impacts to Mi'kmaw Aboriginal and treaty rights from proposed site expansions. Providing Kelly Cove with more room to farm their fish, means less area for the Mi'kmaq to fish. This clearly impedes the Mi'kmaw right to fish for food, social and ceremonial purposes as well as for moderate livelihood. Displacement has been brought up numerous times during our meetings and the loss of an archaeological site or artifact is an irreversible loss to Mi'kmaq history and culture.

Kelly Cove Salmon Limited's decision to proceed with an Archaeological Resource Impact Assessment (ARIA) followed concerns raised by representatives of Acadia First Nation, during an April 2022 community engagement session, rather than at the direction of the province. KMKNO recognizes the Proponent's proactive approach in acknowledging that aquaculture operations have the potential to impact submerged archaeological resources.

As a desk-based screening, the archaeological assessment of the Liverpool Bay aquaculture sites displays a number of strengths, including the manner in which it takes into account Holocene environmental conditions, modern bathymetric data, and postglacial coastlines in examining archaeological potential within the study area. As stated in the report, "the coastline has evolved

significantly through time and the coastal orientation of precontact archaeological sites must be considered in light of the changing configuration” (Boreas 2022: 10,35).


The Archaeology Research Division (ARD) of KMKNO supports the recommendation that high potential areas (HPA-01 & HPA-02) “be subjected to subsurface archaeological sampling probes” prior to any disturbance (Boreas 2022: 42). The Maw-lukutijik Saqmaq (Assembly of Nova Scotia Mi’kmaw Chiefs) expects a high level of archaeological diligence, with evidence-based decisions grounded in an understanding of subsurface environmental data adequate to eliminate concern for the presence, protection, and management of Mi’kmaw archaeological and cultural heritage, in advance of any development. “Any potential need for further archaeological assessment or mitigation will be based on the results of this subsurface investigation” (Boreas 2022: 38).

The ARD’s primary concern with respect to the archaeological report, as submitted, is with its titling as an ARIA. An ARIA should properly consist of both a desktop assessment (background screening) and field reconnaissance. According to the Nova Scotia Department of Communities, Culture, Tourism and Heritage’s ARIA (Category C) Guidelines, “In designing an [ARIA], the following components should be addressed: 1. Background research...2. Field strategy”. The Liverpool Bay report acknowledges this deficiency, on more than one occasion, by describing the desktop assessment as “the first phase of the ARIA” (Boreas 2022: 1,5). The report further states that the assessment was restricted to a desk-based screening “so that an appropriate field component strategy can be devised” (Boreas 2022: 1). However, the submission of the report as an ARIA, to both the Proponent and the provincial regulator, risks setting the precedent that underwater archaeological assessments need not be held to the same standard as terrestrial ARIAs. As such, the ARD disagrees with the recommendation that portions of the assessment area “be cleared of any requirement for further archaeological investigation [and that] development within these areas may proceed as planned” (Boreas 2022, 42), without some form of prior visual reconnaissance, as a primary data tool, such as remote sensing or direct diver survey.

It is KMKNO’s understanding that Kelly Cove Salmon intends to proceed with the field component phase of the Liverpool Bay ARIA, including subsurface archaeological sampling probes. We stand firm in our position that the full ARIA should be completed, and the results reviewed by the ARD, prior to the conclusion of consultation. Recognition from the Province of the cultural significance of the submerged landscape of Liverpool Bay to the Mi’kmaq would be a step towards building the trust required for sharing information on fishing activities in the area.

We look forward to continuing consultation with you on this matter.

Yours in Recognition of Mi’kmaw Rights and Title,

  
Twila Gaudet, B.A., LL.B.  
Director of Consultation  
Kwilmu’kw Maw-Klusuaqn Negotiation Office

c.c.:

Keptin Jeff Purdy, Acadia First Nation

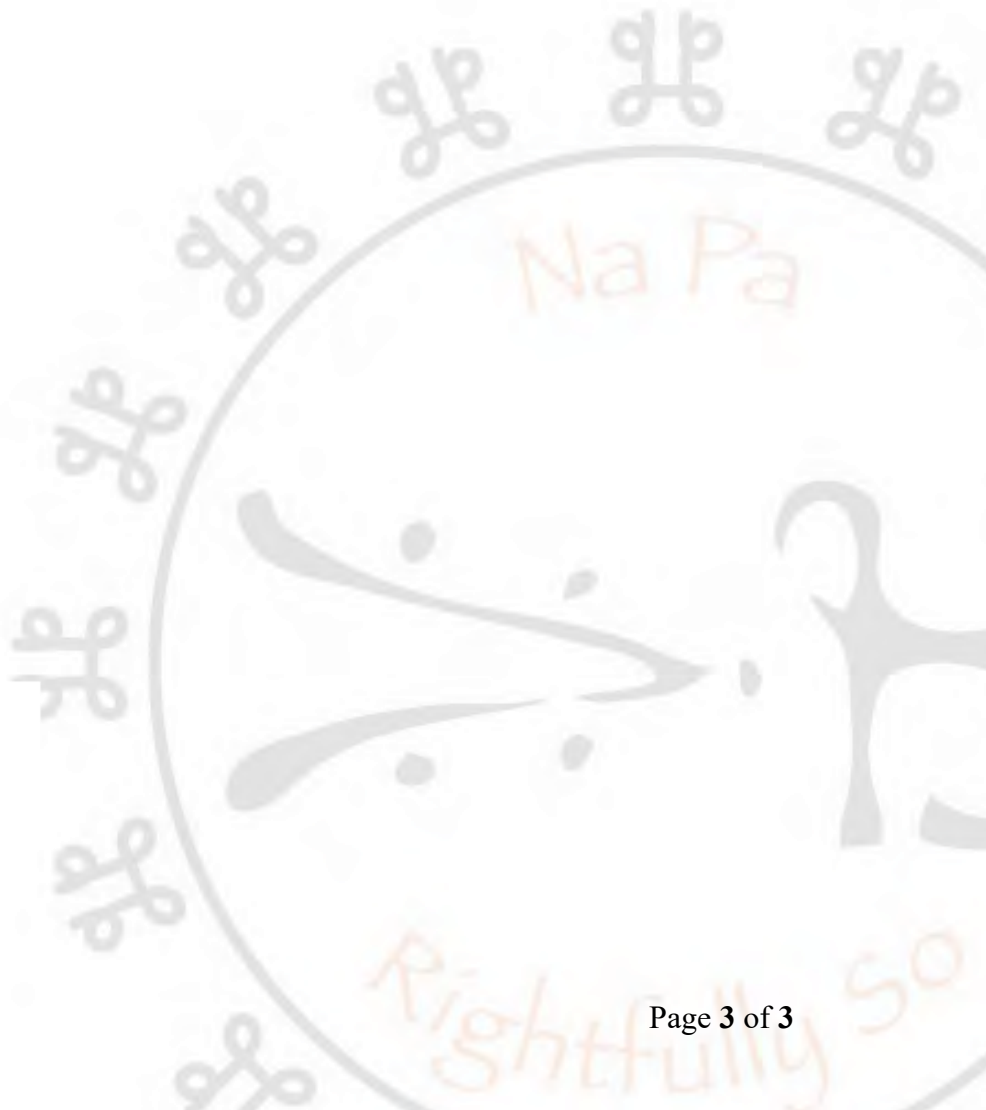
Councillor Charmaine Stevens, Acadia First Nation

Claire Rillie, Consultation Advisor, Nova Scotia Office of L'nu Affairs

Kendra Gorveatt, Consultation Advisor, Nova Scotia office of L'nu Affairs

Linda Babineau-LeBlanc, Consultation Officer, Transport Canada

Ed Parker, Senior Aquaculture Advisor (Maritimes), Department of Fisheries and Oceans  
Canada



May 1, 2023

Twila Gaudet, Director of Consultation  
Assembly of Nova Scotia Mi'kmaq Chiefs  
Kwilmu'kw Maw-klusuaqn Negotiation Office  
75 Treaty Trail,  
Millbrook, NS  
B6L 1W3

Dear Twila Gaudet;

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433 located in Liverpool Bay, Queens County**

I am writing to bring to your attention a decision that has been made on three aquaculture applications (AQ#1205, AQ#1432 and AQ#1433, the “applications”) submitted by Kelly Cove Salmon Ltd. in connection with an adjudicative amendment to increase the site boundaries and two new aquaculture sites for the marine cage cultivation of Atlantic salmon in Liverpool Bay, Queens County.

This letter provides the following:

1. Chronology of consultation
2. How concerns/issues raised by the Mi'kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On September 25, 2019, the Nova Scotia Department of Fisheries and Aquaculture (the “Department”) sent Offer to Consult letters to the Chiefs and Councils of the Assembly of Nova Scotia Mi'kmaq Chiefs (Acadia First Nation, Annapolis Valley First Nation, Eskasoni First Nation, Glooscap First Nation, L'sitkuk (Bear River), Membertou First Nation, Paqtnkek Mi'kmaq Nation, Pictou Landing First Nation, Potlotek First Nation, Wagmatcook First Nation, We'koqma'q First Nation), copying the KMKNO. The Department described the applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. The Department then requested details on potential adverse impacts the applications could have on credibly asserted or established Mi'kmaq Aboriginal and/or treaty rights. A response was required on or before November 25, 2019.

On November 22, 2019, a response was received from the KMKNO wishing to proceed with consultation. In the response, the KMKNO advised that local Mi'kmaq communities have

expressed significant concerns and oppose this aquaculture expansion. The KMKNO “strongly recommended that the above noted lease application(s) not be approved.”

On February 6, 2020, the Department sent a letter to the KMKNO to continue consultation. In the letter, the Department assessed and addressed the issues raised by the KMKNO in the previous letter dated November 22, 2019. In the letter, a website link to the development plans for all three applications was provided. The Department offered a meeting with representatives of the KMKNO and concerned Mi’kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia. The Department also offered to meet in person for further consultation (specific to the applications). A response was required on or before March 6, 2020.

On March 5, 2020, a response was received from the KMKNO, wishing to proceed with a consultation meeting.

On December 9, 2020, Consultation Meeting #1 was held (virtually) with representatives from the Department, KMKNO, Acadia First Nation, Glooscap First Nation and Nova Scotia Office of L’nu Affairs (OLA, previously known as the Office of Aboriginal Affairs). Refer to Supplement #1 for a copy of the finalized record of this meeting.

On April 12, 2021, the OLA provided via e-mail a finalized record of meeting from the December 9, 2020 Consultation Meeting #1 to the KMKNO, Acadia First Nation, Glooscap First Nation and the Department.

