

File: 0280-30 Ref: 179928 April 17, 2014

Honourable Gail Shea Minister of Fisheries and Oceans Canada House of Commons Parliament Buildings, Wellington St Ottawa ON KiA0A6

Dear Minister Shea:

RE: Provincial Response to Fisheries and Oceans Canada's (DFO) draft Integrated Geoduck Management Framework

As the minister responsible for commercial fisheries and seafood policy in British Columbia, I am writing on behalf of Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations, Honourable Mary Polak, Minister of Environment, and Honourable John Rustad, Minister of Aboriginal Relations and Reconciliation to congratulate you on release of the draft DFO Integrated Geoduck Management Framework (Framework) and provide comments.

BC is pleased that many of the comments provided to DFO in the development of the Framework have been acknowledged and that in general terms the Framework reflects the inter-agency work to date. However, concerns remain.

Overall, the Framework effectively protects our shared interest in the economic benefits and sustainability of the established commercial geoduck fishery. The Province of British Columbia questions whether the Framework will support successful development and realization of the potential for geoduck aquaculture. BC requests that the Framework is not finalized until the Province and DFO discuss how to better support all of our mutual interests. To inform the discussion, the Province suggests that DFO undertake an economic analysis, with Provincial support, of the incremental growth potential for geoduck aquaculture in the restrictive red and yellow zones.

Ensuring that real development opportunities for BC First Nations are not unfairly limited by the Framework is an area of particular concern. BC urges DFO not only to give full consideration to enabling First Nations opportunities, but also to return to fisheries negotiations for Canada at the treaty tables and in particular to engage in the aquaculture discussions with K'ómoks and other First Nations.

The Framework states that DFO will consider applications submitted by a First Nation for shellfish aquaculture licences in the designated red areas. BC suggests that the policy is too restrictive and questions whether the 5 hectare limit can provide sufficient economic opportunity to attract investment. BC suggests that DFO should consider alternatives such as: case-by-case review for any application in a red area; increasing the limit for First Nations to 10 hectares; or periodically releasing a portion of the red

Telephone: 250 387-1023 Facsimile: 250 387-1522 area for aquaculture tenures to be assigned either on a competitive basis or to address commitments to First Nations.

The Framework affects the siting of all shellfish aquaculture, and is not limited to geoduck on the BC coast. BC has entered into 24 non-treaty agreements with First Nations supporting economic interests in commercial shellfish aquaculture. Nine of those agreements are positioned within provincial Crown lands designated as red areas in the Framework. The Framework has potential to greatly reduce future shellfish aquaculture opportunities for First Nations on lands set aside by the Province for that purpose.

The K'ómoks Aquaculture Interim Measures Agreement (IMA), signed in 2011, is one example of these agreements. The IMA was an important step towards conclusion and ratification of the K'ómoks Agreement in Principle. The IMA includes the establishment of Land Act reserves and notations of interest for future shellfish aquaculture opportunities. All of these IMA-related areas are located in red areas identified in the Framework. Canada should return to fisheries negotiations at the treaty tables and in particular to engage in the aquaculture discussions with K'ómoks First Nation.

Achieving the right balance between the fishery and new aquaculture opportunities is critical to ensuring that a successful geoduck aquaculture sector can provide jobs and incomes for BC's coastal communities. Taking into account the restrictions proposed the Framework appears to limit aquaculture opportunity in favour of preserving the most valuable geoduck areas for the commercial fishery.

Realizing the full potential of both the wild geoduck fishery and geoduck aquaculture will require the collaboration of commercial harvesters, the shellfish aquaculture industry, First Nations, local governments and both Provincial and Federal Governments. BC fully supports a collaborative effort.

BC will provide detailed comments on the Framework to DFO Pacific Region. These comments are attached for your reference.

I look forward to our discussion and to further cooperation between the Province of BC and DFO.

Yours Sincerely,

Norm Letnick Minister

cc: Honourable Steve Thomson Minister of Forests, Lands and Natural Resource Operations

> Honourable Mary Polak Minister of Environment

Honourable John Rustad Minister of Aboriginal Relations and Reconciliation

April 17, 2014

BC Response to Draft Integrated Geoduck Management Framework.

BC is pleased that the draft Framework is now available for public review and comment. The Province appreciates the opportunity to provide comments to Fisheries and Oceans Canada (DFO) on the Framework.

Achieving the right balance between the wild fishery and aquaculture development is critical to ensuring that a successful geoduck aquaculture sector can provide jobs and incomes for BC's coastal communities.

BC is pleased that many of the comments provided to DFO in the development of the Framework have been acknowledged and that in general terms the Framework reflects the inter-agency work to date. There are, however; a few remaining concerns we would like to raise.

