



October 26, 2021

Re: Priorities for implementing Canada's modernized *Fisheries Act*

Dear Honourable Minister Joyce Murray,

Congratulations on your re-election to the House of Commons and appointment as Minister of Fisheries, Oceans and Canada's Coast Guard. We are among the conservation and environmental non-governmental organizations (NGOs) from across the country that worked with your government for over four years to help modernize the *Fisheries Act*, one of Canada's oldest laws. We are interested in continuing to work with you on the implementation of this Act, including regulations to bring to life the 2019 amendments, so that fish populations and their habitat are protected for generations to come.



Further implementation of the gains made in the 2019 *Fisheries Act* and investments in rebuilding, protection and habitat restoration are needed, given serious and cascading environmental crises that include climate change, habitat loss and species extinction. This government has already made important, high-level commitments to address these crises, including committing to protect 30 percent of Canada's land and water by 2030 and advocating for global biodiversity targets, launching the Oceans Plastics Charter, joining the Global Ocean Alliance, and committing to net-zero emissions by 2050. It is timely that the UN Decade on Ecosystem Restoration and the UN Decade on Ocean Science are underway. The Intergovernmental Panel on Climate Change (IPCC) has repeatedly urged decision-makers to consider climate change in decision-making around fisheries, freshwater and oceans, and to invest in nature-based solutions and blue carbon resources.



While the 2019 amendments to the *Fisheries Act* (Bill C-68) restore lost protections and introduce some modern safeguards, regulations, guidance and broader implementation are needed to meaningfully enact the legislative gains made. **We expect your mandate to include a commitment to further implement the *Fisheries Act* to better protect and restore oceans and wild fish, and rebuild habitat and fisheries.** We also voice our support for priorities expressed by Indigenous leadership and communities in the implementation of the *Fisheries Act*, and for upholding their inherent jurisdiction and authority regarding fisheries and fish habitat within their territories in accordance with Aboriginal and Treaty rights in Section 35 of the Constitution Act and your government's commitment to implement the *United Nations Declaration on the Rights of Indigenous Peoples*.



We urge you to consider the following priorities:

- Develop explicit policy guidance to ensure that the mandated purpose of





the *Fisheries Act*, which includes providing a framework for conservation and protection of fish and fish habitat (section 2.1), is reflected in decision-making and regulatory development, including mechanisms for accountability and ongoing adaptation and improvement in pursuing this mandate. Without fish abundance, there are no fisheries to manage. Consistent with its purpose, the Act also identifies the precautionary principle and an ecosystem approach as considerations for decision-making (section 2.5).

Fisheries Rebuilding

- Develop strong regulations to implement the new rebuilding provisions in Section 6 of the *Fisheries Act*. The need to rebuild Canada’s fisheries has never been greater. Several key elements are needed in the regulations, including clear definitions, targets (at a minimum a requirement to rebuild fish stocks above the Limit Reference Point), timelines (no more than twice the time estimated as required to rebuild the stock with no directed fishing), publicly available progress reports, and adding all “critical zone” stocks, with a focus on those also designated by COSEWIC, to the list of Major Fish Stocks, as identified in the most recent Sustainable Survey for Fisheries.
- As a tangible measure to implement the ecosystem approach to fisheries management, put in place a measure to prohibit all new forage fisheries (i.e. sand lance, krill) and apply the Policy for New Forage Fisheries to management of existing forage fish, with a focus on those in the “critical zone”.



Protecting Fish Habitat

- Develop a policy framework to implement the new requirement under section 34.1(1)(d) that the Minister consider cumulative effects in regulations to protect fish and fish habitat and in the exercise of related Ministerial powers. To date, based on public engagement on this matter informed by its discussion paper, the Department has failed to demonstrate how cumulative effects will be considered in the development of regulations, despite the legislated requirement to do so. Decades of empirical observation and analysis from government and non-government sources confirm significant habitat losses resulting from the routine application of *Fisheries Act* regulations and related policies and decision-making. Recent case law also suggests that the Department’s failure to manage cumulative effects may potentially be subjected to scrutiny as an unjustifiable infringement of treaty rights or s. 35.(1) title and rights.
- Include a requirement for the Minister to designate “Ecologically Significant Areas” by regulation in pilot areas on each coast in the next two years. This important regulatory power has not been used since it was introduced into the Act in 2012. It will be important to work with provincial and territorial counterparts on this initiative to advance conservation and restoration of fish habitat that will not be protected under other spatial management tools.





- Move forward with a number of important new provisions in the *Fisheries Act*, including the regulations to secure water flows needed for aquatic life and to ensure fish passage, and setting up a Ministerial Advisory Committee on climate change adaptation and nature-based solutions.



- Continue to fund habitat protection and restoration efforts across Canada, prioritizing funding programs that are co-developed and co-led by Indigenous authorities and organizations. Include nature-based solutions for freshwater and marine ecosystem protection and restoration, to ensure that Canada's commitments on biodiversity protection as well as climate change mitigation are met. In addition, ensure that fish habitat values are integrated into other federally funded infrastructure projects.

Protecting Wild Salmon



- Operationalize the Wild Salmon Conservation Policies for both the Pacific and the Atlantic regions by providing the resources necessary to fully deliver on implementation commitments and timelines. This includes targeted funds for salmon stock assessment and working with the provinces on implementation in freshwater habitat.

- Fulfill the Liberal commitment to remove open-net fish farms on the west coast by 2025 (with significant advancements by June 2022), and commit to transitioning the finfish farming industry from open-net pens to closed containment systems on all coasts of Canada to reduce the risks to wild stocks and ensure Canada maintains its primary responsibility to conserve and protect wild fish.

- Implement the Pacific Salmon Strategy Initiative, including the actions that the minister announced to support harvest transformation in June 2021.



We are looking forward to working with your government and Fisheries and Oceans Canada to create a future with measurable improvements and increases in fish habitat; rebuilt and abundant wild fish stocks sustained over the long term; and on-going efforts toward evidence-based and Indigenous knowledge-based decision-making, all of which are important aspects of building resiliency to climate change impacts. We would like to meet with you to discuss some of our priorities outlined in this letter. Please respond to nikki@northernconfluence to arrange a meeting.



Sincerely,

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