

NOVA SCOTIA AQUACULTURE REVIEW BOARD
60 RESEARCH DRIVE, BIBLE HILL, NS B6L 2R2
Aquaculture.Board@novascotia.ca

NSARB-2023-001-INT-002

INTERVENOR STATUS APPLICATION**Instructions**

Please submit this form to the Aquaculture Review Board (Board) no later than ***ten (10) days*** after the publication date of the public hearing notice. You may attach additional pages if necessary.

Intervenor Status Applications will only be processed if they are received by the Board on or before 16h30 pm (local Nova Scotia time) on the deadline date.

A person applying for intervenor status for multiple applications must complete and submit individual Intervenor Status Applications forms for each application.

Pursuant to s.23 of the *Aquaculture Licence and Lease Regulations*, the Board will decide on this Intervenor Status Application within ten (10) days of receipt and will notify you of the decision no later than five (5) days after the decision is made.

All information provided to the Board on this form and any additional pages submitted (the "form information") will become a part of the record of the hearing. Should your application for intervenor status be accepted, the form information may be disclosed to the other parties to the hearing.

You are also advised that the form information may be subject to an access request under the *Freedom of Information and Protection of Privacy Act* ("FOIPOP") and may, as a result, be released unless the information is exempt from disclosure under FOIPOP.

Please refer to the *Aquaculture Licence and Lease Regulations*, s.23 (attached) for more information on Intervenor Status Requests.

Application

Please read the entire application before responding. **(Print clearly or type).**

1. Please identify the aquaculture lease application that you are requesting intervenor status for:

Lease Number:

AQ#1205, AQ#1432 & AQ#1433

Hearing Date:

Feb. 5/2024 & March 4/2024

2. Name of Applicant:

Kwilmu'kw Maw-Klusuaqn (KMK)

3. Civic Address:

75 Treaty Trail, Truro, N.S., B6L 1W3

4. Mailing Address:
(if different than above)

5. Phone Number(s):

6. Email Address*:

[REDACTED]@mikmaqrights.com

7. Preferred method of communication: ☒ email* ☐ Mail ☐ Other: _____

*Unless otherwise notified, email will be the preferred method of communication

NOVA SCOTIA AQUACULTURE REVIEW BOARD
60 RESEARCH DRIVE, BIBLE HILL, NS B6L 2R2
Aquaculture.Board@novascotia.ca

8. Specifically describe how the proposed aquaculture activities may substantially and directly affect you:

Mi'kmaw Aboriginal and treaty rights will be adversely affected from the proposed site expansions for AQ#1205, AQ#1432 & AQ#1433 due to a loss of access for Mi'kmaw peoples in multiple ways.

1. Providing Kelly Cove with more room to farm their fish means less physical area in Liverpool Bay for the Mi'kmaq to fish in. Although no detrimental effects have been shown on culturally significant wild species in the area such as salmon, eel and lobster, the expansion and approval of new sites will displace Mi'kmaw fishers. This loss of access clearly impedes the court affirmed Mi'kmaw right to fish for food, social and ceremonial purposes as well as for moderate livelihood.

2. 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. When Mi'kmaw archaeological resources are destroyed, so is a part of Mi'kmaw culture and history. We feel there has been Inadequate testing in the marine environment for archaeological resources and that no decisions should be made or any work done until such time as that the Maw-lukutijik Saqmaq (Assembly of Nova Scotia Mi'kmaw Chiefs) see adequate data to comfortably eliminate concern for the presence, protection, and management of Mi'kmaw archaeological and cultural heritage.

3. The project area from the watershed to Coffin Island is a known and significant corridor for the Mi'kmaw of Nova Scotia. Concentrated aquaculture efforts here will impede Mi'kmaw access to waterways, safe and healthy food sources and spiritual and culturally important areas.

4. Due to the significance of this area to the Mi'kmaw concentrated aquaculture would also interfere with the aesthetics and serenity of this cultural hot spot to local communities such as Wasoqopa'q (formerly known as Acadia FN).

9. Describe your existing uses, if any, of the proposed lease site, and state whether the identified uses are recreational or commercial:

The Mi'kmaw of Nova Scotia have a legally recognized and constitutionally affirmed right to fish for a moderate livelihood and for Food, Social and Ceremonial purposes.

FSC and Netukulimk fisheries operate close to shore, unlike the commercial communal fishing fleets. Many Mi'kmaq fishers do not have vessels equipped to travel offshore, therefore, access and the ability to fish close to shore in Liverpool Bay is imperative to the Mi'kmaq. It is not enough for the province to simply consider Rights and Title when the Mi'kmaq continue to be displaced from accessible areas and removed from the context of community and culturally significant watersheds. Liverpool bay is both recreationally important for access to healthy and safe food sources but it also holds value to the Mi'kmaw of Nova Scotia as a culturally significant site with known Mi'kmaw archaeology that would be lost and/or forever altered by the addition of concentrated industry.