Overarching comments:

Overall, the Framework effectively protects our shared interest in the economic benefits and sustainability of the established commercial geoduck fishery. The Province of British Columbia questions whether the Framework will support successful development and realization of the potential for geoduck aquaculture. The Province believes that DFO and BC work jointly to undertake an economic analysis of the incremental growth potential for geoduck aquaculture in the restrictive red and yellow zones.

Ensuring that real development opportunities for BC First Nations are not unfairly limited by the Framework is an area of particular concern. BC urges DFO to give full consideration to First Nations opportunities.

Specific comments:

First Nations Considerations:

- The Ministry of Forests Lands and Natural Resource Operations (FLNR) indicates that BC has entered into 24 memorandums of understanding (MOUs) with First Nations supporting economic interests in commercial shellfish aquaculture. Nine agreements are positioned within the land base captured in the Framework. The Framework has potential to reduce future shellfish aquaculture opportunities for First Nations on lands set aside by the Province for that purpose.
- The First Nations potentially affected are:
 - Chemainus
 - Halalt
 - Homalco
 - Hul'qumi'num

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- Klahoose
- K'ómoks
- Snaw-naw-AS
- Tla'amin
- Snuneymuxw
- K'ómoks First Nation example:
 - BC has been working with the K'ómoks First Nation since 2002 to facilitate development of shellfish aquaculture, leading to the K'ómoks Aquaculture Interim Measures Agreement (IMA) in 2011.
 - The IMA was an important step towards conclusion and ratification of the K'ómoks Agreement in Principle.
 - K'ómoks recently applied for Land Act tenures for the areas listed in the IMA. Those applications are currently under review by FLNR; however, all the IMA areas under application are in red areas identified in the Framework, potentially eliminating shellfish aquaculture licence opportunities.
- BC requests that DFO provide further information and opportunity for discussion with the Province about how the interests and expectations of First Nations may be addressed through the Framework
- The Framework allows that under special circumstances, DFO will consider applications submitted by a First Nation for shellfish aquaculture licences in red areas. In these cases, a single application may be considered up to a maximum size of 5 hectares.
- BC suggests that the policy is too restrictive and questions whether the 5 hectare limit can provide sufficient economic opportunity to attract investment. BC proposes that DFO should consider alternatives such as: case-by-case review; increasing the limit for First Nations to 10 hectares; or periodically releasing a portion of the red area for aquaculture tenures to be assigned on a competitive basis or to address commitments to First Nations.
- BC requests that DFO provide information and any relevant economic and conservation studies that support the policy of a 5 hectare limit.
- Will the definition of "First Nations" for purposes of an application in a red area include a First Nations Corporation?
- Beyond geoduck applications, will the same 5 hectare size limit be applied for other species of shellfish (e.g. scallops)?

Siting Criteria:

• In Section 2.2 one of the stated objectives is to establish transparent siting criteria and procedures for geoduck aquaculture. However, in the "yellow area" column in Shellfish Aquaculture Siting Matrix Figure 1 under "review considerations", the list includes all of the considerations listed in the green area plus an assessment of "potential impacts to the geoduck fishery". There is no indication as to what kinds of impacts might be considered, such as percentage of TAC; geoduck density, or harvest

weight. It is not possible for an applicant to know on what basis their application is reviewed. This may be seen as decision-making based on arbitrary information. BC suggests that criteria for decision-making are identified and available to potential applicants.

• On page 13 (s.6.2.4) a list of considerations is provided for the review process. This includes "etc" at the end of the list. The list of considerations should be complete and transparent. BC suggests that "etc" should be removed.

Siting Criteria: intertidal geoduck aquaculture

• There is no explicit statement about the acceptability of intertidal geoduck aquaculture in the Framework. An assumption can be made that since these areas were not part of the commercial fisheries (Section 6.2.1) that they all fall within a green area; however, this is not clearly stated. BC suggests that this is clarified with an explicit statement.

Constraints on Shellfish Aquaculture:

• The Framework affects the siting of <u>all shellfish aquaculture</u>. It is not limited to geoduck aquaculture. BC questions whether it is necessary or appropriate for the policy governing the fishery for one aquaculture species to have priority over all shellfish aquaculture species. Table 1 provides a high level analysis of the impact on existing and potential shellfish culture.

Table 1. Geoduck Framework Red Area Constraints on Shellfish Aquaculture and Culture Potential

Geoduck	Shellfish	% of	Capability:	Capability:	Capability:	Capability:
Region	Tenures	Total	Scallop	Scallop	Oyster	Oyster
	in	Shellfish	Ground	Ground	Ground	Ground
	Red	Tenures	Rated	Rated	Rated	Rated
	Zone	in Red	Good in	Medium in	Good in	Medium in
		Zone	Red Zone	Red Zone	Red Zone	Red Zone
North	0	0	1058 ha	538 ha	1366 ha .	738 ha
South	86	16.8	726 ha	809 ha	1590 ha	509 ha

- Access to 7334 hectares of provincial Crown lands rated good or medium potential for oyster and scallop culture would be significantly restricted as they are within designated red areas in the Framework.
- Further, there are 86 existing shellfish aquaculture tenures on provincial Crown lands designated as red areas. The siting protocol section of the Framework, including the restrictive red and yellow areas applies to existing shellfish aquaculture operations.