On May 3, 2021, the Department sent a letter to the KMKNO to continue consultation. In the letter, the Department proposed that two individual meetings should be held: One meeting to further discuss the concerns regarding environmental impact and the other meeting to discuss the concerns regarding fish health and disease. No response was received by the KMKNO regarding this letter.

On July 16, 2021, the Department sent an e-mail to the KMKNO as a follow-up to the letter dated May 3, 2021. In the e-mail the Department identified how their actions would be addressed in the two proposed consultation meetings with dates suggested on August 10, 11 or 12, 2021. In addition, the Department asked to hear from Acadia First Nation on their progress from their action items. No response was received by the KMKNO regarding this email.

On August 30, 2021, the OLA sent an e-mail to the KMKNO as a follow-up to the two previous correspondences, indicating that no response had been received. In the e-mail the OLA asked the KMKNO to suggest times in September or early October for the proposed consultation meetings. Later the same day, the KMKNO responded that they will get back once they have a date range of availability from Acadia First Nation.

On September 24, 2021, the OLA sent an e-mail to the KMKNO as a follow-up to the three previous correspondences, indicating that no response had been received to schedule the next consultation meetings. The OLA requested an update on reaching out to Acadia First Nation.

On October 1, 2021, the KMKNO responded to the OLA via e-mail that Acadia First Nation was available in early October.

On October 4, 2021, the OLA responded to the KMKNO via e-mail that there is not enough time to arrange the meeting, given that it was already early October. On October 13, 2021, the OLA requested to the KMKNO via e-mail to meet November 24 and 26, 2021. If those dates were not feasible, the KMKNO were to provide dates for December. No response was received by the KMKNO regarding this e-mail.

On November 23, 2021, the OLA sent a follow-up email to the October 13, 2021 e-mail sent to the KMKNO, requesting the best way to proceed with consultation on these applications.

On January 18, 2022, the Department sent a letter to the KMKNO to continue consultation on the applications. The Department stated that, since the December 9, 2020 consultation meeting on this file, KMKNO and Acadia First Nation had not reciprocated the Department's efforts to re-engage in consultation. Section 9.e. of the August 31, 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference stresses the importance of timeliness to the consultation process, stating that "reasonable time" be given "to consider and discuss the information, having regard to any time constraints". The Department reminded the KMKNO that the network review process had been completed and the applications were ready for submission to the Aquaculture Review Board ("ARB"). The Department also stated that jurisprudence directs Parties not to "frustrate" the consultation process. Moreover, governments have a duty to balance Indigenous interests with those of the wider society. For these reasons, the Department made a final offer to continue consultation on the above applications by requesting the availability of the KMKNO and Acadia First Nation for two virtual meetings between February 28 and March 11, 2022. A response was requested by February 4, 2022. Another copy of the record of meeting from December 9, 2020 was included with the letter. Following responses from the KMKNO, the Parties agreed to a virtual consultation meeting on March 1 and 2, 2022.

On March 1, 2022, Consultation Meeting #2 was held (virtually) to discuss concerns related to fish health. Attending the meeting were representatives from the Department, KMKNO, Acadia First Nation, Transport Canada and OLA. Refer to Supplement #2 for a copy of the finalized record of this meeting.

On March 2, 2022, Consultation Meeting #3 was held (virtually) to discuss concerns related to the environment. Attending the meeting were representatives from the Department, KMKNO, Acadia First Nation and OLA. Refer to Supplement #3 for a copy of the finalized record of this meeting.

On May 4, 2022, the OLA provided via e-mail a finalized record of meeting from the March 1, 2022 Consultation Meeting #2 and the March 2, 2022 Consultation Meeting #3 to the KMKNO, Acadia First Nation, Glooscap First Nation and the Department.

On June 1, 2022, Consultation Meeting #4 was held (virtually) to provide a status update on the project, follow up on action items from the March 1 and March 2, 2022 consultation meetings and to discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project. Attending the meeting were representatives from the Department, KMKNO, Acadia First Nation, CCTH and OLA. Refer to Supplement #4 for a copy of the finalized record of this meeting. During the meeting, Acadia First Nation and the KMKNO raised concerns over shoreline appearance and tourism value, loss of traditional and current fishing space for Food, Social & Ceremonial (FSC) fishers who are unable to locate elsewhere, fish health and environmental disturbances.

On June 16, 2022, a response was received from the KMKNO as a follow-up to the June 1, 2022 Consultation Meeting (#4). In the letter, the KMKNO strongly recommended that a full Archaeological Resource Impact Assessment (ARIA) be carried out prior to any decision by the Aquaculture Review Board (ARB) and that any such investigation be developed collaboratively with the Mi'kmaq. The KMKNO wrote that the Mi'kmaq and their ancestors have occupied Liverpool Bay since time immemorial and have fished lobster, cod, mackerel among other species. The KMKNO wrote that the submerged shorelines represent areas of elevated archaeological potential for Precontact Mi'kmaw cultural heritage. In the letter, the KMKNO reiterated the request that a full Archaeological Resource Impact Assessment (ARIA) be carried out prior to a decision by the Aquaculture Review Board (ARB).

On November 23, 2022, the Department sent a letter to the KMKNO to continue consultation on the applications. The Department provided the list of action items resulting from the June 1, 2022 Consultation Meeting (#4). A finalized record of meeting from the June 1, 2022 Consultation Meeting (#4) was included with the letter. The Department indicated in the letter that, apart from action item #1, the Department had received no follow-ups with respect to action items from the June 1, 2022 meeting. The Department noted that more than 5 months had elapsed since that meeting and would like to move forward with sending the applications to the ARB for a decision. The Department requested that the KMKNO provide an update on the action items numbered 2 – 7 resulting from the June 1, 2022 consultation meeting. The Department requested a response within 30 days. If feedback was not received within 30 days, the Department would consider consultation to be concluded.

On November 30, 2022, a response was received from the KMKNO, requesting additional time to review the ARIA provided by the proponent (Kelly Cove Salmon Ltd.), stating “This would ensure that we are providing accurate feedback/concerns prior to any application approvals.”

On December 14, 2022, a response was received from the KMKNO. The KMKNO responded to action item #4 from the June 1, 2022 Consultation Meeting, stating “We reiterate that there remains concerns in providing that information. This is an ongoing exercise.” The KMKNO responded to action item #5 from the June 1, 2022 Consultation Meeting, stating “Providing Kelly Cove with more room to farm their fish, means less area for the Mi'kmaq to fish. This clearly impedes the Mi'kmaw right to fish for food, social and ceremonial purposes as well as for moderate livelihood. Displacement has been brought up numerous times during our meetings and the loss of an archaeological site or artifact is an irreversible loss to Mi'kmaq history and culture.” The KMKNO reiterated their concern regarding underwater archaeological resources, stating that “the full ARIA should be completed, and the results reviewed by the ARD, prior to the conclusion of consultation. Recognition from the Province of the cultural significance of the submerged landscape of Liverpool Bay to the Mi'kmaq would be a step towards building the trust required for sharing information on fishing activities in the area.”

## How Concerns/Issues Raised by the Mi'kmaq of Nova Scotia Have Been Addressed

### **Issue #1: Aquaculture facility waste**

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“Research has demonstrated that aquaculture facility waste and uneaten feed can destroy the bottom of the ocean floor and coastal eco systems with toxic slug by covering up to one meter in depth that will take away optimal fish habitat and impact water quality.”*

The Department assessed this issue and considered this to be a general concern regarding the aquaculture process where a connection between the contemplated decision and a potential negative impact to an established or asserted Aboriginal or Treaty right was not clear. On February 6, 2020, the Department responded to this issue:

*“Although some excess food and fish waste from the site will settle on the seafloor, not all will cover the bottom directly under the marine cages as there is natural flushing at the site that will disperse the waste throughout the water column. In addition, fallow periods will ease the effects of excess waste by allowing for gaps in the production periods. As required by the Nova Scotia Department of Fisheries and Aquaculture, the Environmental Monitoring Program (EMP) focuses on the benthic marine habitat in the immediate vicinity of the aquaculture site. This initiative assesses the organic loading beneath and around areas of aquaculture production. Furthermore, under the Federal Aquaculture Activities Regulations (AAR) Program, the operator cannot restock a site until the sediment under the cages is under an acceptable threshold.*

*As part of the application process for new finfish sites proponents are required to develop site-specific depositional simulations using proven modelling methods. These simulations calculate the estimated rate of deposition of biochemical oxygen demanding material such as feed and fish excretions on the seafloor under and around the proposed facility at various stages in the production cycle.*

*These are examples of initiatives that will help mitigate the impact of aquaculture wastes on fish and fish habitat around marine aquaculture sites.”*

In addition, the Department offered a meeting with representatives of the KMKNO and concerned Mi'kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia.

This issue was discussed during Consultation Meeting #1 and #3.

The Department has determined that this issue raised is general in nature and not specific to the proposed activities identified by the applicant. In addition, the Mi'kmaq of Nova Scotia did not clearly indicate how this issue is related to asserted and established aboriginal rights. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.



**Issue #2: Parasites and sea lice, antibiotics**

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“The higher concentration of fish in the pens allow for easier transfer of parasites and sea lice and can harm wild stocks that swim past the site. Release of antibiotics in feed or some chemical baths for sea lice can harm or kill ground fish such as lobster.”*

The Department assessed this issue and considered this to be a general concern regarding the aquaculture process where a connection between the contemplated decision and a potential negative impact to an established or asserted Aboriginal or Treaty right was not clear. On February 6, 2020, the Department responded to this issue:

*“Salmon lice or *Lepeophtheirus salmonis*, can be an issue in some salmon growing locations in the world, however, salmon lice have not been an issue in the Liverpool area. Veterinary records are maintained for seven (7) years and during that time of operation of the current Liverpool farm, no sea lice treatments have been performed. All marine finfish farms monitor for salmon lice and must report if thresholds for treatment are met, which to date, they have not met the thresholds for treatment. There are two approved products by Health Canada for sea lice treatments (Hydrogen peroxide and azamethiphos). These products, if used, are unlikely to persist in the environment and, if used as per Health Canada’s Pest Management regulatory guidelines, is unlikely to cause significant harm to any non-target populations.*

*The use of antibiotics at marine salmon farms is not a common practice in Nova Scotia. If treatments were to be performed, they would only be done so following the standard of culturing the bacteria of concern first, determining the antibiotic it is sensitive to, and then prescribing an approved antibiotic. Antibiotics can only be prescribed by a licenced veterinarian and must be used in accordance with Government Regulations. In the past seven (7) years of operation of the current salmon farm in Liverpool, no antibiotic treatments have occurred.”*

In addition, the Department offered a meeting with representatives of the KMKNO and concerned Mi’kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia.

