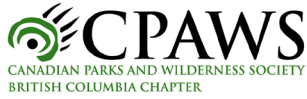




Honourable Minister LeBlanc
Minister of Fisheries, Oceans and the Canadian Coast Guard
200 Kent Street
Ottawa, Ontario K1A 0E6
Sent by email to: Min@dfo-mpo.gc.ca

February 2, 2017



Re: Next steps on restoring and modernizing the Fisheries Act

Dear Honourable Minister LeBlanc,



We are writing to share with you our interests and recommendations regarding the next steps in your work to restore lost protections and introduce modern safeguards to the Fisheries Act. Many of us participated in the House of Commons Standing Committee on Fisheries and Oceans (FOPO) review process as expert witnesses, by making submissions, and by participating in the on-line forum (LetsTalkFishHabitat.ca).



It is our understanding that the FOPO Committee will release their report and recommendations by February 28, 2017. As conservation and environmental organizations, we would like to meet with you and senior staff following the release of the report to discuss the Committee's recommendations and next steps in the legislative amendment process.



Given the mandate letter, the hiring of new scientists, the commitment to implementing the Cohen Commission recommendations and wild salmon policies, the recently released Standing Committee report on Wild Atlantic Salmon, and agreeing to the recommendations of the Auditor General report toward Sustaining Canada's Major Fish Stocks, this government is poised to make broad, lasting changes to the Fisheries Act along a more sustainable path.



Based on testimony and written submissions to the FOPO Committee and input to the online forum provided by the groups signatory to this letter and others, the following are our key recommendations for restoring lost protections and introducing modern safeguards to the Fisheries Act.



In terms of restoring lost protections, we recommend the following:



- As stated by the vast majority of participants in the review process, strong, comprehensive fish habitat protection that applies to all fish across the country must be reinstated into the Fisheries Act. Specifically, we would like to see the Act state: "No person shall carry on any work, undertaking or activity that results in the harmful alteration, disruption or destruction (HADD) of fish habitat."
- Restore protection of all native fish, not just those that form part of a commercial, recreational or Aboriginal fishery.
- Restore the prohibition on causing the death of fish by means other than fishing (as in former Section 32) and broaden it to also prohibit





sub-lethal effects (such as injury, illness, reduced fitness) of activities and undertakings (other than fishing) which compromise the ability of individual fish or their offspring to contribute to successful reproduction and/or population productivity.

- Limit the Minister's overly broad discretionary regulatory powers and have any exemptions from habitat protection be allotted according to an established set of sustainability principles and purposes.
- Despite HADD, the implementation of the Act prior to 2012 was failing to protect fish habitat and leading to inefficiencies and inconsistencies for industry. Some changes made in 2012 to DFO's service standard, flexibility and consistency can be retained, but there is a need for further improvements to implementation practices, and significant resources must be put into improved monitoring and enforcement of the Act across the country.

In terms of introducing modern safeguards, we recommend the following:

- Designate key areas of essential fish habitat that cannot be destroyed or compensated.
- Establish a legal obligation to prevent overfishing and to rebuild depleted fish stocks.
- Develop mechanisms to evaluate and address the cumulative effects of minor or low-risk projects that are not deemed to require an authorization, but still kill fish, alter fish habitat, or have other sub-lethal effects on fish populations that contribute to declines in productivity.
- Create an easily accessible public registry of fish habitat authorizations, including self-assessments, DFO staff assessments, environmental assessments, and assessments from other regulatory processes and other levels of government.
- Protect environmental flows as an essential element of fish habitat, building from the work of DFO's Canadian Science Advisory Secretariat 2013 Science Advisory Report on this issue.
- Require mandatory fish passage at all barriers, granting ministerial power to exempt under established conditions.
- Strengthen local habitat stewardship through shared decision making with First Nations, stakeholders, and affected communities.

A restored and modernized Fisheries Act requires a well-articulated purpose section, and must incorporate modern principles of precaution, ecosystem based management and sustainable development.

Importantly, a modern Fisheries Act needs to include protection of recognized and affirmed treaty and aboriginal rights that ensure healthy fish populations and habitat that will sustain these rights in perpetuity. The Fisheries Act should be viewed as an important piece of legislation towards achieving reconciliation with Indigenous Peoples. A nation-to-nation process should be



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established to ensure that national and international commitments to uphold Indigenous rights are enshrined in a modernized Act. This would represent an important step in fulfilling the mandate issued to you by the Prime Minister to “Work with...Indigenous Peoples...to better co-manage our three oceans” and the government’s broader mandate to ensure “a renewed, nation-to-nation relationship with Indigenous Peoples based on recognition of rights, respect, co-operation, and partnership.”

As you know, the Fisheries Act is almost as old as our country and is our oldest piece of federal environmental legislation. It empowers the federal government to protect our remarkable oceans, rivers, and lakes, to ensure we have clean water, and to safeguard fish and fish habitat as essential elements of Canada’s irreplaceable natural capital. Modernizing this vital legislation will be an important element of this government’s legacy as Canada marks its 150th anniversary this year. Indeed, restoring habitat protection, improving monitoring and enforcement, and introducing modern safeguards into the Act, will be critical to ensuring healthy fresh water, coastlines and fish for generations another 150 years from now.

We look forward to working with you on Fisheries Act reform over the coming year. As mentioned, we would like to meet with you end of March or early April to discuss the FOPO Committee report and expand on some of the above and additional recommendations to truly modernize the Fisheries Act.

We look forward to your response to our request for a meeting, and to our recommendations for reform of this critical piece of legislation. Please direct your response to nikki@northernconfluence.ca or 778-210-0117.

Sincerely,

Bill Taylor, President & CEO

Atlantic Salmon Federation

Rich Ronyecz, President

BC Federation of Fly Fishers

Anastasia M Lintner, Special Projects Counsel

Canadian Environmental Law Association

Lindsay Telfer, Project Director

Canadian Freshwater Alliance

Rick Bates, CEO

Canadian Wildlife Federation

Lois Corbett, Executive Director

Conservation Council of New Brunswick.

Maude Barlow, National Chairperson

Council of Canadians

Sabine Jessen, National Director, Oceans Program

Canadian Parks and Wilderness Society - BC Chapter

Jeffery Young, Senior Science and Policy Analyst
David Suzuki Foundation

Susanna Fuller, Marine Conservation Coordinator
Ecology Action Centre

Margot Venton, Staff Lawyer
Ecojustice

Tony Maas, Project Director
Forum for Leadership on Water (FLOW) – A project of Tides Canada

Christianne Wilhelmson, Executive Director
Georgia Strait Alliance

Sarah King, Senior oceans strategist
Greenpeace

Karen G. Wristen, Executive Director
Living Oceans Society

Nikki Skuce, Program Director
Northern Confluence Initiative

Kim Elmslie, Campaign Director
Oceana

Meredith Brown, Riverkeeper
Ottawa Riverkeeper

Misty MacDuffee, Wild Salmon Program Director
Raincoast Conservation Foundation

Shannon McPhail, Executive Director
Skeena Watershed Conservation Coalition

Greg Knox, Executive Director
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Aaron Hill, Executive Director
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Brie Edwards, Freshwater Research Associate
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Elizabeth Hendriks, VP- Freshwater Program
WWF-Canada