BC suggests that decisions on expansion of existing shellfish tenures within the red and yellow areas should be based on a site specific analysis to determine whether there will be significant impact on the geoduck fishery.

• DFO has indicated interest in maintaining "enhancement" sites held by the Underwater Harvesters Association (UHA) through DFO issued I&T licenses in red areas. DFO has advised that this is now considered an aquaculture activity and will need to be licensed accordingly. DFO indicated that UHA applications for licences on the former enhancement sites will be viewed favourably. This raises many questions regarding the principles upon which the restrictive policy proposed for the red areas is based and how those principles are to be applied fairly and transparently to aquaculture proponents other than the UHA, particularly First Nations.

Area Zonation:

- Much of the area identified as green area is either unsuited to geoduck (poor habitat), unsuited to their culture (e.g. too exposed) or does not take into account provincial and regional planning processes that may preclude aquaculture development.
- If areas designated as yellow have only been harvested once in the past four harvest cycles, that might indicate a population that is either in decline or overfished. BC suggests that the 20 hectare limit for yellow areas may not be necessary in this regard.

Broodstock:

- The policy with respect to access to brood stock (Section 8) and further in Appendix 1 (Pg 17) requires brood stock to be taken from wild populations. However, the policy on access to wild stock (Section 7, page 15) prohibits the harvest of residual wild stock on the tenure until seven years after seeding.
- This precludes the harvest of residual wild stock from the tenure, if they are present, for use as brood stock. This forces aquaculturists to obtain broodstock from the wild fishery. This requires the cooperation of commercial fishers to supply what they perceive as competing businesses.
- In terms of ensuring optimal health of geoduck for use as brood stock, it may be more effective to allow aquaculturists to harvest limited quantities of wild stock from their tenures for use as brood. This would allow the aquaculturist to control and optimize the chance for survival of the wild brood. These animals will have similar genetic diversity as other wild stock from within the same zone and be adapted to the specific area from which they were harvested. If they are sampled without replacement then the genetic diversity of the population should not be affected.
- From an animal breeding and selection perspective, BC has some concerns. Although maintenance of some genetic variation is desirable, there are advantages to selection for certain traits (e.g. rapid growth, better survival in hatcheries, meat colour).
- The concept of getting a 1:1 sex ratio (target of 30 male: 30 females) from a sample of 100 individuals for brood stock may be optimistic. In practice a larger sample may be necessary to ensure even ratios.

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Access to Wild stock and Purge Harvest Policy:

- The policy of restricting the harvest of geoduck residual to the purge harvest for seven years after seeding may be contrary to good husbandry for the species. It may be that once a standing stock is known for the tenure application area, as it would be for the 20% harvest in the purge fishery, that a sequential harvest of areas within the tenure may be a better approach. It is our understanding that areas are normally clear of marketable geoduck before it is seeded and seeding juveniles amongst adults is not normal practice. A sequential harvest plan that allows for areas to be cleared of marketable adults and then seeded over seven years would assist greatly in paying for seed, site preparation, planting and infrastructure. Secondly, the disturbance of the beds and the further disturbance caused by planting seed may stress the remaining geoduck, causing some mortality. If that is the case, it is better economically to remove them prior to mortality. This would allow some capital to be generated from the tenure while limiting the possibility of non-diligent use of the tenure for culture and prevent the possibility of illegal harvest being attributed to culture from the tenure.
- In terms of other resident valuable species on a tenure (page 19) it should be noted that the Province (and specifically FLNR) are not responsible for managing the fishery, they have no requirement for harvest and should not be identified as such.

Further business case study needed

• BC would like to suggest that DFO undertake further analysis, with Provincial support, of the incremental growth potential for geoduck aquaculture in the restrictive red and yellow areas. It would be helpful to have a business analysis undertaken to examine whether 5 hectares is large enough to support a viable operations. BC is interested is trying to ensure that the framework supports both Canada's and BC's interest in successful development of the shellfish aquaculture sector, in complement with the wild fishery.

Finally, we look forward to continuing to work with DFO to finalize and implement the Framework. Realizing the full potential of this sector will require the collaboration of the existing wild fishery, the shellfish aquaculture industry, First Nations, local governments and both Provincial and Federal Governments. BC fully supports a collaborative effort.

Prepared by: Ministry of Agriculture (AGRI), on behalf of BC Natural Resource Sector Agencies: Aboriginal Relations and Reconciliation Environment Forests, Lands and Natural Resources Operations