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Ref: 152244

MAL Ref: 1896

Clare Backman
Marine Harvest Canada Inc.
1211 Cypress Street
Campbell River BC V9W 2Z3

Dear Mr. Backman:

I am writing to advise you of my decision regarding Marine Harvest Canada Inc.'s (Marine Harvest) application for an Aquaculture Licence for a finfish aquaculture facility in Lime Point near Klemtu. Based on the information and considerations below, I have decided to issue an Aquaculture Licence to Marine Harvest to culture Atlantic salmon. My rationale for this decision follows in the body of this letter.

1. Application

Marine Harvest submitted a finfish farm application package to the Integrated Land Management Bureau on September 28, 2006. The initial screening and technical review by the Provincial Review Team was completed on November 3, 2006, and the Crown Land application was accepted at that time. The application was referred to the Fisheries and Aquaculture Licensing and Compliance Branch (FALCB) on January 3, 2007. Marine Harvest submitted an application for an Aquaculture Licence to culture Atlantic salmon and Black cod at the proposed location to FALCB on June 27, 2007. The applicant has subsequently clarified that the application is only for Atlantic salmon.

2. Legislative Authority

Section 14 of the *Fisheries Act* (R.S.B.C. 1996, c. 149) authorizes the Minister responsible for the *Fisheries Act* to issue Aquaculture Licences. Authority for the *Fisheries Act* rests with the Minister of Agriculture and Lands. As I was appointed Minister of Agriculture and Lands by the Lieutenant Governor on June 16, 2005, I have the authority to decide upon your license application.

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3. Policy Guidelines and Other Considerations

In processing and assessing your licence application, I have been guided by the following considerations:

- The Ministry of Agriculture and Lands' policy document entitled "Finfish Aquaculture Policies and Procedures for Applications", a copy of which is available at <http://www.agf.gov.bc.ca/fisheries/Manuals/index.htm#Licensing>.
- Principles of fairness, transparency, efficiency and accountability.
- Consideration of the public interest, having regard to:
 - protection of public health and safety;
 - protection of the environment; and,
 - sustainable economic development.
- Legal duty to consult with First Nations.
- Mutual Provincial-First Nations interest in developing a new relationship.
- Recent release of the report of the Special Committee on Sustainable Aquaculture (SCSA).

4. Information Considered

In reviewing this application, I have considered:

- The application made by Marine Harvest for an Aquaculture Licence with all appendices and attachments.
- The other documents in the FALCB licensing file Reference Number 1896 that are related to the Aquaculture application and that pertain to the review by FALCB, including the Aquaculture Development Assessment Report and the Summary of Consultation with the Kitasoo/Xaixais Nation and Heiltsuk Nation regarding the Marine Harvest Lime Point Finfish Aquaculture Application.
- Discussions with professional staff of FALCB on their review of the merits of the application that took place July 26, 2007.
- Recommendations of the SCSA.

I am satisfied that the officials who conducted the review of the application have done a thorough and complete technical assessment. They have made findings based on this assessment and their expertise. I accept these findings and have taken their recommendations into account in making my decision.

5. Site Characteristics

The site is located in Sheep Passage adjacent to Lime Point at the northwest corner of Pooley Island, near the village of Klemtu on the central coast of British Columbia. Staff advise that Lime Point demonstrates a shoreline typical for protected fjords within temperate climates of the Pacific Northwest. Site exposure is anticipated to be moderate. The shoreline is characterized by steep solid rock beaches. Most areas surveyed underwater display steep sloping solid rock and boulder substrate. There are narrow ledges with shell fragment or boulder habitats. Small embayments have gravel, thick shell fragments, and a few small areas of dense clam populations associated with them.

I note that while staff did not have an opportunity to complete an on-site assessment, an extensive baseline data package was submitted with the application. International Underwater Surveyors Inc. completed 15 remotely-operated video transects, with depths ranging from 7m to 303m. BCL Biotechnologies Ltd. completed extensive inter-tidal and sub-tidal surveys. The biophysical characteristics of the site location have been reviewed by the staff biologist.

6. Suitability of Proposed Operation

Staff advise that a comprehensive biological review of the file was undertaken. The review involved an assessment of the technical feasibility of the proposal and the capability of the site to support the activity. The initial plan called for the culture of both Atlantic salmon (*Salmo salar*), and Black cod (*Anoplopoma fimbria*). The staff biologist supported approval of the application on February 22, 2007. The assessment overall was that the site is suitable for the activity as proposed in the application. As stated above, the applicant has clarified that the application is only for Atlantic salmon. The assessment and advice from Ministry staff is not affected by this change.

