



# News Release

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April 2, 2014

2014-08-IT

## **DENMAN ISLAND LOCAL TRUST COMMITTEE HALTS BYLAW ENFORCEMENT ACTIONS RELATED TO PENTLATCH SEAFOODS LTD.**

VICTORIA – The Denman Island Local Trust Committee has decided not to proceed with bylaw enforcement actions regarding Pentlatch Seafoods Ltd.'s aquaculture operations near Denman Island. The local trust committee has written to K'ómoks First Nation, which owns Pentlatch Seafoods Ltd., acknowledging that the outcome of treaty negotiations may affect its zoning authority in the area.

"Given that treaty negotiations are underway and that there is an interim agreement by senior governments with the K'ómoks First Nation to permit aquaculture in such areas, we want to respect that process," said David Graham, a Denman Island local trustee. Graham added, "Issues of aboriginal rights and title are the responsibility of senior levels of government to resolve. It doesn't make sense for us to attempt to resolve these complex issues through a costly court process when the treaty negotiation process is intended to do just that."

"We are committed to developing and maintaining good relationships with our First Nations neighbours, including respecting their assertions of constitutionally protected Aboriginal rights," added Laura Busheikin, also a Denman Island local trustee. "The K'ómoks First Nation is nearing the final stage of their treaty negotiations and the outcome may affect our zoning authority," Busheikin added. "Therefore, the Denman Island Local Trust Committee is not proceeding with enforcement of its bylaw in this case at this time."

In April 2013, the K'ómoks First Nation, through its wholly owned company Pentlatch Seafoods Ltd., established aquaculture infrastructure at Henry Bay, contrary to Denman Island's zoning regulations, which identify the area for marine conservation. Pentlatch Seafoods Ltd. had previously obtained the necessary licenses and permits from provincial and federal government agencies.

In July 2013, in response to complaints from Denman Islanders about zoning violations, an Islands Trust bylaw enforcement officer wrote to Pentlatch Seafoods Ltd. advising them that the operation was not permitted in the W1 zone and requiring the removal of the "aquaculture infrastructure". In October 2013 the chief councillor of the K'ómoks First Nation advised the Denman Island Local Trust Committee that it was asserting its aboriginal rights and title through Pentlatch Seafoods Ltd.'s aquaculture operations in Henry Bay.

The Denman Island Local Trust Committee has subsequently considered advice from treaty negotiators and legal counsel which led to its decision about bylaw enforcement.

"I think it's important to note that local government zoning does generally apply to aquaculture operations and we understand federal and provincial processes recognize local government jurisdiction in these matters", said Peter Luckham, chair of the Denman Island Local Trust Committee. "This decision reflects some very specific circumstances, involving traditional use of this area by First Nation peoples."

- More -

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Bowen, Denman, Hornby, Gabriola, Galiano, Gambier, Lasqueti, Mayne, N. Pender, Salt Spring, Saturna, S. Pender, Thetis

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## Denman Island Local Trust Committee Halts Enforcement Actions...2

The Islands Trust is a federation of local government bodies representing 25,000 people living within the Islands Trust Area and another 10,000 non-resident property-owners. The Islands Trust is responsible for preserving and protecting the unique environment and amenities of the Islands Trust Area through planning and regulating land use, development management, education, cooperation with other agencies, and land conservation. The area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. It includes 13 major and more than 450 smaller islands covering 5200 square kilometres.

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Note: Letter attached

### **CONTACT**

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March 31, 2014

File Number: DE-BE-2013.3

Chief and Council  
K'ómoks First Nation  
3320 Comox Road  
Courtenay BC V9N 3P8

Attention: Robert Everson, Chief Councillor

Dear Sir:

**Re: Aquaculture operation, rafts, and infrastructure at Henry Bay Denman Island**

Thank you for your letter of October 11, 2013 in which you assert the K'ómoks First Nation's rights and title in and around Ihaytayich, xelikw'jáji7em and Kw'ulh and that the Denman Island Land Use Bylaw cannot affect the K'ómoks First Nation's use of those areas for aquaculture operations in Henry Bay conducted by Pentlatch Seafoods Ltd.

The Denman Island Local Trust Committee understands that aquaculture activities in Henry Bay are authorized by the K'ómoks Aquaculture Interim Measures Agreement and the K'ómoks First Nation has tenure for the area issued by the government of the Province of British Columbia and fisheries licences issued by the Government of Canada.

In its Official Community Plan for Denman Island, the Denman Island Local Trust Committee recognises that aquaculture is a valuable source of local employment, if compatible with maintenance of ecosystems and community character. The Official Community Plan supports shellfish aquaculture when practiced in a low-impact, environmentally-sound manner.

The Denman Island Local Trust Committee respects the treaty negotiation process and has decided to learn the outcome of those negotiations before assessing the implications of a final treaty on its bylaws. The Denman Island Local Trust Committee also respects the Aquaculture Interim Measures Agreement signed in 2011 as a valid temporary document defining K'ómoks First Nation rights to practice aquaculture in this region. Therefore, the Denman Island Local Trust Committee has decided to take no action in regard to the aquaculture operation conducted by Pentlatch Seafoods Ltd. in Henry Bay at this time.

The Denman Island Local Trust Committee looks forward to developing and maintaining a good relationship with the K'ómoks First Nation.

Yours truly,

Peter Luckham  
Chair, Denman Island Local Trust Committee

pc: Denman Island Local Trust Committee  
Islands Trust Executive Committee  
Richard Hardy, Pentlatch Seafoods  
Mark Stevenson, K'ómoks Chief Treaty Negotiator  
Todd Johansson, Senior Aquaculture Management Coordinator, Aquaculture Resource Management,  
Fisheries and Oceans Canada  
Heinz Dyck, Chief Negotiator – MARR  
Duncan Williams, Executive Director – Tenures, Competitiveness and Innovation Division – MFLNRO  
Linda Adams, CAO  
Courtney Simpson, Regional Planning Manager  
Miles Drew, Bylaw Enforcement Manager

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Bowen Denman Hornby Gabriola Galiano Gambier Lasqueti Mayne North Pender Salt Spring Saturna South Pender Thetis