This issue was discussed during Consultation Meeting #1 and #2. During Consultation Meeting #4, the KMKNO agreed to follow-up with the Department on whether or not another technical session on fish health was required (action item #2). Acadia First Nation agreed to follow-up with the Department with questions from the community regarding fish health (action item #3). No response was provided by the KMKNO with respect to action item #2. No response was provided by Acadia First Nation with respect to action item #3.

The Department has determined that this issue raised is general in nature and not specific to the proposed activities identified by the applicant. In addition, the Mi’kmaq of Nova Scotia did not clearly indicate how this issue is related to asserted and established aboriginal rights. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

### Issue #3: Oxygen

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“When there is an increase in temperature or salinity, less oxygen will be dissolved, and when fish increase in size the amount of oxygen, they consume increases.”*

The Department assessed this issue and considered this to be a general concern regarding the aquaculture process where a connection between the contemplated decision and a potential negative impact to an established or asserted Aboriginal or Treaty right was not clear. On February 6, 2020, the Department responded to this issue:

*“Part of the scoping activity that an Operator must perform is to monitor the biophysical parameters of the marine environment over a period of time prior to developing a farm. During this monitoring period, the values for dissolved oxygen are recorded, and evaluated. Only if the biophysical parameters of the area indicate that it will be a good cultivation area, will the lease area be considered for farming.*

*The proponent follows the guidelines and procedures outlined in the Nova Scotia Department of Fisheries and Aquaculture’s EMP Framework and Standard Operating Procedures for each of their marine sites.*

*The proponent also uses environmental probes that are installed on their cages, which sends a constant stream of information to the operators regarding temperature and dissolved oxygen in real time. Feed operators are trained in feeding practices which includes fish behavior observations using underwater camera technology, and other environmental sensors used to monitor water quality conditions (oxygen, temperature). These tools allow the feed operators to manage feeding rates to minimize waste and maximize fish growth.*

*An operator must provide contingency plans in their Farm Management Plan (FMP) in the event that there is an abnormal event of low dissolved oxygen. To ensure the health and welfare of the animals at the farm, the farmer must employ a strategy to mitigate the issue of a low oxygen event if it were to occur.”*

In addition, the Department offered a meeting with representatives of the KMKNO and concerned Mi’kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia.

This issue was discussed during Consultation Meeting #1.

The Department has determined that this issue raised is general in nature and not specific to the proposed activities identified by the applicant. In addition, the Mi’kmaq of Nova Scotia did not clearly indicate how this issue is related to asserted and established aboriginal rights. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

**Issue #4: Protection of wild stocks from sea lice**

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“As juvenile smolts have to travel out to sea, passing the existing salmon sea cages can have an impact on their health and may result in no return. With the continued decline of wild stocks, the importance of protecting the wild stocks that enter the rivers where community members fish for Food Social and Ceremonial (FSC) purposes is a priority. Sea lice can kill juvenile fish even at low infestations levels.”*

The Department assessed this issue and considered this to potentially threaten established and asserted Mi'kmaw Aboriginal and treaty rights. On February 6, 2020, the Department responded to this issue:

*“All marine salmon farms must monitor for sea lice levels according to the Farm Management Plan (FMP). Treatments, if they were to occur, would only be done so after consultation with a licensed veterinarian. As noted previously, sea lice have not historically been an issue in this area, and no sea lice treatments have been performed over the past seven (7) years because lice thresholds were not observed.”*

The Department also offered to meet in person for further consultation.

This issue was discussed during Consultation Meeting #1 and #2. During Consultation Meeting #4, the KMKNO agreed to follow-up with the Department on whether or not another technical session on fish health was required (action item #2). Acadia First Nation agreed to follow-up with the Department with questions from the community regarding fish health (action item #3). No response was provided by the KMKNO with respect to action item #2. No response was provided by Acadia First Nation with respect to action item #3.

The Department has determined that, due to a lack of specificity, this issue raised is general in nature and not specific to the proposed activities identified by the applicant. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

**Issue #5: Fish Escape**

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“Escape farmed fish will compete with the wild stocks for food and weaken local gene pools. Cross breeding with escape fish will weaken wild stocks and potentially take out wild stocks, attack native species and transmit disease.”*

The Department assessed this issue and considered this to be a general concern regarding the aquaculture process where a connection between the contemplated decision and a potential negative impact to an established or asserted Aboriginal or Treaty right was not clear. On February 6, 2020, the Department responded to this issue:

*“The proponent has outlined their strategy to mitigate the risk of a site breach and has identified their containment management strategies in the Development Plan. Further requirements to safeguard against escapes must be outlined in the company's Farm Management Plan prior to stocking any new sites. Regarding disease interactions, please see response below.”*

In addition, the Department offered a meeting with representatives of the KMKNO and concerned Mi'kmaq harvesters to learn more about the potential interaction between the practice of Aboriginal and treaty rights and aquaculture in Nova Scotia. This issue was discussed during Consultation Meeting #1.

The Department has determined that this issue raised is general in nature and not specific to the proposed activities identified by the applicant. In addition, the Mi'kmaq of Nova Scotia did not clearly indicate how this issue is related to asserted and established aboriginal rights. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

#### **Issue #6: American Eel**

The KMKNO raised the following issue in the letter to the Department dated November 22, 2019: *“The American eel has great cultural significance to the Mi'kmaq people and as we know, the eels must migrate from freshwater streams/rivers/lakes to the ocean to spawn. As the eels migrate to the ocean and travel past these open water aquaculture facilities they could potentially be in contact with disease and parasites. Similarly this would be the case when the small juvenile eels migrate back from the ocean to the freshwater.”*

The Department assessed this issue and considered this to potentially threaten established and asserted Mi'kmaq Aboriginal and treaty rights. On February 6, 2020, the Department responded to this issue:

*“Eels, like all species of fish, have certain pathogens and parasites that can affect their health. Most pathogens and parasites of one species do not affect another species, however some may. For example, sea lice specific to salmon, known by its scientific name as *Lepeophtherius salmonis*, do not affect eels. In general, growing conditions at fish farms are managed to decrease risk of pathogen and parasites and negative impacts to wild fish and vice versa, the impacts of pathogens from wild fish to farmed fish. These conditions are inherently beneficial to the farm and increase fish growth and survival. As well, maintenance of fish health is regulated through several federal and provincial Acts and Regulations including: the Canadian Food Inspection Agency's Health of Animal Act and Regulation, Fisheries and Oceans Fisheries General Regulations and Aquaculture Activities Regulations and the Province's Fisheries and Coastal Resources Act and Aquaculture Management Regulations.”*

The Department also offered to meet in person for further consultation. This issue was discussed during Consultation Meeting #1.

The Department has determined that, due to a lack of specificity, this issue raised is general in nature and not specific to the proposed activities identified by the applicant. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

### Issue #7: Impacts on local FSC fisheries

In the December 9, 2020 meeting (Consultation Meeting #1), the KMKNO, Glooscap First Nation and Acadia First Nation raised the following issue:

*“Were FSC fisheries and fishers in the area identified and engaged during the scoping phase? Impacts on FSC fisheries around the expansion area are of concern to the Mi’kmaq on Nova Scotia”*

The Department provided the following response during the meeting:

*“DFO [Department of Fisheries and Oceans Canada] evaluates the types of fisheries undertaken in the proposed project area, including commercial and Aboriginal fisheries. NSDFA networks with DFO on commercial fisheries but not Aboriginal (FSC and livelihood) fisheries, thus the consultation and engagement processes. NSDFA is also interested in hearing specific concerns about potential adverse impacts on local FSC fisheries from the Mi’kmaq during the consultation process – at this table. NSDFA asks who at Acadia First Nation the department could contact to discuss local FSC activities. Curtis identified himself as being able to meet with the applicant and connect the applicant to other Mi’kmaq fishers in the area.”*

In the March 2, 2022 meeting (Consultation Meeting #3), discussion continued regarding the issue raised:

- The OLA suggested this might be a good opportunity to continue the conversation using a map to help guide the location of fishing activities. OLA noted it recognizes the sensitivity around any location-specific information provided but underscored the importance of the information to demonstrating traditional use in the area.
  - The KMKNO noted that the food fishery is not static, adding there is often movement.
  - Acadia First Nation noted that the project as proposed would be taking away some areas where fishing could occur safely.
- The OLA asked for Acadia First Nation to provide some additional details on fishing activities undertaken by community members.
  - Acadia First Nation noted that lots of fishing occurs in Liverpool Bay itself - people fish all along the Bay and if they are not catching in one place, they move along to another.
  - Acadia First Nation further explained that food fishery boats are small vessels with only 1 or 2 people on board, adding that any time a company takes up more ocean bottom, that is another area where community members can’t fish.
  - Acadia First Nation noted that the community has 1500 - 1600 Band members – in Queens County it has 300 or 400 members and that the membership list growing.
  - Acadia First Nation explained that Coffin Island is an area of importance to the Mi’kmaq and that it has been for hundreds of years, adding that community members have fish shacks there.
  - Acadia First Nation community members noted personal experience fishing in the area.
  - Acadia First Nation underscored their perspective that the proposed expansion will impede the community’s FSC and moderate livelihood fisheries “without question”.

- The Department asked about specific impacts on First Nations fisheries and that it would be helpful for the Department to understand better what that means.
  - The KMKNO stressed it may not be able to be communicated more clearly than what has already been said. The KMKNO added that the Mi'kmaq have continued to move and change where they fish because of obstacles - fishers have been flexible - aquaculture in this area has already changed how they fish.
  - KMKNO underscored that this application needs to be carefully considered by regulators - the Mi'kmaq have been displaced and need to fish around the existing site already.
- Acadia First Nation noted that it provided some rough numbers at yesterday's meeting (approximately 30 community members participate in FSC fishery and those numbers are growing) - numbers of fish tags issued in area - that was minimum fishing in that area, adding that Acadia First Nation was describing the summer fishery in that example - when lobsters come inshore (not in winter when the larger commercial fishery is undertaken).
- Acadia added that more fishing happens in skiffs - the Mi'kmaq employ a practice called "hooping" in the area - it may not be apparent to others that fishing has been in the area given that traps are not used.
- The Department noted that their staff had observed FSC fishing in areas surrounding the sites and asked if the presence of aquaculture sites could actually be of benefit to Mi'kmaq fisheries in the area.
  - Acadia First Nation did not have any information to support this observation.
  - Acadia First Nation added that NCNS gives out a lot of food fishing tags in area as well.

