

An underwater scene with various fish swimming in blue water. A large, bright white circle is centered on the page, partially overlapping the water. The background shows a sandy seabed with green seaweed and a red crab.

Maritime Aboriginal Peoples Council

MAARS POSITION STATEMENT

ON THE

Proposed Regulations to the
Navigable Waters Protection Act

Presented to the

Canadian Marine Advisory Council

April 2010

Maritime Aboriginal Peoples Council



*The Maritime Region Aboriginal Leaders Intergovernmental Council
of Aboriginal Peoples Continuing to Reside on Traditional Homelands*

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Mr. Chairman,

On the subject of the Navigable Waters Protection Act proposed regulations to replace the ministerial directive, which in essence will exempt governments from their duty to consult with the Aboriginal Peoples of Canada, we object and would like to read the following into the record of this Canadian Marine Advisory Council meeting.

The Maritime Aboriginal Peoples Council; a regional Aboriginal Leaders Intergovernmental Forum in the Maritimes comprised of the Native Council of Prince Edward Island, the Native Council of Nova Scotia, the New Brunswick Aboriginal Peoples Council, including their respective natural life management Authorities : Netukulimkewe'l commission (NS), Kelewatl commission (PEI), TIMBER commission (NB) and their three Aboriginal Communal Commercial Fisheries Entities: Mime'j Seafoods Ltd. (NS), L'nu Fisheries Ltd. (PEI) and Aboriginal Seafoods Network (NB); working for their respective Traditional Ancestral Homeland Peoples of Mi kmaki oppose this regulation without any reservations whatsoever.

Any works, activities, projects, endeavours, or undertakings whatsoever of **any type or form, on or near the waters**, which has an effect or where their ought to be knowledge that an effect is likely to occur to the access of resources of flora, fauna, and the general biodiversity, or in any way alter the waters, without our (Aboriginal Peoples) prior or informed consent or without the benefit of consultation, is an act without consultation, in violation of law.

Governments, departments, licensing authorities, permitting authorities or policing authorities which know or ought to know that Aboriginal Peoples have rights to the waters, and resources therein and thereabout, are required to honour and uphold the law, of Section 25 of the Constitution Act of Canada 1982:

“The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal people of Canada...”

We, the Traditional Ancestral Homelands Aboriginal Peoples of the Maritimes request, require, and demand that if such a regulation is promulgated and given Order in Council approval, that the regulation must at minimum have a non derogation clause included in the regulation. The non derogation clause must recite Section 25 of the constitution Act Canada of 1982 in its entirety.

Mr. Chairman I want this statement reflected in the minutes and this objection appended as an attachment to the minutes.

We also urge members of this honourable council to inform themselves of the intent of the regulations. These regulations are leading you down a dangerous path where you will knowingly or unknowingly begin a journey of infringement on the Aboriginal and Treaty Rights of the Aboriginal Peoples of Canada and also violate the legal obligation to consult with the Aboriginal Peoples of Canada before any works, activities, projects, endeavours, or undertakings are to commence.