

May 25, 2007 (*Date Letter/Memo Stamped & Sent*)
File: 0280-30
Ref: 150410

Peter Gibson
Grieg Seafood BC Ltd
200 – 1170 Shoppers Row
Campbell River BC V9W 2C8

Dear Mr. Gibson:

I am writing to advise you of my decision on the application made by Grieg Seafood BC Ltd (Grieg) to operate an aquaculture facility in Nootka Sound near Concepcion Point on Bligh Island. Grieg submitted its application to operate a facility at this site on March 20, 2003.

Based on the information and considerations outlined below, I have decided to issue the licence. By copy of this letter I am also advising the Mowachaht/Muchalaht First Nations (MMFN) of my decision.

1) Legislative Authority

Section 14 of the British Columbia *Fisheries Act* authorizes the Minister responsible for the *Fisheries Act* to issue licences. As the Minister of Agriculture and Lands, I was given responsibility by the Lieutenant-Governor on June 16, 2005 for the *Fisheries Act* and as such, I have authority to decide upon your licence application.

2) 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' (MAL) 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.
- The recently issued report of the Special Committee on Sustainable Aquaculture (SCSA).

3) Information Considered

In reviewing this application I have considered:

- The application made by Grieg with all appendices and attachments.
- The other documents in the Ministry licensing file Reference Number 1789 that are related to the above mentioned application and that pertain to the review by the Ministry, including the Aquaculture Development Assessment Report and the Summary of Consultation with the MMFN regarding the Grieg Concepcion Point Finfish Aquaculture Application.
- Discussions with MAL professional staff that took place Tuesday, May 22, 2007 regarding their review of the merits of the application.
- Recommendations of the Special Committee on Sustainable Aquaculture.

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

4) Site Characteristics

The site is located in Nootka Sound on the west coast of Vancouver Island near Concepcion Point on Bligh Island. Staff advise that there is a good degree of protection from Bligh Island, Gore Island, Anderson Point and Atrevida Point. Exposure is moderate.

An underwater video camera was used to examine the bottom at the proposed site. Staff advise that the seabed appears to be characterized by steep, creviced bedrock progressing right to the high water mark. Scattered intermittently throughout the foreshore are beaches comprised mostly of large boulders and small bays with boulder and cobble. Staff consider these to be appropriate bottom characteristics for the siting of the proposed farm.

5) Suitability of Proposed Operation

Staff advise that a comprehensive biological review of the file was undertaken. This review involved an assessment of the technical feasibility of the proposal as well as an assessment of the capability of the environment to support the activity. The review included a site field survey completed on August 20, 2002.

MAL biologists supported approval of the application as of February 18, 2004. Their assessment overall was that the site was well-suited to the activity and the development was well thought out.

6) Proposed Production Levels and Related Waste Considerations

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

- underwater site surveys,
- 30-day current water data, surface and deep,
- a review of proposed production,
- MAL Marine Finfish Production model, and
- a software program known as “DEPOMOD”, which estimates the size of the seabed that is predicted to be affected by the farm.

Based on their analysis of the above, staff advise that if this application is to be approved, it should be limited to the level of production specified in the Plan (i.e. 4100 metric tonnes). Mechanisms are in place (i.e. the Ministry of Environment waste monitoring program) to monitor production levels, and if necessary, modify them in the future.

7) Fish Health Considerations

Grieg has a Fish Health Management Plan that covers its marine farming facilities. MAL veterinarians have reviewed the Plan and consider it to be adequate in every respect to deal with issues such as sea lice and other fish health matters that may emerge during the course of the proposed facility’s operation. This proposed new facility is considered a better growing environment than existing Grieg facilities so the development of this new facility would be likely to result in improved fish health at Grieg’s finfish facilities overall. I am confident that the fish health plan will ensure the proposed farming activity will not adversely affect wild stocks of Pacific salmon.

8) Escape Prevention, Detection and Response

Staff advise me they have reviewed the proposed escape response plan for this site and that it reflects the requirements prescribed by the Aquaculture Regulation.

9) Land Use and Zoning

The site conforms with local government zoning requirements. It is located in an area designated by the Nootka Coastal Land Use Plan as acceptable for aquaculture. Staff have reviewed the Land Use Coordination Office maps and the application conforms to all siting criteria guidelines, with one exception. With respect to the three kilometres spacing guideline that does not conform, I note that this may be adjusted at the discretion of the reviewing biologist. The reviewing biologist has recommended variance in this case because ocean current modeling data suggests that the proximity of the proposed facility to existing facilities will not be an issue.

10) First Nation Consultation

The proposed site lies solely within the asserted traditional territory of the MMFN.