In the June 1, 2022 meeting (Consultation Meeting #4), the OLA added that they are unable to access information on licences from DFO but that the Province needs information to help government understand the potential specific impacts due to the proposed project expansions. The OLA asked for numbers of community members fishing in the specific areas slotted for expansion and if an in-depth conversation on those issues would be possible. The KMKNO noted that the number of community members fishing in the area isn't relevant, adding that the Mi'kmaq have continued to be displaced because of commercial fisheries and that the Mi'kmaq have continued to move along, using small vessels, close to shore. KMKNO stressed that it could be 5 members or 500 members - they still have a treaty right to fish. The KMKNO noted they understand that more specificity is required and suggested that DFO data could be a starting point. Acadia First Nation explained that this was discussed at the meeting with Kelly Cove, adding that in Queens County they have well over 300 Acadia Band members but that there are so many more beyond that. The Native Council of Nova Scotia (NCNS) also has a huge presence in that area. Acadia First Nation further explained that many band members engage in lobster fishing in area - for food fishing (3 tags each) plus moderate livelihood which is growing as it becomes sanctioned by DFO. Acadia First Nation noted that the area is very accessible and close to the shore for the small food fishery vessels. Acadia First Nation repeated serious concern for the displacement of fishers given the large project area which almost takes up the whole coastline of Coffin Island. Acadia First Nation noted there is a food fishery in the area around Coffin Island and that commercial fisheries are located there as well.

Acadia First Nation explained there is a district approach to moderate livelihood fisheries - 3 other bands are involved. There will be access for Bear River, Annapolis and Glooscap in Area 33.

Access in LFA 33 will grow to include other members of Mi'kmaw communities. Gaspereau and elver fisheries are also being expanded through moderate livelihood and the community anticipates more cooperation in this part of the province. The Department explained that the maps brought in for the March, 2022 meetings show the lease areas put forward by the proponent but that they do not reflect actual footprint of pens in water, adding there is a big difference between actual space occupied by pens and gear and size they are requesting in their application. The Department added that the proponent is also asking for buffers to hold nets in place - in a space that more than accommodates gear. The Department shared that operators allow people to fish within boundaries of their lease right up to the cages, adding that departmental staff have observed lobster traps set around pens. The Department stressed that they rely heavily on advice from federal partners, adding that DFO's responsibility is to comment on impacts to fish and fish habitat and that they rely on DFO for advice on impacts to FSC, moderate livelihood and commercial fisheries in the area.

The Department reminded Parties about the project tracking lobsters in vicinity of fish farms, suggesting that it might be worth talking about the latest findings. The Department explained that it looks at the impacts of aquaculture on lobster and added that there is no evidence of decrease in landings at this time. The Department stressed the importance of specificity: they need to know how what's being proposed here would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss. The Department reiterated the importance of learning where the best/most productive fishing is done, suggesting that maybe one or more of the proposed sites is actually better for expansion. The Department stressed the need to balance interests with other groups.

During Consultation Meeting #4, the KMKNO agreed to provide the Department with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project (action item #4). During Consultation Meeting #4, the KMKNO agreed to touch base with Mi'kmaw on providing a map to ascertain what fishing happens in the proposed areas (action item #6). No response was provided by the KMKNO with respect to action item #6.

On December 14, 2022, the KMKNO sent a letter to the Department which contained a response to action item #4 as follows: *"We reiterate that there remains concerns in providing that information. This is an ongoing exercise."* In addition, the KMKNO stated that *"Providing Kelly Cove with more room to farm their fish, means less area for the Mi'kmaq to fish. This clearly impedes the Mi'kmaw right to fish for food, social and ceremonial purposes as well as for moderate livelihood."*

The Department has determined that, due to a lack of specificity, this issue raised is general in nature and not specific to the proposed activities identified by the applicant. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

## **Issue #8: Underwater Archaeological Resources**

In the March 2, 2022 meeting (Consultation Meeting #3), the KMKNO asked if any underwater archaeological work had been undertaken to date. The Department noted that no significant concerns were raised by Communities, Culture, Tourism and Heritage (“CCTH”) during the review process but that CCTH advised that if any heritage resources were discovered that the operator should contact the Special Places Coordinator.

During the meeting, Acadia First Nation noted that there are 10,000 years of recorded artifacts through Mersey corridor and that the area is of high importance to the Mi’kmaq. Acadia First Nation added that underwater archaeology would be important in that area given the area is of such high importance. The Department clarified that no survey was done - CCTH reviewed and suggested that the Department asks that operators notify Special Places Coordinator if heritage resources were encountered. The Department noted that they welcome any specific information that would counter CCTH’s advice.

During the meeting, the KMKNO ARD noted that the paleontological information does not necessarily relate to archaeology (referencing information from the development plan). The Department stated that they would follow up with CCTH to ensure nothing was missed in their assessment (the results were discussed in the June 1, 2022 consultation meeting as indicated further below).

During the meeting, the KMKNO ARD flagged the high risk nature of the area in terms of archaeology - approximately one quarter of all known Mi’kmaq archaeological sites in Nova Scotia are on the Mersey River - the Mersey was an exceptionally important travel route for the Mi’kmaq. They added that shorelines are not currently as they were in the past - could have been dry land in the past that supported human life. They asserted that the project area is extremely high risk and recommends an ARIA be completed. They noted that there is archaeology on the river itself in addition to on the Island so in between wouldn’t be a surprise if resources were located in and around the project site. The KMKNO ARD asserted that the project area is extremely high risk and recommends an ARIA be completed.

In the June 1, 2022 meeting (Consultation Meeting #4), CCTH informed the KMKNO and Acadia First Nation that no official assessment has been undertaken to date, adding that the background information presented was helpful. CCTH stated that their examination of the application in these areas yielded information on shipwrecks and pre-contact site on Coffin Island - supporting the Mi’kmaq position that limited current knowledge does not preclude the existence of additional sites - and adding that CCTH understands the Mi’kmaq connection to the Mersey system. CCTH noted that they are still considering the project area as having a high energy subsurface environment and sandy floors. The Department agreed to consider the request by KMKNO ARD to completing an ARIA for the project area.

The proponent, Kelly Cove Salmon Ltd., on its own volition, decided to conduct a Phase I ARIA (desktop exercise) on the proposed areas of expansion. The Department is aware that the KMKNO had already received a copy of the Phase I ARIA report from the proponent.

On December 14, 2022, the KMKNO sent a letter to the Department which reiterated the concerns raised by the KMKNO regarding underwater archaeological resources. The KMKNO stated that



*“Kelly Cove Salmon Limited’s decision to proceed with an Archaeological Resource Impact Assessment (ARIA) followed concerns raised by representatives of Acadia First Nation, during an April 2022 community engagement session, rather than at the direction of the province. KMKNO recognizes the Proponent’s proactive approach in acknowledging that aquaculture operations have the potential to impact submerged archaeological resources.*

*As a desk-based screening, the archaeological assessment of the Liverpool Bay aquaculture sites displays a number of strengths, including the manner in which it takes into account Holocene environmental conditions, modern bathymetric data, and postglacial coastlines in examining archaeological potential within the study area. As stated in the report, “the coastline has evolved significantly through time and the coastal orientation of precontact archaeological sites must be considered in light of the changing configuration” (Boreas 2022: 10,35).*

*The Archaeology Research Division (ARD) of KMKNO supports the recommendation that high potential areas (HPA-01 & HPA-02) “be subjected to subsurface archaeological sampling probes” prior to any disturbance (Boreas 2022: 42). The Maw-lukutijik Saqmaq (Assembly of Nova Scotia Mi’kmaw Chiefs) expects a high level of archaeological diligence, with evidence-based decisions grounded in an understanding of subsurface environmental data adequate to eliminate concern for the presence, protection, and management of Mi’kmaw archaeological and cultural heritage, in advance of any development. “Any potential need for further archaeological assessment or mitigation will be based on the results of this subsurface investigation” (Boreas 2022: 38).*

*The ARD’s primary concern with respect to the archaeological report, as submitted, is with its titling as an ARIA. An ARIA should properly consist of both a desktop assessment (background screening) and field reconnaissance. According to the Nova Scotia Department of Communities, Culture, Tourism and Heritage’s ARIA (Category C) Guidelines, “In designing an [ARIA], the following components should be addressed: 1. Background research...2. Field strategy”. The Liverpool Bay report acknowledges this deficiency, on more than one occasion, by describing the desktop assessment as “the first phase of the ARIA” (Boreas 2022: 1,5). The report further states that the assessment was restricted to a desk-based screening “so that an appropriate field component strategy can be devised” (Boreas 2022: 1). However, the submission of the report as an ARIA, to both the Proponent and the provincial regulator, risks setting the precedent that underwater archaeological assessments need not be held to the same standard as terrestrial ARIAs. As such, the ARD disagrees with the recommendation that portions of the assessment area “be cleared of any requirement for further archaeological investigation [and that] development within these areas may proceed as planned” (Boreas 2022, 42), without some form of prior visual reconnaissance, as a primary data tool, such as remote sensing or direct diver survey.*

*It is KMKNO’s understanding that Kelly Cove Salmon intends to proceed with the field component phase of the Liverpool Bay ARIA, including subsurface archaeological sampling probes. We stand firm in our position that the full ARIA should be completed, and the results reviewed by the ARD, prior to the conclusion of consultation. Recognition from the Province of the cultural significance of the submerged landscape of Liverpool Bay to the Mi’kmaq would be a step towards building the trust required for sharing information on fishing activities in the area.”*

On March 15, 2023, the proponent provided the Department with a copy of the Phase II ARIA report (field component). The proponent informed the Department that a copy of the Phase II

ARIA was also shared with Acadia First Nation and the KMKNO. The report concluded that development in the affected areas could proceed without further need of archaeological investigation. CCTH received and reviewed the report on work conducted related to the Phase II ARIA and accepted the conclusions.

Having reviewed all pertinent information, the Department has concluded that the issue raised regarding impacts to submerged Mi'kmaw archaeological resources is speculative in nature. Nonetheless, in terms of accommodation or mitigation measures in connection with this issue, consistent with advice provided by CCTH, which is responsible, under authority of the Special Places Protection Act, for the protection of archaeological sites in Nova Scotia, a recommendation will be made to the Aquaculture Review Board that the site operators be required to contact CCTH's Coordinator of Special Places in the event that any artifacts are encountered by the operators at the site.

