

# FIRST NATIONS LEADERSHIP COUNCIL



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April 9, 2021

The Honourable Bernadette Jordan  
Minister of Fisheries, Oceans and the Canadian Coast Guard  
Minister's office  
200 Kent St, Station 15N100  
Ottawa ON K1A 0E6

## RE: Partial Injunction to Discovery Islands Decision

Dear Minister Jordan:

The First Nations Leadership Council is deeply disappointed in Monday's court decision granting a partial injunction to Mowi Canada West Inc. and 622335 British Columbia Ltd. relating to your Discovery Islands salmon farming decision of December 17, 2020.

The majority of First Nations in BC remain supportive of your Ministerial decision as it adequately protects First Nations people's sacred food source, and cultural identity. We urge you to continue placing wild salmon first in your decisions concerning the current fish farm industry.

Further to this, we strongly support the transition of open net cage fish farms to land based closed containment systems to remove this known threat to BC wild salmon for future generations.

Our organizations, the Union of BC Indian Chiefs, First Nations Summit, and BC Assembly of First Nations, have a plethora of resolutions spanning well over a decade calling for adequate protection of BC wild salmon from disease & pathogens that emanate from open net cage fish farms. It is incumbent on both you as Minister, and your ministry, that applying the precautionary principle in a manner consistent with both conservation and constitutional obligations must always be at the forefront of your work. Constitutional obligations to First Nations must be met in a manner consistent with the honour of the Crown and Canada's international human rights obligations to Indigenous peoples, particularly the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration).

It is important to note that in making a decision that could potentially affect the exercise of section 35 rights, Canada's application of the precautionary principle must be informed by Indigenous perspectives, including those on risk. Western scientific evidence is not the only factor informing the application of the precautionary principle. Indigenous peoples' assessments of what constitute acceptable and unacceptable impacts and effects within the ecosystem are vital information and must inform the application of the precautionary principle.

Furthermore, where proposed Crown conduct has the potential to adversely affect an Indigenous group's section 35 rights pending resolution of the group's claims, the Crown has a constitutional duty to consult with the group and, where appropriate, accommodate its rights and interests. The duty to consult arises from

the honour of the Crown and is essential to the process of reconciliation required by the Constitution.

We strongly remind you of the Crown's duty to preserve Aboriginal rights and prioritize those rights over commercial fisheries. Overturning the decision in any way would be counter to the principles of the UN Declaration and would effectively create a situation where First Nations' Inherent Title and Rights are contingent on the Crown. This cannot be allowed to happen, as Indigenous Peoples are the proper title holders in our respective traditional territories and those rights must be honoured and protected as required by the Constitution. We seek a meeting at your earliest convenience.

Sincerely,

**FIRST NATIONS LEADERSHIP COUNCIL**

**On behalf of the FIRST NATIONS SUMMIT**



Cheryl Casimer



Robert Phillips



Lydia Hwitsum

**On behalf of the UNION OF BC INDIAN CHIEFS**



Grand Chief Stewart Phillip



Chief Don Tom



Kukpi7 Judy Wilson

**On behalf of the BC ASSEMBLY OF FIRST NATIONS:**



Regional Chief Terry Teegee

CC: First Nations Fisheries Council