Consultations with the MMFN on behalf of the Province were led by the Integrated Land Management Bureau (ILMB) with an initial referral of the application to the MMFN on July 16, 2003. In assessing whether consultations with the MMFN were adequately addressed, I have reviewed the following:

- The October 13, 2004 report that summarized the proposed mitigations and/or responses to the November 4, 2003 MMFN letter, which included reference to the report entitled “Muchalaht Title and Rights in Muchalaht Inlet, Preliminary Report, 2002”.
- A report entitled “Mowachaht Aboriginal Title” prepared by Traditions Consulting Services Inc, dated 2005.
- The record of consultations between the MMFN and the Province in the June 30, 2006 summary from MAL staff. This summary reviews exchanges of written information, meetings and attempts to schedule meetings, joint consultation undertaken with Fisheries and Oceans Canada (DFO) and makes note of without prejudice settlement discussions underway regarding consultation on a separate aquaculture licence. It details the results of consultations and accommodation as relevant, respecting each of the specific issues raised by the MMFN.
- Subsequent (to the June 30, 2006 summary noted above) correspondence between the Province and the MMFN, dated June 30, 2006 to March 28, 2007.
- The recommendation of ILMB regarding a limitation on the number of operational sites at any given time under the terms of the *Land Act* tenure and the terms of the tenure as issued by the Crown for the subject site.

I am satisfied that the Province has met its duty to the MMFN respecting this application.

11) 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

- Canadian Coast Guard – *Navigable Waters Protection Act* approval granted May 5, 2005.
- DFO – *Canadian Environmental Assessment Act* screening report completed.
- Ministry of Environment – Subject to Finfish Aquaculture Waste Control Regulation.
- Comox-Strathcona Regional District – No concerns identified that fall within mandate of the local government.
- Archeology Research Ltd – No registered archaeological sites at this immediate location. The potential impact to archeological sites is low.
- Ministry of Forests – Approval supported.

Non-Government Organizations

- Friends of Clayoquot Sound – Objection based on potential for undesirable impact.

Advertising for the proposed facility site was conducted in accordance with *Land Act* requirements. Three open houses were held on January 20 to 22, 2004 in Zeballos, Tahsis and Gold River. Comments were provided concerning both the land tenure and aquaculture licence applications, and members of the public were given an opportunity to ask Grieg questions on the proposed salmon farm. The open houses were co-chaired by MAL, ILMB and two representatives from Grieg. I note that the following letters of support are on file:

- Village of Tahsis, dated June 12, 2002.
- Village of Gold River, dated May 7, 2002.
- Nootka Sound Residents Association, dated April 23, 2002.
- West Coast Community (of the CSRD), dated August 8, 2002.
- Nootka Sound Sport and Recreational Lodge Operators (8), dated April 24, 2002.
- Outdoor Writers of Canada, dated April 25, 2002.

12) Past or Demonstrable Performance of the Applicant

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

13) Economic and Employment Benefits

It is expected 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.

It is also estimated that as many as 15 new jobs may be created as a result of an approval. These would be related to 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.

Approval of this application may assist in the revitalization of Gold River's economy, particularly if the addition of new farms results in local fish processing capability in Gold River. The economic benefits may also include opportunities for members of the MMFN.

14) 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 report makes 52 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 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 I find nothing in the recommendations that cause me to refuse this application.

15) Decision

Based on the information and considerations described above, I am issuing Grieg a licence under the *Fisheries Act* to operate an aquaculture facility at the Concepcion Point site. The licence authorizes Grieg to cultivate Atlantic salmon (*Salmo salar*), to a total maximum per production cycle of 4100 metric tonnes, as per the Management Plan for the site recommended by MAL biologists on February 18, 2004, and subject to the standard terms and conditions and the following additional conditions:

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- A satisfactory inspection by a Fisheries Inspector is required at this site prior to entry of fish and will include a comprehensive review of all legislative requirements, including records on site, having escape prevention, detection, and response plans maintained on site, and evidence of the site's net tagging, monitoring and recording program. The proponent is asked to review the Aquaculture Regulation to ensure the site's plans are current and meet statutory requirements.
- An inspection by a qualified anchoring specialist must be completed for any systems installed since November 1, 2001 at a newly-licensed site and/or for any facility alterations or additions approved after May 1, 2004. For installation of systems at new facilities, inspection must be completed prior to the introduction of fish. For sites which are altered or added to, inspection must be completed prior to utilization of newly-installed infrastructure. This inspection should confirm that the design, equipment used and installation of the facility is consistent with the anchoring system layout diagrams attached to the approved Management Plan and the specifications in Appendix 2 of the Aquaculture Regulation. Proof of this inspection must be retained by the company and must be made available upon request by a Fisheries Inspector.
- The licence holder must maintain an up-to-date Fish Health Management Plan specific to this facility. This plan must be reviewed annually by the holder and updated as appropriate. Prior to changing the mode of operation, the licence holder must submit an amended plan for approval.

The licence and the *Land Act* tenure regarding this site are enclosed.

Sincerely,

Original Signed By

Pat Bell
Minister

Enclosures

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

Luigi Sposato, Manager
Crown Land Adjudication, Integrated Land Management Bureau

Chief Michael Maquinna (Mowachaht) and Council

Chief Norman George (Muchalaht) and Council