Since mid-2021, the Department and collaborators from Kwilmu'kw Maw-klusuaqn (KMK); CCTH; Office of L'nu Affairs (OLA); and the Centre for Marine Applied Research (CMAR) have met to discuss, develop and finalize an archaeological procedure for aquaculture licence holders. The intent is for the procedure to be included in a licence holder's Farm Management Plan to proactively provide guidance should they encounter archaeological materials during the operation of their site(s). CCTH is also currently compiling educational materials related to archaeology that will be provided to licence holders to ensure a consistent knowledge base in the industry. Communications to licence holders will take place regarding the archaeology procedure implementation and educational materials once the latter is finalized.

### **Issue #9: Tourism**

In the March 2, 2022 meeting (Consultation Meeting #3), Acadia First Nation questioned the visual impact to users of the area and tourism. The Department explained that they have engaged with Tourism Nova Scotia who have conveyed that the presence or absence of aquaculture has not impacted tourist's stays in Nova Scotia to date. The Department expressed a willingness to consider opposing views and invited comment from the group.

The Department has determined that this issue raised is general in nature and not specific to the proposed activities identified by the applicant. In addition, the Mi'kmaq of Nova Scotia did not clearly indicate how this issue is related to asserted and established aboriginal rights. As such, no accommodation or mitigation measures will be recommended to the Aquaculture Review Board for this issue raised.

The Department has made the decision to proceed with processing the above applications. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing  
Nova Scotia Department of Fisheries and Aquaculture

Encl.

Cc.

Tamara Young, Consultation Researcher  
Kwilmu'kw Maw'klusuaqn Negotiation Office

Kendra Gorveatt, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Lynn Winfield, Licence Coordinator  
Nova Scotia Department of Fisheries and Aquaculture

Edward Parker, Regional Senior Aquaculture Management Officer  
Fisheries and Oceans Canada

Gabriella Arsenault, Consultation Officer  
Transport Canada

Supplement #1: Record of Consultation Meeting of December 9, 2020  
(6 pages)

## RECORD OF MEETING

### Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference

#### Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon

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**December 9, 2 – 4 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abram, Patrick Butler, Gerard Francis (KMKNO), Charmaine Stevens (Acadia FN), Curtis Falls (Acadia FN), Gail Tupper (Glooscap FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Robert Ceschiutti, Nathaniel Feindel, Danielle St. Louis, Dr. Roland Cusack, Lynn Winfield, and Melinda Watts

Office of Aboriginal Affairs: Claire Rillie, Kendra Marshman

#### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

#### **AGENDA**

1. Opening Prayer (Optional)
2. Introduction (KMKNO)
  - Roundtable
  - NSDFA provided introductory remarks noting that aquaculture regulations have changed and that a considerable amount of time has passed since significant finfish applications have come through.
  - NSDFA reiterated a desire for the Mi'kmaq to set the pace on this consultation –and expressed a desire to keep lines of communication open so everyone has good understanding of project and impacts.

### 3. Consultation Update (OAA)

- Consultation on these applications was initiated by NSDFA via written correspondence on September 25, 2019.
- KMKNO responded in writing on November 22, 2019 voicing opposition to the expansion plan and noting concerns related to the proposed applications. Concerns included:
  1. potential for damage to the ocean floor and coastal ecosystems due to waste generated by fish farms;
  2. possible ill effects from parasites, use of antibiotics and changes in water temperature and salinity; and
  3. other challenges related to escaped farmed salmon on wild populations of salmon and American eel.
- On February 6, 2020, NSDFA responded to the concerns outlined in KMKNO's November letter, noting measures in place to decrease the risk of pathogens and stating that sea lice have not historically been an issue in the Liverpool Bay area. NSDFA suggested a meeting with KMKNO to enable a discussion that would help the department better understand the connection between the contemplated applications and potential adverse impacts to Aboriginal and/or treaty rights.
- KMKNO responded in March of 2020, providing contact information and agreeing to a meeting.

### 4. Overview of the Aquaculture Application Process (NSDFA)

- NSDFA began their presentation by noting there are two kinds of decisions – adjudicative application review process and administrative decisions (please refer to the presentation materials provided for further detail).
- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. How does NSDFA evaluate how adequately the applicant has engaged the Mi'kmaq of Nova Scotia during the scoping process?
  2. Were FSC fisheries and fishers in the area identified and engaged during the scoping phase? Impacts on FSC fisheries around the expansion area are of concern to the Mi'kmaq on Nova Scotia.
  3. What is the function and composition of the Aquaculture Review Board (ARB)?
- How are pathogens/parasites like sea lice monitored, how often does monitoring occur and what types of treatments would be used if lice were detected on farmed fish? NSDFA responded to questions from the Mi'kmaq as follows:
  1. NSDFA's assessment is limited to what is outlined in the regulations. The regulations require the applicant to hold one public meeting and to advertise that meeting, record that meeting, and submit a scoping report. NSDFA

assesses whether the applicant meets these requirements. Beyond these requirements, the evaluation of the adequacy of proponent engagement efforts is undertaken by the ARB.

2. DFO evaluates the types of fisheries undertaken in the proposed project area, including commercial and Aboriginal fisheries. NSDFA networks with DFO on commercial fisheries but not Aboriginal (FSC and livelihood) fisheries, thus the consultation and engagement processes. NSDFA is also interested in hearing specific concerns about potential adverse impacts on local FSC fisheries from the Mi'kmaq during the consultation process – at this table. NSDFA asks who at Acadia First Nation the department could contact to discuss local FSC activities. Curtis identified himself as being able to meet with the applicant and connect the applicant to other Mi'kmaq fishers in the area.
3. The ARB it is an independent adjudicative board that appointed by the Minister of Fisheries and Aquaculture through the provincial government's Agencies, Boards and Commissions (ABC) process. The Board was a key feature of the new aquaculture regulations. ARB hearing proceedings are similar to those of a Court of law, the Board relies on testimony from folks in room (experts, etc.) to make its decision. The Board is comprised of the following individuals: Jean McKenna, Dr. Richard Patterson, and Michael McKinnon. Further information on ARB members is available here: <https://arb.novascotia.ca/board>.
4. Sea lice are generally monitored monthly, though throughout the year monitoring may be increased to once a week – less frequently when the water is colder. There has been no history of lice or treatment since the farm at this site went in. Having more space can reduce the likelihood of a lice outbreak, so the goal is to provide more room so that fish are not closely packed at the site. Different options for treatment include:
  - cleaner fish in cages – small native species such as gunner or lumpfish are added to the cage to interact with salmon in symbiotic way – they remove lice from surface of salmon,
  - salmon baths with warm waters,
  - gentle pressure washing, and
  - hydrogen peroxide and Salmosan (though these have never been used in NS)
  - The tool used depends on the unique circumstance. Only one single year class of fish is allowed on each site, fallow periods of between 2 and 6 months – with no fish on site – are also employed. KMKNO advised NSDFA that Cooke Aquaculture/Kelly Cove Salmon hadn't yet reached out.
5. Project Description (NSDFA)
  - Please refer to the presentation materials provided.

- KMKNO, Glooscap First Nation, and Acadia First Nation raised several questions, including:
  1. Why is the projected increase in production not consistent with the increase in lot size?
  2. Does expanding the lot size increase the likelihood that migrating wild fish such as elvers or glass eels would encounter cages (which can be traumatizing and/or lethal for smaller fish or those in earlier phases of their lifecycle)?
  3. Is eel grass present at these sites? If so, could any copper present have an adverse impact the species?
  4. Has the impact of ocean currents on the deposition of waste been considered?
  5. What are the anticipated impacts of these farms on local or transient lobster populations?
  6. Could there be adverse impacts on lobster populations from the potential use of therapeutants on farmed salmon?
  7. Sea lice may not be an issue now, but may be in the future if sites continue to expand. Can NSDFA assure the Mi'kmaq of Nova Scotia that chemicals such as hydrogen peroxide will not be used to treat potential future sea lice outbreaks?
  8. What causes farmed salmon to escape, how can proponents protect against escape? Could the presence of ice increase the likelihood of escape?
  9. Is Infectious Salmon Anemia (ISA) a factor and could it be transmitted to live fish?
- NSDFA responded to questions from the Mi'kmaq as follows:
  1. Scrutiny applied to gear on site has increased with the new regulations – gear must now fall completely within site boundaries. Additionally, more space means less crowding.
  2. NSDFA shares concern related to impact of increased sizes of leases on the likelihood of migrating wild fish encountering cages. Limited literature on the subject is available, specifically as it applies to glass eels. It is thought that wild fish would avoid the obstacle presented by cages but if they did go inside it would likely lead to trauma or consumption. Aquaculture has been undertaken in NS since the late 70s-early 80s and the potential impacts are well understood. Regulations have been developed to mitigate potential impacts on wild species – NSDFA is not aware of any evidence that the eel population has declined because of salmon farming and the issue has not been flagged by DFO.
  3. Eel grass is not thought to be present at the proposed sites – the species has not been flagged by DFO, the Canadian Wildlife Service or the provincial Department of Lands and Forestry. Further, copper is no longer used in aquaculture industry – nets are now pressure cleaned by underwater ROVs.



Baseline monitoring for the proposed sites is now complete – extensive fish and fish habitat surveys have been completed. No eel grass, critical habitat or species at risk were noted.

4. Ocean currents were measured in all three proposed aquaculture sites and modelling was undertaken to determine where potential waste would be deposited. According to the models, most of deposition happened immediately beneath cages – this is generally what we have seen through environmental monitoring program as well. NSDFA to provide more information.
5. Interactions between salmon farms and lobster are currently being studied by the department (please refer to presentation materials for additional details). Lobster were found to be present in the vicinity of sites – and moving through them - in August, during the molting season. Lobsters and crabs were both tagged. FSC fishers in the area were present during tagging – NSDFA communicated with fishers, advising them to look out for tags and to return any tagged animals to the water. The study will continue into net season.
6. NSDFA is also concerned with any potential future use of therapeutants on the ecosystem. Therapeutants are highly regulated and studied by a number of government regulators including Health Canada, Environment and Climate Change Canada, and DFO. Human health implications are also well documented and have been studied extensively. Therapeutants would be used as a last resort with less invasive and damaging treatments preferred. Every step taken would be subject to robust regulation and any approvals granted would be subject to rigorous tests by regulators.
7. The aquaculture industry is very well regulated and is presenting more biological treatment methods as the public becomes more chemical adverse. Accumulative effects are factored into decision making.
8. The risk of farmed salmon escaping fish farms is mitigated in several ways:
  - All sites require the approval of a professional engineer and are required to withstand a 50 to 100-year storm.
  - NSDFA uses a fish tracing program (based on a model used in Maine).
  - The department can also access each site and audit how and why fish escaped and identify any risks for breach.
  - All fish farmers are required to have a marking/traceability plan – physically or genetically – if fish are not marked, operators can be prosecuted.