A related application by the same companies for a farm site at Sheep Passage is within three kilometres of this application. Staff advise that the three kilometre spacing between salmon farms is a Ministry guideline to reduce the risk of biological interaction between salmon farms that share the same body of water. The guideline may be relaxed in cases where two (or more) farms are owned by the same company and/or when conditions are such that each farm is hydrographically isolated from the other. In this case, both farms would be owned by the same companies. The biologists reviewing both of these applications note that the proposed farm sites are cross-channel of each other in an area of good tidal flow, so the chances of downstream affects or shared water flow are unlikely. The biologists have recommended relaxation of the three kilometre guideline in this case and I accept that recommendation.

7. Proposed Production Levels and Related Waste Considerations

Authority to regulate salmon farm waste falls under the jurisdiction of the Ministry of Environment under the Finfish Aquaculture Waste Control Regulation. The Ministry of Agriculture and Lands has the authority to set production limits. A number of criteria were considered by Ministry staff in making a recommendation on the biophysical capability of the site. These included:

- underwater site surveys conducted by consultants;
- 30-day current water data, surface and deep;
- a review of proposed production; Ministry Marine Finfish Production model, and a software program known as “DEPOMOD”, which estimates the size and location of the farms’ footprint on the seabed.

The primary and secondary current directions are East and West respectively, parallel to the shore. They are of moderate strength, but the considerable depth allows the current enough time to disperse waste.

Based on their analysis of the above, staff advise that if this application is to be approved, the Aquaculture Licence should limit the level of production to that specified in the Plan (i.e. 4165 metric tonnes). Mechanisms are in place (i.e. the Ministry of Environment waste monitoring program) to monitor, implement and if necessary, to modify production levels in future.

8. Fish Health Considerations

Marine Harvest has had, and continues to have, an approved and functioning Fish Health Management Plan (FHMP) since 2004. That FHMP covers all aspects of fish health at its marine salmon farming facilities. On an annual basis, the Marine Harvest and Ministry veterinarians review the FHMP, including the need for any revisions. Ministry veterinary staff conclude that the FHMP is adequate in every respect to address issues such as sea lice and other fish health matters that may emerge during the course of the proposed facility's operation. Based on my current awareness and knowledge of the proposed facility, I remain confident that Marine Harvest's current FHMP and Standard Operating Procedures will ensure that wild stocks of Pacific salmon are not adversely impacted by this development.

9. Escape Prevention, Detection and Response

I note that a standard condition of an Aquaculture Licence is a satisfactory inspection by a Fisheries Inspector prior to entry of fish at a site. This includes a comprehensive review of all legislative/regulatory requirements, including having an escape prevention, detection and response plan maintained on-site and the contents known to all staff. Appendix 2, Part III of the

Aquaculture Regulation prescribes the requirements with respect to Escape Response Plans. I am confident the adequate measures are in place to ensure that wild salmon stocks will not be impacted by the escape of farmed salmon from the facility.

10. Land Use and Zoning

The Lime Point farm site is located within the Regional District of Kitimat-Stikine. I understand that while there is no marine land use zoning in place in the Regional District of Kitimat-Stikine, the Regional District of Kitimat Stikine was referred. The Regional District response indicated they were opposed to the application proceeding prior to the release of the SCSA's report. They requested siting be compared to the Central Coast Land and Resource Management Plan (CCLRMP).

The CCLRMP and supporting documents have been created to guide land use decisions on the Central Coast. The Coastal Zone Strategic Plan of the CCLRMP identifies the values and interests of the area around the Lime Point site. Staff advise that the proposed land use is consistent with the plan.

11. First Nation Consultation

Staff advise that the proposed site lies in the center of the traditional territory of the Kitasoo First Nation and on the northern boundary of the traditional territory of the Heiltsuk First Nation. FALCB staff conducted consultations on the application with the Kitasoo and Heiltsuk First Nations. I have reviewed the summary of those consultations in the FALCB file (*Ref. 1895*).

Marine Harvest has a successful partnership with Kitasoo Aquafarms Ltd. (Kitasoo), a company controlled by the Kitasoo First Nation. A protocol between Marine Harvest and Kitasoo calls for a total of six salmon farms in the Kitasoo First Nation's traditional territory. Under the protocol, Marine Harvest holds the Aquaculture Licences and Kitasoo holds the tenures. Kitasoo has applied for a Crown Land tenure for the subject site. FALCB has received a letter of support from the Kitasoo First Nation for this application.

I note that considerable consultation was undertaken with the Heiltsuk on this file. While the Heiltsuk would prefer that no new farms be developed in their traditional territory, they have indicated that if Kitasoo is to farm salmon, it should do so north of Jackson Passage. This position is captured in a Heiltsuk band council resolution. Both the Lime Point application, the subject of this note, and the related Sheep Passage application are north of Jackson Passage.

