Honorable Minister Andrew Parsons

Department of Municipal Affairs and Environment

West Block, Confederation Building

P.O. Box 8700

St. John's, NL A1B 4J6

Email: MAinfo@gov.nl.ca

Bill Bryden

PO Box 63

Lumsden, NL

709-530-2637

Newfoundlander_1@hotmail.com

Dear Minister Parsons:

Pursuant to s.107 of the Environmental Protection Act (EPA) I am writing to ask for an appeal of the decision to release the EA Reg. 1975 - Indian Head Hatchery and associated open net pens from a complete project description as per required under the environmental assessment act.

I submit as evidence government's decision on this matter via the following letter dated Monday July 23 2018:

Mr. Bryden,

The Indian Head Hatchery Expansion Project registered with environmental assessment on July 17, 2018 (registration 1975) proposes to expand an existing hatchery that was reviewed and released from environmental assessment subject to conditions on January 27, 2011 (registration 1544). Information related to the environmental assessment of the existing hatchery can be found at:www.mae.gov.nl.ca/env_assessment/projects/Y2010/1544/index.html, while information on the environmental assessment of the proposed expansion to that hatchery can be found at:www.mae.gov.nl.ca/env_assessment/projects/Y2018/1975/index.html.

As per section 29 of the *Environmental Assessment Regulations,* the development of marine sea farms where there is no shore based facility does not require environmental assessment. The Indian Head Hatchery Expansion Project is being proposed by the proponent to fully utilize and stock 33 existing licensed marine sea farms they own. There are no new marine sea farms being stocked to assess with this project.

Kind regards,

Susan

Susan Squires, Ph.D.

Director

Environmental Assessment Division

Department of Municipal Affairs and Environment

Government of Newfoundland and Labrador

709-729-0673

susansquires@gov.nl.ca

Separating various sections of an aquaculture process using the "timing" of applications dates does not validate the circumvention of the spirit of the Environment Act and Regulation. The main purpose of an EA registration is to allow scrutiny of an entire process for potential environmental impacts. This must include all aspects of a project from start to final product with, in fact, emphasis on waste, pollution, and possible harmful effects on the environment. Failing to include critical parts of a process requires re-submission such that all aspects of the project can be subject to public scrutiny and a comprehensive review by government.

Project splitting and then omitting components using semantics and timing of applications is not a sanctioned method to circumvent registering a contentious and environmentally damaging component of an undertaking. An individual organism being reared for market by a company/proponent can not be separated into different projects based on the various stages of that organism's growth and then part of that process ignored by Environmental Assessment. The fish reared at the proposed Stephenville hatchery expansion (Reg # 1975 as seen here: https://www.mae.gov.nl.ca/env_assessment/projects/Y2018/1975/index.html) will be shipped to the proponent's open net pens for further rearing before being market ready. These pens are owned by the same parent company that owns the hatchery. None of the environmentally damaging open net pens associated with this hatchery have ever been assessed for environmental impacts as seen here: https://www.mae.gov.nl.ca/env_assessment/projects/Y2010/1544/index.html

The decision rendered by Supreme Court Justice Jillian Butler plainly states that this is all one undertaking (raising salmonids for market by a proponent) and therefor each phase should be carefully reviewed for environmental consequences and allowed public input.

This Supreme Court of NL decision from 2017 can be seen here: https://beta.canlii.org/en/nl/nlsctd/doc/2017/2017canlii46863/2017canlii46863.html?searchUrlHash=AAAAAQAFR3JpZWcAAAAAAQ&resultIndex=1

Key points created by Justice Butler include:

"[13] Once again the environmental scientists sought advice from the Department of Justice; the response from **solicitor Justin Mellor confirmed that the proposal was required to "include the processing facility as part of the undertaking" under section 29 of the *Regulations*.** (As will be discussed later herein, section 29 mandates that certain aquaculture projects be registered.) As a result, the Environmental Assessment Division recommended to the Minister that the proponents must once again revise the description to include the entire project. "

"[98] As I have previously concluded herein, neither the *Act* nor *Regulations* gave the Minister clear directions for the exercise of his discretion in prescribing the form and content of the undertaking to be registered under section 49 of the *Act*. The positions taken by counsel require me to determine whether the Minister had to consider if:

1) the Project was an "undertaking" as defined in section 2(mm) of the *Act* or a "designated undertaking" under either section 29 or 37(1)(d) of the *Regulations*;

2) Grieg was a "proponent" of the processing component under section 45(h) of the *Act*; and

3) registration of the processing component could be deferred."

"[119] **It cannot be disputed that the processing component was an undertaking automatically triggered by the other two components; without the hatchery and marine farm, there would be no need for a processing center.**
[120] While the land-based hatchery and marine farm could proceed without the processing component, **all three were part of "a larger whole" and therefore, as discussed in Conseil des Innus, "connected actions".**
[121] As "connected actions", under the applicable statutory regime, did the Minister have the discretion to consider the hatchery and marine farm alone and defer consideration of the processing component? **(this is where she let the Minister off with a warning that the third component should be registered in future and review)**
"

"[126] **I accept that the *Act* and *Regulations* as a whole support the need to ensure that the environmental impact of all three components of the Project are considered in a careful and precautionary manner with meaningful public participation.** Since the Minister has not determined that the third component is not required to be registered and will not be subject to environmental assessment, the only conclusions I can draw are: "

They are all part of the same undertaking: hatchery expansion, open net pens, and processing (**if owned by the same proponent**).

The recent open net pen leases granted to Marine Harvest (that will use the Stephenville hatchery fish from Reg # 1975) and all future NL open net pen lease applications by Marine Harvest that will use

these fish - will require an EA Registration if using a NL shore based hatchery - according to the above Supreme Court Decision and Environmental Assessment Act and Regulations. There are no stated statutes of limitation on time for the Environmental Protection Act or the Regulation of the Act.

In fact, some of the new open net pen lease applications were filed and on the now former Director of Aquaculture Business Development's desk (now an employee of the proponent) while the sale of Northern Harvest to Marine Harvest was underway AND, 1) the well testing was being done, 2) work on the project contracted, 3) meeting held to discuss the project, etc. We also can anticipate future open net pen sites to use fish from this hatchery. I would further suggest and ask that a full EIS be required.

I ask the government to review this decision to not require the inclusion of open net pens as part of the Marine Harvest expansion plans in Stephenville NL (Reg #1975) and require all components of the undertaking to be thoroughly registered and described including open net pens using these fish that require NL government permits and management.

Kind Regards;

Bill Bryden

+1-709-530-2637