

C/O Conservation Council of New Brunswick
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The Honourable Hunter Tootoo
Minister's Office
200 Kent Street
Station 15N100
Ottawa, Ontario
K1A 0A6

February 26, 2016

Re: review of changes to the Fisheries Act by Harper Government

Dear Minister Tootoo:

We are writing to request the repeal of the Aquaculture Activities Regulations (AAR) which came into effect July 15, 2015.

These regulations were part of the wholesale roll back of environmental protection instruments undertaken by the previous federal government. The AAR were implemented in spite of overwhelming opposition by a broad swath of Canadian marine stakeholders, including 120 prominent and independent business leaders, commercial and recreational fishing associations, scientists, lawyers and environmentalists identified in an open letter to the Prime Minister (see attached letter of February 2015). The regulatory changes have been in force since August 2015.

We remain vehemently opposed to these changes and believe the AAR should be repealed because they significantly reduce marine environmental protection by:

- relying on a substantive component of self-monitoring by industry,
- handing decision-making about chemical use in the oceans to an agency (Health Canada) whose primary mandate is human health not environmental protection, and who has no current capacity to verify environmental predictions when chemicals are used operationally.
- narrowly addressing fish health concerns, when they should primarily concern environmental protection (i.e. preventing pollution to water)
- removing enforcement responsibility from Environment Canada, which is currently the only Federal agency with a clear and undivided environmental protection mandate, and
- producing uneven application of the Fisheries Act compared with other industrial sectors.

We support the Mandate given to the Minister of Fisheries, Oceans and the Canadian Coast Guard to “review the previous government’s changes to the *Fisheries [Act]* ..., restore lost

protections, and incorporate modern safeguards,” and believe the newly promulgated Aquaculture Activity Regulations fall squarely within that commitment.

The AAR are a critical part of the previous Conservative government’s attack on environmental protection of our oceans. As part of its commitment to return to responsible ecosystem management, we ask your government to repeal the AAR and work with stakeholders in First Nations, marine environmental science, fisheries, and aquaculture to implement environmental protection regulations that adequately address sources of pollution from aquaculture.

We understand a Designation Order dated March 12, 2014, has removed Environment Canada from all aquaculture oversight activities. We recommend that the sections of the Designation Order removing Environment Canada’s responsibilities be rescinded so the agency can continue its effective enforcement and environmental surveillance work with regards to aquaculture.

Given that the effective handover of enforcement responsibilities and capabilities between Environment Canada and Fisheries and Oceans Canada is not yet complete; and that the implementation protocols have yet to be signed, the repeal of the AAR and return of enforcement capacity back to Environment Canada would be timely.

It is also our understanding that there is a desire by the aquaculture industry to have an Aquaculture Act that would centralize administrative responsibility for aquaculture into one agency. We are very concerned about the implications of such a move on the environment and traditional fisheries. We suggest that a restored Fisheries Act could be an entirely adequate piece of legislation and that the aquaculture industry should be held to such an Act standards.

We offer our full support to your efforts to strengthen environmental protection in Canada and look forward to working with you to ensure that our coastal waters are well protected and coastal industries can thrive in an environmentally sustainable manner.

Sincerely,

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CC: The Honourable Catherine McKenna, Minister of Environment and Climate Change; The Honourable Kirsty Duncan, Minister of Science; The Honourable Carolyn Bennett, Minister of Indigenous and Northern Affairs

Office of the Prime Minister
80 Wellington Street
Ottawa, ON
K1A 0A2

February 17, 2015

Dear Prime Minister Harper:

As business leaders, commercial and recreational fishing associations, scientists, lawyers and environmentalists who care deeply about sustainable jobs, prosperous coastal communities and healthy ecosystems, we are gravely concerned about the Department of Fisheries and Oceans' proposal to, in essence, exempt the aquaculture industry from the *Fisheries Act* provisions that prohibit the release of deleterious substances into water frequented by fish. We believe the proposed changes, if enacted, will lead to the discharge of increasingly powerful pesticides and other potentially damaging substances into the ecosystem, significantly reduce government regulatory oversight, and damage Canada's commercial interests as a provider of untainted seafood. Needless to say, these factors diminish our international reputation for environmental protection.

The *Fisheries Act* has been a mainstay of environmental protection for more than 100 years and the section dealing with deleterious substances is key to ensuring that those of us who use Canada's aquatic ecosystems, be they marine or freshwater, do so in an environmentally sound and responsible manner. This section of the Act has never been used inappropriately or frivolously. It has however been used to stop activities highly damaging to fish and their habitat. The most recent instance involved an aquaculture operator in New Brunswick who pled guilty to violating the *Fisheries Act*, in illegally using a pesticide at 15 aquaculture sites, over an extended period of time and despite warnings from Environment Canada. The pesticide is known to be toxic to lobsters and was likely the cause of mortality in hundreds of lobsters found dead in lobster traps during the period of illegal use.

We are also concerned that as a consequence of these proposed changes; Environment Canada's role would be eliminated leaving reliance upon Health Canada and the Department of Fisheries and Oceans (DFO) to ensure environmental protection. Health Canada does not have an undivided environmental protection mandate and DFO does not have the capacity to undertake the surveillance work of Environment Canada. The environmental risk assessments currently performed by Health Canada for pesticide impacts are conducted in a manner that is less than transparent based upon proprietary data sets provided by chemical manufacturers. In the case of drugs, the environmental assessments are negligible and Health Canada does not conduct any subsequent environmental impacts monitoring after these same products are put

into commercial usage. In our opinion, under the proposed changes, the environment is less likely to be fully considered much to the detriment of Canada's fisheries and marine life.

We are certainly not opposed to aquaculture activities, nor are we in favour of regulatory overlap or 'red tape'. We are however, strongly in favour of rules and protocol which protect the natural environment and the interests of all Canadians. In particular we are concerned about sectors like commercial and recreational fisheries and tourism which rely upon government to maintain healthy aquatic ecosystems.

We believe, the proposed regulatory changes will give the aquaculture industry special treatment under the *Fisheries Act*. In our opinion, to exempt one industry from environmental laws that will prejudice others can only increase conflicts among co-users of the aquatic environment. If the aquaculture sector is truly to become sustainable, it will have to deal responsibly with the challenges it faces from parasites, animal health and the unfair international competition from countries with poor environmental protection legislation. There is much the Government of Canada could be doing through research and the negotiation of higher international standards to support the Canadian aquaculture industry in facing these challenges.

We therefore respectfully ask you and your Cabinet colleagues to instruct the Department of Fisheries and Oceans to significantly revise the proposed regulatory changes to the *Fisheries Act* to reflect the substantial concerns expressed herein.

Sincerely,

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