Ice is certainly a factor and has been considered for the current applications in Liverpool Bay.

9. Eggs for these salmon aquaculture sites come as small fry from a main hatchery in NB. They are screened in NB and cleared of reportable disease (e.g. ISA) before being transferred to NS. The federal government is responsible for overseeing the transfer process. Once small fry are brought to the local sites they are subject to a surveillance program administered by

veterinarians. The provincial veterinary team visits sites 4 times a year to complete screening activities. Cooke Aquaculture veterinarians do their own monitoring as well. Mitigation measures including a fallow period, surveillance, and other monitoring activities are also undertaken. NSDFA veterinarian to provide additional information.

6. Status of the Application Review

- To be addressed at future meeting.

7. Action Items/next steps

- a. Next meeting to be scheduled early in 2021.
- b. NSDFA to share video of existing site and environmental monitoring activities at next meeting.
- c. NSDFA to share additional information on current modelling at next meeting.
- d. NSDFA to share additional information on disease prevention and mitigation measures at next meeting.
- e. Acadia First Nation to discuss potential proponent engagement with community members, Band Council and KMKNO before advancing conversations with proponent directly.
- f. NSDFA to provide KMKNO and Acadia First Nation with a map including the depth and currents around the proposed aquaculture sites.
- g. Acadia First Nation to provide NSDFA with community contact to discuss local FSC activities.

Supplement #2: Record of Consultation Meeting of March 1, 2022  
(3 pages)

## Record of Meeting

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon - Fish Health**

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**March 1, 2022 10:00 am - 12:00 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Gerard Francis, Bec Borchert, Shawn Taylor (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Carla Buchan, Robert Ceschiutti, Lynn Winfield, Anthony Snyder, Melinda Watts, Nathaniel Feindel

Transport Canada: Linda Babineau-LeBlanc

Office of Aboriginal Affairs: Beata Dera, Claire Rillie

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on items related to fish health.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Opening Prayer (Optional)
2. Introduction
3. Consultation Update (OLA)
  - Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
  - KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.

- Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.
  - This is our first consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.
4. Status of Application (NSDFA)
- NSDFA advised they are working with network advisors to collect feedback.
  - NSDFA added that they are waiting DFO's final report. Upon receipt of final report and completion of consultation, NSFDA will send the application and network review findings to the ARB for their decision.
  - NSDFA stressed that given the amount of time that has passed, they are now very close to sending the application to the Board and that they are working on submission documents already.
  - KMKNO asked if traditional use knowledge will be included in application package.
  - NSDFA underscored that they rely on the Mi'kmaq to provide traditional use information, adding that DFO provides some limited fisheries-related information as a part of the network review process.
  - NSDFA noted that many network partners are involved (9 or 10) and that they are now 2 years into the process from when the application was first submitted.
  - NSDFA stressed that they really do want to hear from the Mi'kmaq on this and that they don't want to leave the impression everything consultation has been completed, noting consultation plays an important role in decision-making.
  - NSDFA stated that it is essential to hear from the Mi'kmaq on fisheries undertaken in the project area.
  - OLA reiterated that Mi'kmaw knowledge and information about the practice of rights in the specific areas identified helps the department make this decision, again stressing that this table needs to hear that information.
5. Overview of Aquatic Animal Health Section (NSDFA)
- *Please see presentation deck for details.*
  - NSDFA stressed the importance of the Marine Finfish Health Surveillance Program to proposed applications.
  - Acadia asked about monitoring and potential of pathogens to jump from cage to cage.
    - NSDFA clarified that the department, along with private veterinary practitioners, monitor the health status at the marine farms on a regular basis, and that the monitoring involves looking to see if bacteria, parasites or viruses of concern are present.
    - NSDFA reiterated the importance of monitoring – and that the monitoring program allows the Province and the Operator to act quickly if action is needed regarding potential health findings, and that sometimes removing one cage is enough to remedy health concerns if

they were present. Veterinarians involved in the health monitoring, must follow the marine health surveillance program that is dictated by the Province.

- NSDFA noted that the health surveillance program monitors for pathogens that are known to our environment, but others that may be new or emerging to Nova Scotia.
- KMKNO asked about timing of surveillance.
  - i. NSDFA clarified:
    1. Both the Provincial Aquatic Animal Health Veterinarians and the Private Veterinary Practitioners (The Designated Aquaculture Veterinarians) are responsible for the health surveillance program and completing the associated diagnostics. If a pathogen of concern is suspected or identified, it must be immediately reported to the Chief Aquatic Animal Health Veterinarian's Provincial Office.
    2. On average, the routine health surveillance at a marine finfish farm is completed every 6 weeks by a licenced veterinarian; though the monitoring may be increased at the discretion of the attending veterinarian.
    3. Routine Dives are required every week on every cage, unless limited by uncontrollable factors such as severe weather - if mortality is found at the site and meets the threshold for mandatory reporting, as per the Regulatory Requirement, that mortality must be reported to the Chief Aquatic Animal Health Veterinarian's Provincial Office.
- 6. Status of Action Items Identified at December 9, 2020 Consultation Meeting (NSDFA):
  - NSDA information on disease prevention and mitigation measures (e.g. sea lice monitoring, testing, therapeutics) - *see above and presentation materials for additional information.*
- 7. Closing Prayer (Optional)

Supplement #3: Record of Consultation Meeting of March 2, 2022  
(7 pages)

## Record of Meeting

**Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference**

**Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon - Potential Environmental Impacts**

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**March 2, 2022 12:00 - 2:00 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Bec Borchert, Shawn Taylor, Gerard Francis (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Department of Fisheries and Aquaculture: Bruce Hancock, Carla Buchan, Robert Ceschiutti, Lynn Winfield, Jessica Feindel, Nathaniel Feindel, Melinda Watts

Transport Canada: Linda Babineau-LeBlanc (absent)

Office of Aboriginal Affairs: Beata Dera, Claire Rillie

### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project including potential environmental impacts.
3. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

### **AGENDA**

1. Opening Prayer
2. Introduction
  - OLA made note of the productive conversation held March 1, 2022 about traditional fisheries activities undertaken by Acadia First Nation in Liverpool Bay and suggested this might be a good opportunity to continue the conversation using a map to help guide the location of fishing activities.



- OLA noted it recognizes the sensitivity around any location-specific information provided but underscored the importance of the information to demonstrating traditional use in the area.
- KMKNO noted that the food fishery is not static, adding there is often movement.
- Acadia noted that the project as proposed would be taking away some areas where fishing could occur safely.
- OLA asked the table if using a map would be helpful for the discussion and Parties agreed.
- KMKNO asked if any underwater archaeological work had been undertaken to date.
  - NSDFA noted that no significant concerns were raised by CCTH during the review process but that CCTH advised that if any heritage resources were discovered that the operator should contact the Special Places Coordinator.
- OLA asked for Acadia to provide some additional details on fishing activities undertaken by community members.
  - Acadia noted that lots of fishing occurs in Liverpool Bay itself - people fish all along the Bay and if they are not catching in one place, they move along to another.
  - Acadia further explained that food fishery boats are small vessels with only 1 or 2 people on board, adding that any time a company takes up more ocean bottom, that is another area where community members can't fish.
  - Acadia noted that the community has 1500 - 1600 Band members - in Queens County it has 300 or 400 members and that the membership list is growing.
  - Acadia explained that Coffin Island is an area of importance to the Mi'kmaq and that it has been for hundreds of years, adding that community members have fish shacks there.
  - Acadia voiced explicit opposition to the proposed expansion of the project footprint.
  - Acadia also stated that the Mi'kmaq Grand Council is opposed to the existing site and its expansion.
  - Acadia community members noted personal experience fishing in the area.
  - Acadia underscored their perspective that the proposed expansion will impede the community's FSC and moderate livelihood fisheries "without question".
  - Acadia questioned the visual impacts to users of the area and tourism.
- NSDFA asked about specific impacts on First Nations fisheries - would be helpful for us to understand better what that means.

- KMKNO stressed it may not be able to be communicated more clearly than what has already been said. KMKNO added that the Mi'kmaq have continued to move and change where they fish because of obstacles - fishers have been flexible - aquaculture in this area has already changed how they fish.
  - KMKNO underscored that this application needs to be carefully considered by regulators - the Mi'kmaq have been displaced and need to fish around the existing site already.
- Acadia noted that it provided some rough numbers at yesterday's meeting (approximately 30 community members participate in FSC fishery and those numbers are growing) - numbers of fish tags issued in area - that was minimum fishing in that area, adding that Acadia was describing the summer fishery in that example - when lobsters come inshore (not in winter when the larger commercial fishery is undertaken).
- Acadia added that more fishing happens in skiffs - the Mi'kmaq employ a practice called "hooping" in the area - it may not be apparent to others that fishing has been in the area given that traps are not used.
- NSDFA asked for more information on hooping
  - Acadia described a process whereby bait is applied to the hoop - the hoop is then dropped to the bottom of the ocean and then hauled back - explaining that they are not left overnight.
  - Acadia explained they are handmade hoops - they are important to people and not left on site.
- Acadia noted that there are 10,000 years of recorded artifacts through Mersey corridor and that the area is of high importance to the Mi'kmaq.
- Acadia added that underwater archaeology would be important in that area given the area is of such high importance.
- Acadia described gear loss.
- Acadia stressed the fiduciary duty of government and importance of reconciliation.
- Acadia voiced concern over industry having what appears to be the final say.
- NSDFA noted that their staff had observed FSC fishing in areas surrounding the sites and asked if the presence of aquaculture sites could actually be of benefit to Mi'kmaw fisheries in the area.
  - Acadia did not have any information to support this observation.
- Acadia added that NCNS gives out a lot of food fishing tags in area as well.
- KMKNO returned to the topic of archaeology and importance of Mersey area.
  - NSDFA clarified that no survey was done - CCTH reviewed and suggested that NSDFA asks that operators notify Special Places Coordinator if heritage resources were encountered.

