

The Honourable Bernadette Jordan
Minister of Fisheries, Oceans, and the Canadian Coast Guard
200 Kent St.
Ottawa, ON, K1A 0E6
Via email: min@dfo-mpo.gc.ca

January 22nd, 2021

Re: Canada's *Aquaculture Act*

Dear Minister Jordan,

We write to you today outlining several major concerns related to the development of Canada's first *Aquaculture Act*. The signatories to this letter are brought together by a series of shared goals, including the preservation of healthy aquatic ecosystems, the protection and restoration of marine biodiversity, the advancement of reconciliation and self-determination for Indigenous communities, and the development of ecologically sustainable coastal livelihoods. We have been participating formally in consultations surrounding the development of the proposed *Aquaculture Act* since 2018, and we have been following the Act's development prospects since its earlier conception.

In formal submissions sent to Fisheries and Oceans Canada (DFO) in December 2019, during the first round of public consultation on the *Aquaculture Act* (see two documents appended to this letter for reference), we grounded legislative recommendations in decades of experience working with Canadian communities and Indigenous peoples to maintain healthy marine and freshwater ecosystems. We also cited Canada's international commitments towards sustainable development and the conservation of biodiversity. We provided recommendations aimed to ensure the effective regulation of Canadian aquaculture and the preservation of aquatic habitat. We were dismayed to see few of our recommendations reflected in the DFO Discussion Paper on the *Aquaculture Act*. Most importantly, we identified three fundamental principles critical for the Act to uphold public trust, protect ecosystems and avoid conflicts of interest:

- (1) that the proposed federal aquaculture statute and regulations encompass, to the extent possible, the federal regulatory framework for all aspects of any aquaculture operation in Canadian waters;
- (2) that the focus of the *Aquaculture Act* be the effective regulation of aquaculture to ensure the protection of wild fisheries, fish, fish habitat and marine biodiversity;
- (3) that the goals and purposes of the statute expressly avoid the inclusion of any responsibilities towards the promotion of aquaculture falling to federal regulators.

We have now been assured that the first principle cannot be met, as the mandate supported by the Canadian Council of Fisheries and Aquaculture Ministers extends only to an Act which does not cede provincial/territorial jurisdiction over aquaculture. To that end, we have been informed that the federal Act will neither consolidate regulatory duties nor require national regulatory standards for Canadian operators. On the East Coast, we cannot see how the *Aquaculture Act* could enhance environmental protections in Atlantic waters unless, at a minimum, national standards are mandated by the Act.

On the West Coast, we are concerned by the failure of the proposed Act to expressly integrate the federal government's commitment to transitioning away from open net-pen aquaculture in Pacific waters by 2025. This disconnect seems to signal a disregard for that collaborative effort and progress to-date, in particular to the efforts of First Nations and the Government of British Columbia, critical to any hope for the restoration of wild Pacific salmon populations. An *Aquaculture Act* would best serve that transitional commitment by establishing a legislative mechanism to ensure the completion of this work by deadline. The Act's draft framework does not currently make space for such a provision.

Moreover, we are deeply troubled to learn that essential protective measures for fish and fish habitat established by the *Fisheries Act*, including sections 34, 35 and 36, may be replaced or undermined by the proposed *Aquaculture Act*. The stated purpose of the *Fisheries Act* includes "the conservation and protection of fish and fish habitat, including by preventing pollution" (section 2.1). The amended *Fisheries Act* is the result of nearly four years of extensive public and stakeholder consultation, in which a number of the signed organizations have actively engaged. Resulting improvements to the *Fisheries Act*, if fully implemented, could do much to restore lost protections, introduce modern safeguards and prioritize the preservation of fish habitat. The current trajectory of the proposed *Aquaculture Act* puts the progress and promise of the *Fisheries Act* at risk. With many of the regulatory provisions in the modernized *Fisheries Act* yet to be fulfilled, the establishment of an *Aquaculture Act* is premature.

We appreciate the challenges and the weight of these difficult times, but it is critical that we not lose sight of this issue and the potential risks associated with a Canadian *Aquaculture Act* that does not locate the preservation of biodiversity at its core; that will not standardize regulatory requirements across the country; that cannot acknowledge the mandate to remove open net-pens from the Pacific by 2025; and that cannot guarantee environmental protections currently in-place under the *Fisheries Act* or elsewhere. As we have previously stated during formal consultation processes, we remain skeptical that the *Aquaculture Act*, under its current mandate, can "enhance environmental protection" in Canada's aquatic ecosystems. We cannot support the continued development of this Act if these issues are not addressed.

We urge that DFO commit to a revised course of action for Canada's *Aquaculture Act*, aimed at legislation that will position Canada as an international leader in the protection of marine ecosystems via strong regulation of the aquaculture industry.

We would appreciate a response regarding these concerns within the next two months.

Sincerely, on behalf of the following signatories:

Atlantic Salmon Federation

Stephen Sutton, Director of Community Engagement

David Suzuki Foundation

Kilian Stehfest, Marine Conservation Specialist

East Coast Environmental Law

Lisa Mitchell, Executive Director

Ecojustice

Margot Venton, Program Director

Ecology Action Centre

Shannon Arnold, Senior Marine Program Coordinator

Georgia Strait Alliance

Christianne Wilhelmson, Executive Director

Healthy Bays Network

Derek Purcell

Living Oceans Society

Karen Wristen, Executive Director

Northern Confluence Initiative

Nikki Skuce, Director

Oceans North

Susanna Fuller, VP Operations and Projects

Watershed Watch Salmon Society

Stan Proboszcz, Science and Campaign Advisor

West Coast Environmental Law

Georgia Lloyd-Smith, Staff Lawyer

Cc:

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