Marine Harvest and Kitasoo have in the past operated a finfish farm near Arthur Island, located south of Jackson Passage. Marine Harvest has advised the Ministry that it plans to cease operating the Arthur Island finfish farm if tenures and licences are ultimately obtained for the Lime Point and Sheep Passage applications.

Consultation with the Heiltsuk concluded with the Heiltsuk (Chief William Gladstone) having expressed the First Nation's views regarding the potential impacts of finfish farming; stating their position that while they do not support finfish farms, if they are approved that they be located north of Jackson Passage; and finally, indicating that the Heiltsuk do not want a decision on the Lime Point application delayed any longer due to consultation with the Heiltsuk.

After reviewing the summary of consultation, I have concluded that the Ministry has met its duty to consult with both the Kitasoo and Heiltsuk First Nations. Furthermore, I note that Marine Harvest's and Kikitasoo's relinquishing the tenure and aquaculture licence at Arthur Island and the pursuance of licensing the site offered at Oscar Pass will consolidate their operations on six sites north of Jackson Passage, which is consistent with the interests expressed by the Heiltsuk First Nation.

12. Public Review by other government agencies and third parties

The application was referred to, or otherwise considered by, a number of organizations. These organizations and a summary of their comments are noted below:

Other Government and Agents of Government

- Transport Canada – approval supported subject to applicant attaining a permit from Navigable Waters Protection Division. I note that Navigable Waters Protection Division approval is required to site a finfish farm and that one cannot be issued until the *Canadian Environmental Assessment Act (CEAA)* review for the site is completed.
- Fisheries and Oceans Canada – *CEAA* screening report has been drafted – awaiting final report. I note that no major concerns were identified in the *CEAA* and it is expected that it will soon be completed.
- Environment Canada – no concerns.
- Regional District of Kitimat-Stikine – opposed; however, no zoning in place; requested the application be delayed until the SCSA releases its report and wants applications compared to the CCLRMP. Staff have confirmed that proposed use is consistent with the CCLRMP.

Non-Government Organizations

- Raincoast Conservation Society – opposed due to the potential to spread disease and parasites to wild stocks, the threat of escaped salmon impacting wild stocks, and to pollution concerns related to fish wastes.

13. Past or Demonstrable Performance of the Applicant

Staff advise that a review of Marine Harvest's past and demonstrable performance has been completed as part of this application process. Based on input and recommendations from Ministry staff, I am satisfied that Marine Harvest meets past or demonstrable performance requirements.

14. Economic and Employment Benefits

It is anticipated that approval of the application would result in approximately \$3 million worth of direct capital investment to purchase and install cage systems, anchoring gear, nets, barges, feeding systems and general farm equipment.

A number of jobs will be involved in the saltwater grow-out production: administrative services; fish health services; smolt production; harvesting and processing of fish; feed manufacturing; equipment manufacturing; the transportation industry (land and sea); and the marketing of fish related to this approval.

Approval of this application will help to ensure stability and provide ongoing employment opportunities for Klemtu's economy on the central coast. The majority of employment comes from operating the processing plant in Klemtu. The Kitsoo-Xaixais are also working on and servicing the farm sites.

15. Special Committee on Sustainable Aquaculture

On May 16, 2007, the SCSA submitted its report to the Legislative Assembly. The SCSA's work took 18 months, involved public meetings in 21 communities and 814 written submissions.

The SCSA's report made over 50 recommendations. They are far-reaching and affect the mandates of four provincial ministries and four federal departments. While these recommendations will require time for government to fully consider and respond, it is already clear that their adoption would require considerable policy and possible legislative changes to implement.

I recognize that the policy environment in British Columbia may change as a result of these recommendations. While the SCSA's recommendations may ultimately lead to changes in the policy and legislation governing aquaculture, I will not speculate on possible changes at this time.

I evaluated this application on its technical merits and the current legislative and policy framework. I believe those to be essentially sound and subject to the reservations expressed below, I find nothing that cause me to refuse this application.

16. Decisions

Based on the information and considerations described above, I am issuing Marine Harvest an Aquaculture Licence under the *Fisheries Act* to operate an aquaculture facility at the Lime Point site. The licence authorizes Marine Harvest to culture Atlantic salmon, to a total maximum per production cycle of 4165 metric tonnes as per the Management Plan for the site.

Your licence is subject to the General Terms and Special Provisos attached. A copy of the licence is enclosed.

Sincerely,

Original Signed by

Pat Bell
Minister

Enclosure

pc: Jim Russell, A/Director
Fisheries and Aquaculture Licensing and Compliance Branch