- NSDFA noted that they welcome any specific information that would counter CCTH's advice.
- KMKNO ARD noted that the paleontological information does not necessarily relate to archaeology (referencing information from the development plan).
- NSDFA will follow up with CCTH to ensure nothing was missed in their assessment.
- KMKNO ARD flagged the high risk nature of the area in terms of archaeology - approximately one quarter of all known Mi'kmaw archaeological sites in Nova Scotia are on the Mersey River - the Mersey was an exceptionally important travel route for the Mi'kmaq.
- KMKNO ARD added that shorelines are not currently as they were in the past - could have been dry land in the past that supported human life.
- KMKNO ARD asserted that the project area is extremely high risk and recommends an ARIA be completed.
- KMKNO ARD noted that there is archaeology on the river itself in addition to on the Island so in between wouldn't be a surprise if resources were located in and around the project site.
- NSDFA stated that archaeology was not on the agenda today and that this is a new issue raised.
- KMKNO ARD stressed that archaeology needs to be captured in action items.

### 3. Consultation Update

- Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
- KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.
- Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.
- This is our second consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.

### 4. Status of Action Items Identified at December 9, 2020 Consultation Meeting:

- High-level overview of Environmental Monitoring Program (NSDFA)
  - Please see presentation materials for details.
  - KMKNO asked if sampling is completed outside and inside farms.
    - NSDFA noted that the presence of the grid prevents operators from taking video inside the cages on the sites themselves.
- Bottom video of site (NSDFA)
  - NSDFA walked attendees through techniques employed for video.
- Graphics and information on modelling (NSDFA)
  - Please see presentation materials for details

- NSDFA clarified that modelling is within the purview of DFO and that it is required by DFO as part of any finfish application.
- Map of proposed and existing site, including depth and currents (NSDFA)
  - Please see presentation materials for details.
- Status of engagement on applications with community, Band Council and KMKNO (Acadia)
  - Acadia described a lack of engagement by the company but a significant amount of opposition from community members and Band Council.
  - KMKNO has not received outreach from Cooke.
    - NSDFA asked if there is a willingness to meet with Cooke on behalf of Acadia.
    - Acadia noted they would have to return to Chief and Council to ask if a meeting could occur. Conversation with community members could occur but support is unlikely. This will be added to action items.
- Acadia asked why government appears to support industry and why it's always a fight for the Mi'kmaq.
- Acadia asked if local landowners had been consulted with and where the value of their land and property comes into consideration.
- Acadia asked if impacts to tourism had been considered.
- Acadia noted that government appears to support the farm, adding that the Mi'kmaq are forced to put their case forward in opposition. Cooke doesn't have to fight on their own because government is doing it for them - considerable bias is observed, from Acadia perspective.
  - NSDFA described the application review process, noting that a decision on these applications will be made by an independent board (the Aquaculture Review Board or ARB).
  - NSDFA explained that the department doesn't take a position on applications, noting that it will take views from this table to the Board for consideration.
  - NSDFA noted that the information gathered is based on 8 factors that are laid out in aquaculture regulations, which were developed in accordance with advice received in the Doyle-Lahey report. NSDFA explained that the Mi'kmaq were engaged in the development of regulations, adding that the Chair of Regulatory Advisory Committee is Chief Terry Paul.
  - NSDA ensured the Mi'kmaq that any perspectives on improving those regulations can be shared with the committee.
- NSDFA added that the same application process also applies to all Mi'kmaw commercial aquaculture applications. It's not a process that is meant to exclude the Mi'kmaq. Consideration of other users of the space is a factor in decision-making - e.g. waterfront property owners - the public has an opportunity to provide feedback through this process.

- NSDFA explained that they have engaged with Tourism Nova Scotia who have conveyed that the presence or absence of aquaculture has not impacted tourist's stays in Nova Scotia to date. NSDFA expressed a willingness to consider opposing views and invited comment from the group.
  - Acadia reiterated that impacts to rights and archaeology are of utmost importance and underscored the perception that government is supporting the proponent.
  - OLA added that perception of siding with industry is not the Province's intent - this consultation process is designed to hear and listen to Mi'kmaq concerns and to have a discussion about impacts to Aboriginal and Treaty Rights. OLA also noted that one aspect of consultation requires that government balances the interests of the Mi'kmaq with other users/citizens.
  - OLA expressed an appreciation for the science presented.
  - Acadia reiterated their description of the displacement of Mi'kmaw people, adding that to the Mi'kmaq this is so much more than an aquaculture site - it's culture and near and dear to communities.
  - NSDFA asked if any more general information is needed by the community or the KMKNO.
  - Parties agreed to convene internal discussions including today's learnings and to then reconvene for the next meeting dates.
  - KMKNO noted that discussion on archaeology will be key for next meeting.
  - KMKNO suggested last week of March and first 2 weeks of April for next meeting. Parties will look to timing. (Tamara, Charmaine, and Claire to work together to schedule).
  - NSDFA explained that engagement should occur between between Acadia and Cooke and that the ARB would need to consider engagement efforts and consultation in their decision-making process.
  - OLA noted that the Crown does at times rely on proponents for information-sharing and that proponent engagement can feed into consultation.
  - OLA described how it advises on early engagement, adding that on other projects the Crown can rely on successful engagement opportunities for consultation purposes. Engaging is essential to relationship-building.
  - Acadia committed to discussing engagement with Cooke with Chief and Council at next Monday's consultation meeting. Acadia stated that it will advise Twila on the outcome of that conversation.
  - Community contact for information on FSC fisheries (Acadia)
    - Curtis Falls agreed to remain a community contact for FSC fisheries.
5. Action Items/Next Meeting (All)
- NSDFA will follow up with CCTH to ensure nothing was missed in their assessment.

- KMKNO ARD asserted that the project area is extremely high risk and recommends an ARIA be completed.
- KMKNO ARD stressed that archaeology needs to be captured in action items.
- Parties agreed to convene internal discussions including today's learnings and to then reconvene for the next meeting dates.
- KMKNO noted that discussion on archaeology will be key for next meeting.
- KMKNO suggested last week of March and first 2 weeks of April for next meeting. Parties will look to timing. (Tamara, Charmaine, and Claire to work together to schedule).
- Acadia committed to discussing engagement with Cooke with Chief and Council at next Monday's consultation meeting. Acadia stated that it will advise Twila on the outcome of that conversation.

## 6. Closing Prayer

250

Supplement #4: Record of Consultation Meeting of June 1, 2022  
(7 pages)

## RECORD OF MEETING

### Consultation between the Assembly of Nova Scotia Mi'kmaq Chiefs and the Province of Nova Scotia – Department of Fisheries and Aquaculture Under the 2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference

#### Aquaculture Lease and Licence Application Nos. 1205, 1432 and 1433 – Liverpool Bay – Kelly Cove Salmon

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**June 1, 2022**

**2:30 - 4:30 pm**

**Microsoft Teams**

Mi'kmaq of Nova Scotia: Twila Gaudet, Tamara Young, Mise'l Abrams, Bec Borchert, Emily Pudden (KMKNO), Jeff Purdy, Charmaine Stevens, Curtis Falls (Acadia FN)

Nova Scotia Department of Fisheries and Aquaculture (NSDFA): Bruce Hancock, Carla Buchan, Nathaniel Feindel, Robert Ceschiutti, Melinda Watts

Nova Scotia Department of Communities, Culture, Tourism and Heritage (CCTH): Katie Cottreau-Robins, John Cormier, Susan Jeffries

Office of L'nu Affairs (OLA): Beata Dera, Claire Rillie

#### **PURPOSE**

The purpose of this consultation meeting is:

1. To provide information about three proposed aquaculture applications (AQ 1205, 1432 and 1433) for the marine cultivation of Atlantic Salmon in Liverpool Bay.
2. To provide a status update on the project.
3. To follow up on action items from March 1 and 2, 2022 consultation meetings.
4. To discuss concerns and potential impacts to Treaty and Aboriginal rights resulting from the proposed project.

#### **AGENDA**

1. Introductions (Chair)
2. Consultation update (OLA)
  - Consultation at the moderate level was initiated via written correspondence on the above-noted applications on September 25, 2019.
  - KMKNO responded on November 22, 2019 advising that the Assembly wished to proceed with consultation.
  - Correspondence was exchanged throughout 2019 and into early 2020 and a consultation meeting between KMKNO, Acadia First Nation and NSDFA was held on December 9, 2020.



- Additional consultation meetings were held on March 1 and 2, 2022.
  - This is our fourth consultation meeting on the Kelly Cove Liverpool Bay expansions since 2020.
3. Proponent engagement update (Acadia/KMKNO)
- Engagement meeting between Cooke and Acadia occurred on April 15, 2022.
  - Acadia explained that the turnout was small but fully engaged - all were opposed to the project. One community member from Port Mouton who fishes in Liverpool Bay (commercial/FSC/communal/moderate livelihood fisher) and is very knowledgeable about the area shared information with the company.
  - Acadia described a significant discussion on archaeology in the area and the significance of the Mersey system to the Mi'kmaq.
  - Acadia stated the company was respectful and learned where community was coming from, adding that the company seemed surprised by the archaeology piece - to that point they'd been unaware to a certain degree.
  - Acadia noted the company did not have the map referenced at our last consultation meeting which was disappointing because band members really needed to see the physical layout of the proposed expansions so they could get an understanding of the scope.
  - KMKNO stated there were real questions about adequacy of consultation process and that Acadia expressed concern that they were not able to provide feedback earlier on in the process (early engagement was a missed opportunity).
  - Acadia explained that the company could have put on workshops/engagement sessions earlier on as they did in Queens County with the municipality.
  - NSDFA stated that when they originally initiated consultation there was an offer to invite the proponent to early meetings.
  - KMKNO noted that the early understanding was that the company was reaching out to engage with the community but that wasn't happening - when consultation began they wanted to get full understanding before going into an engagement session with no prior information.
  - KMKNO underscored the opposition to the development by Acadia community members.
  - NSDFA noted that the company described in their reporting to the department that they had reached out to First Nations.
  - NSDFA reminded the table that it was difficult to arrive at meeting dates, adding they have been more than willing to engage on these applications and that archaeology was not initially raised on the file but was brought up later.
  - NSDFA explained they do not share information at consultation table with the applicant, underscoring the importance to address potential impacts to rights as a government role.
  - Acadia explained the mistrust and weariness from communities regarding issues related consultation, fisheries, etc. When the requests to meet first arrived, the community was on guard and needed to take time to consider before being comfortable moving ahead.