NOVA SCOTIA AQUACULTURE REVIEW BOARD
60 RESEARCH DRIVE, BIBLE HILL, NS B6L 2R2
Aquaculture.Board@novascotia.ca

10. Describe your existing uses, if any, of the area surrounding the proposed lease site, and state whether the identified uses are recreational or commercial:

The Liverpool Bay and surrounding area has been used in a significant way by the Mi'kmaq since time immemorial. The presence of known artifacts in this area reflects the significance to the Mi'kmaq. The connection between community, access to safe, healthy and culturally significant food sources as well as known historic artifacts are a very real use of Liverpool Bay today.

The Mi'kmaq depend on recreational uses of Liverpool Bay for Food, Social and Ceremonial fishing activity as well as for a Netukulimk livelihood fishery. This inshore access is imperative as these small scale FSC and moderate livelihood fisheries are limited by vessel size and cannot be displaced further offshore or away from community.

11. Please provide any other information which you consider relevant to your application for intervenor status including any affiliations, if any:

The Mi'kmaq were in active consultation with the Nova Scotia Department of Fisheries and Aquaculture on these proposed aquaculture expansion lease sites and do not feel that our concerns regarding archaeological processes and access for Mi'kmaq users have been adequately addressed to date.

- The Mi'kmaq and their ancestors have occupied the Liverpool Bay region since time immemorial. As sea levels rose, coastal lands including areas within Liverpool Bay were inundated. These submerged Mi'kmaq cultural landscapes represent areas of elevated archaeological significance. Approximately one quarter of all registered Mi'kmaq archaeological sites in Nova Scotia are located along the Mersey River corridor, which includes Liverpool Bay. The Mersey River forms part of a longstanding Mi'kmaq travel route and natural inland waterway connecting the Atlantic coast with the Bay of Fundy.

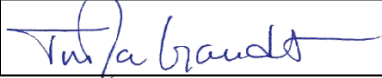
- The archaeological sampling carried out at AQ# 1205 and 1432 did not penetrate the seabed deep enough to reach any sediments that predate the marine transgression of Liverpool Bay. As such, the presence of Mi'kmaq archaeological resources cannot be ruled out. Just because cultural materials are under water, does not mean that they are lost; rather, they can remain very well preserved.

- Impacts to Mi'kmaq archaeological heritage, including loss, disturbance or a lack of detection have the potential to negatively impact Mi'kmaq Rights and Title. When Mi'kmaq archaeological resources are destroyed, so is the culture of the Nation.

- The Marshall decision clearly notes that Treaty Rights can only be limited for conservation concerns. Therefore, DFA and now the ARB must prioritize conservation, treaty rights and then industry interests in that order. The Mi'kmaq of Nova Scotia are currently working through issues of access to pursue a moderate livelihood in Mi'kmaq and any new decisions by this board should account for an upcoming increase in Mi'kmaq access by further reducing pressures from the commercial industries on our marine ecosystems

12. Declaration

By signing and submitting this form, I acknowledge that I have read, understand and accept the above statements regarding the collection, use, and disclosure of the personal information provided on this form. I also hereby certify that the information provided on this form is true and correct to the best of my knowledge and belief.



Signature of Applicant

September 15, 2023

Date

For Internal Office Use Only

Notice Date: _____

Date Received: _____

Decision Date: _____

Decision: ☐ Approved ☐ Denied

Decision Notes: _____

Applicant Notification Sent: _____

Notification to Parties Sent: _____

Additional Information on Intervenor Requests

Excerpt from the Aquaculture Licence and Lease Regulations

Request for intervenor status

23 (1) *A person may request intervenor status from the Review Board.*

(2) *A request under subsection (1) must be in writing in a form determined by the Review Board and must be submitted to the Review Board no later than 10 days after the date that notice of the adjudicative hearing is published under Section 19.*

(3) *No later than 10 days after the date it receives a request for intervenor status, the Review Board must decide whether to grant or refuse the request.*

(4) *The Review Board must grant intervenor status to any person requesting it who, in the opinion of the Review Board, is substantially and directly affected by the hearing.*

(5) *A decision made by the Review Board with respect to intervenor status is final.*

(6) *No later than 5 days after deciding on a request for intervenor status, the Review Board must provide notice of its decision to the person requesting intervenor status and, if the request is granted, to each of the parties to the proceeding.*

In making decisions on intervenor request, the Board will reference the regulated factors below to determine whether the intervenor applicant is directly and substantially affected by the hearing pursuant to section 23(4) above.

Excerpt from the Aquaculture Licence and Lease Regulations

Factors to be considered in decisions related to marine aquaculture sites

3 *In making decisions related to marine aquaculture sites, the Review Board or Administrator must take all of the following factors into consideration:*

(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;

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