- KMKNO supported Acadia's statement re: hesitation to meet, taking time to come to the table, adding that presently there is a willingness to learn more about the project, adding the importance of knowing impacts to rights. KMKNO expressed concern that the company is taking up such important real estate that could be used to fish.
4. Status of action items identified on March 1 and 2, 2022 (All)
    - a. NSDFA will follow up with CCTH to ensure nothing was missed in their assessment.
      - CCTH explained that no official assessment has been undertaken to date, adding that the background information presented today was helpful and that CCTH was not included in earlier consultation meetings.
      - CCTH noted that the Mi'kmaq have been clear on direction re: archaeology.
      - CCTH stated that their examination of the application in these areas yielded information on shipwrecks and pre-contact site on Coffin Island - supporting the Mi'kmaw position that limited current knowledge does not preclude the existence of additional sites - and adding that the department understands the Mi'kmaw connection to the Mersey system.
      - CCTH noted that they are still considering the project area as having a high energy subsurface environment and sandy floors.
    - b. KMKNO ARD asserted that the project area is extremely high risk and recommended an ARIA be completed.
    - c. KMKNO ARD stressed that archaeology needs to be captured in action items.
    - d. Parties agreed to convene internal discussions including today's learnings and to then reconvene for the next meeting dates.
    - e. KMKNO noted that discussion on archaeology will be key for next meeting.
      - CCTH explained they are not surprised that an ARIA was requested and suggested a 2-phase approach may be warranted: a thorough background study first, then talking together as a group about the results and discussing whether or not further exploration is required or if there's existing benthic data showing the ocean floor that could be reviewed by archaeologists.
      - NSDFA noted that archaeology was raised for the first time in March 2022 meetings.
      - KMKNO ARD added that there has been a tendency to ignore high energy environments but that in other similar areas there have been archaeological discoveries - they recommended underwater archaeology be completed.
      - All Parties agreed that archaeology is now under consideration.
  5. Outstanding questions re: fish health (KMKNO)
    - KMKNO agreed to follow-up internally and communicate via email or offline if the veterinary team should be invited to the next consultation meeting.
    - Acadia expressed an interest in inviting the veterinarians to next meeting to answer questions the community may have.

- Acadia underscored capacity concerns, adding that it takes time to review materials and absorb details.
  - KMKNO agreed to help support Acadia's assessment.
  - NSDFA stated that they would be happy to receive questions and circulate them to the veterinary team or bring them back in for the next consultation meeting.
6. Potential adverse impacts to Mi'kmaq Aboriginal and treaty rights (KMKNO)
- KMKNO explained that they have covered areas where rights could be impacted - fisheries primarily plus archaeology, adding that a lot comes down to the areas themselves and the fishing happening in those areas - KMKNO wants to make sure fishing activities not impeded by proposed activities.
  - KMKNO noted there is clear opposition to the applications in the area.
  - Acadia explained that Council and community members are both opposed.
  - OLA voiced view that specificity around the practice of rights is crucial to consultation - from a project planning perspective, looking at immediate area around project - adding that archaeology is being worked through but for fishing or the practice of other rights that could be impacted by these expansions, it would be helpful to know what species being fished, how many community members be impacted.
  - OLA added that they are unable to access information on licences from DFO but that the Province needs information to help government understand the potential specific impacts due to the proposed project expansions. OLA asked for numbers of community members fishing in the specific areas slotted for expansion and if an in-depth conversation on those issues would be possible.
  - KMKNO noted that the number of community members fishing in the area isn't relevant, adding that the Mi'kmaq have continued to be displaced because of commercial fisheries and that the Mi'kmaq have continued to move along, using small vessels, close to shore. KMKNO stressed that it could be 5 members or 500 members - they still have a treaty right to fish.
  - KMKNO noted they understand that more specificity is required and suggested that DFO data could be a starting point.
  - Acadia explained that this was discussed at the meeting with Kelly Cove, adding that in Queens County we have well over 300 Acadia Band members but that there are so many more beyond that. The Native Council of Nova Scotia (NCNS) also has a huge presence in that area.
  - Acadia further explained that many band members engage in lobster fishing in area - for food fishing (3 tags each) plus moderate livelihood which is growing as it becomes sanctioned by DFO. Acadia noted that the area is very accessible and close to the shore for the small food fishery vessels.
  - Acadia repeated serious concern for the displacement of fishers given the large project area which almost takes up the whole coastline of Coffin Island.
  - Acadia noted there is a food fishery in the area around Coffin Island and that commercial fisheries are located there as well.

- Acadia described Coffin Island as a historic summer place for the Mi'kmaq, stressing the proposed aquaculture expansion could take up the whole shoreline area.
- Acadia explained there is a district approach to moderate livelihood fisheries - 3 other bands are involved. There will be access for Bear River, Annapolis and Gloosap in Area 33. Access in LFA 33 will grow to include other members of Mi'kmaw communities. Gaspereau and elver fisheries are also being expanded through moderate livelihood and the community anticipates more cooperation in this part of the province.
- NSDFA explained that the maps brought in for the March, 2022 meetings show the lease areas put forward by the proponent but that they do not reflect actual footprint of pens in water, adding there is a big difference between actual space occupied by pens and gear and size they are requesting in their application.
- NSDFA added that the proponent is also asking for buffers to hold nets in place - in a space that more than accommodates gear.
- NSDFA shared that operators allow people to fish within boundaries of their lease right up to the cages, adding that departmental staff have observed lobster traps set around pens.
- NSDFA stressed that they rely heavily on advice from federal partners, adding that DFO's responsibility is to comment on impacts to fish and fish habitat and that they rely on DFO for advice on impacts to FSC, moderate livelihood and commercial fisheries in the area.
- NSDFA reminded Parties about the project tracking lobsters in vicinity of fish farms, suggesting that it might be worth talking about the latest findings. NSDFA explained that the department looks the impacts of aquaculture on lobster and added that there is no evidence of decrease in landings at this time. NSDFA stressed the importance of specificity: they need to know how what's being proposed here would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss.
- OLA explained that in their experience with DFO, the department don't participate unless they are issuing an authorization or unless specific issues about fish and fish habitat are raised.
- KMKNO asked if DFO could be brought to the table.
- NSDFA reiterated the importance of learning where the best/most productive fishing is done, suggesting that maybe one or more of the proposed sites is actually better for expansion. NSDFA stressed the need to balance interests with other groups.
- Acadia underscored the colonial approach of government regulation and support for industry development and suggested the incorporation of a two-eyed seeing approach.
- NSDFA stressed that there are opportunities for the Mi'kmaq in aquaculture development as well.
- Acadia expressed a desire to work together to find the places where aquaculture development can happen.

- OLA explained that the more information the Province receives, the more informed the decision can be, adding that quantifying use does matter.
- OLA added that government must manage and balance various interests - that is the difficult business of governing.
- OLA stressed that the more information received about rights, the more equipped they are to inform our leadership on the extent of what's happening and where. Without details, they lack information to inform decision-makers.
- NSDFA underscored that the decision before them is not a yes or no. All information will be shared with the ARB for decision but that the department has a duty to consult on potential impacts to rights.
- CCTH noted concern that the table may not be at a place to discuss archaeology at present.
- Acadia highlighted difference between big lobster boats and small community fishers who can't move far offshore to fish.
- Acadia reiterated the colonial government approach is in conflict with the Mi'kmaw perspective of having an open mind.
- Acadia explained that community members teach their children and grandchildren where hunting and fishing occurred in the past, stressing that Mi'kmaw knowledge is vast.
- NSDFA stated they are not aware of lobster fishers being displaced by aquaculture operations anywhere in the province. NSDFA reminded Parties that they have provided evidence about stocks in the Bay with the telemetry study, adding knowledge about how lobsters behave around fish farms, and suggesting they can get landings to compare with if that helps.
- NSDFA noted they think there is ability to practice rights and grow salmon in the same area.

#### 7. Next steps/action items (All)

- NSDFA to consider the request by KMKNO ARD to completing an ARIA for the project area.
- KMKNO to follow-up with NSDFA on whether or not another technical session on fish health is required.
- Acadia to provide NSDFA with questions from the community regarding fish health.
- KMKNO to provide NSDFA with information on what species are being fished, where fishing occurs and how many community members would be impacted, how the project would prevent fishers from accessing the resource and if reasonable accommodations can be developed to mitigate any potential loss, within the immediate area of the project.
- Parties agreed to work towards a way of illustrating specific adverse impacts to Mi'kmaw Aboriginal and treaty rights from proposed site expansions.
- OLA suggested looking at a map together or one the community can provide to ascertain what fishing happens in the proposed areas for expansion.
  - KMKNO agreed to touch base with Mi'kmaw team on that item.
- Acadia will also return to Chief and Council for further conversation.



May 1, 2023

Chief Terrance J. Paul  
Membertou First Nation  
47 Maillard Street  
Membertou, NS  
B1S 2P5

Dear Chief Paul and Council;

**RE: Decision regarding Aquaculture Licence and Lease Application Nos. AQ#1205 AQ#1432, & AQ#1433 located in Liverpool Bay, Queens County**

I am writing to bring to your attention a decision that has been made on three aquaculture applications (AQ#1205, AQ#1432 and AQ#1433, the “applications”) submitted by Kelly Cove Salmon Ltd. in connection with an adjudicative amendment to increase the site boundaries and two new aquaculture sites for the marine cage cultivation of Atlantic salmon in Liverpool Bay, Queens County.

This letter provides the following:

1. Chronology of consultation
2. How concerns/issues raised by the Mi’kmaq of Nova Scotia have been addressed

Chronology of Consultation To-Date

On September 25, 2019, the Nova Scotia Department of Fisheries and Aquaculture (the “Department”) sent an Offer to Consult letter to Membertou First Nation. The Department described the applications and noted the Province had screened it for Aboriginal consultation purposes and found it to potentially have impacts to Aboriginal and Treaty rights at the moderate level. The Department then requested details on potential adverse impacts the applications could have on credibly asserted or established Mi’kmaq Aboriginal and/or treaty rights. A response was required on or before November 25, 2019.

No response was received from Membertou First Nation.

How Concerns/Issues Raised by the Mi’kmaq of Nova Scotia Have Been Addressed

No issues were raised by Membertou First Nation.

The Department has made the decision to proceed with processing the above applications. The final decision regarding these applications will be made by the Aquaculture Review Board and posted to the department's website.

Please note that the Assembly of Nova Scotia Mi'kmaw Chiefs have been informed about this decision.

Sincerely,



Robert Ceschiutti  
Manager of Licensing and Leasing  
Nova Scotia Department of Fisheries and Aquaculture

Cc.

Kendra Gorveatt, Consultation Advisor  
Nova Scotia Office of L'nu Affairs

Lynn Winfield, Licence Coordinator  
Nova Scotia Department of Fisheries and Aquaculture

Edward Parker, Regional Senior Aquaculture Management Officer  
Fisheries and Oceans Canada

Gabriella Arsenault, Consultation Officer  
Transport Canada