



700 North Road, Gabriola Island, BC V0R 1X3

Telephone **250-247-2063** Fax 250-247-7514

Toll Free via Enquiry BC in Vancouver 604.660.2421 Elsewhere in BC **1.800.663.7867**

Email northinfo@islandstrust.bc.ca

Web www.islandstrust.bc.ca

June 16, 2020

File No. DE-3030-02
(Marine Shorelines)

Via email:

ShellfishAquaculture.XPAC@dfo-mpo.gc.ca

Fisheries and Oceans Canada
304-60 Front St
Nanaimo BC V9R 5H7

Dear Compliance Officer,

Re: Complaint - DFO Aquaculture Licence Number 119203, BC Landfile Number 1400036, Denman Point, Denman Island, Baynes Sound

I am writing on behalf of the Denman Island Local Trust Committee regarding a complaint raised by the Association of Denman Island Marine Stewards (ADIMS) respecting issues with a shellfish aquaculture operation at Denman Point in Baynes Sound. The aquaculture licence number and BC landfile are noted above and the complaint is attached.

Marine plastic debris and ghost netting washing up on Denman Island shores is the substance of the complaint, like many we receive. We are asking for your leadership and request that appropriate and collaborative agency action be taken to resolve the issues identified in this complaint.

Almost the size of Prince Edward Island, the Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island. This is almost 5,200 square kilometres of Salish Sea, including 13 major and more than 450 smaller islands. The Government of British Columbia enacted the Islands Trust Act to protect this unique part of the world. It provides habitats for an exceptional variety of species: more than 200 types of migratory and resident birds; more than 90 species at risk (according to the Federal *Species at Risk Act*); numerous species of fish; killer whales; migrating gray whales; diverse intertidal life; terrestrial wildlife and vegetation.

At the local level, much of the work of the Islands Trust is carried out by elected local trust committees. This special-purpose form of local government is given authority for land use planning and regulation under the [BC Local Government Act](#). About 26,000 people live on the islands and another 10,000 people are non-resident property-owners. The area is home to over 28,000 Coast Salish Peoples, who have called it home since time immemorial. It is Trust Council's policy and Denman Island's land use policy that aquaculture is a valuable activity in the Trust Area, if compatible with maintenance of ecosystems and community character.

Preserving *Island* communities, culture and environment

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

Baynes Sound, in the Strait of Georgia, between Denman Island and Vancouver Island, is a particularly important and sensitive ecosystem. Following a scientific process, in 2012 DFO designated the Sound as an “Ecologically and Biologically Significant Area.” The Sound is home to sea mammals, globally important duck and bird populations, and unmatched biological diversity.

As such, we are actively involved in supporting responsible aquaculture. Last fall, the Chair of Islands Trust wrote to Ministers advocating for additional resources to be allocated to DFO enforcement and to ensure provincial aquaculture tenure requirements can be enforced effectively. Additionally, Islands Trust continues to co-host the Baynes Sound Lambert Channel Ecosystem Forum, which includes a working group focusing on sustainable shellfish practice.

We appreciate the DFO’s participation in collaborative initiatives aimed at reducing aquaculture industry marine debris, such as providing funding over the years for Baynes Sound clean-up efforts and for providing funding to phase out Styrofoam floats. We are grateful for the Minister’s response (attached) to our recent letter and the federal government’s assurances towards this cause. We also support the efforts being made by the provincial government to establish and/or enforce management plans, regulation, and legislation for tenure agreements. All parties want to ensure that aquaculture succeeds while adhering to best practices to be good neighbours and environmental stewards. Accordingly, we request that appropriate and collaborative agency action be taken to resolve the issues identified in this complaint.

Thank you for your consideration.

Sincerely,



Sue Ellen Fast, Chair
Denman Island Local Trust Committee

Attachment:

- 1 Email from Association of Denman Island Marine Stewards, dated January 29, 2020
- 2 Letter from DFO Minister, dated January 28, 2020

cc: Laura Busheikin, Denman Island Trustee
David Critchley, Denman Island Trustee
Association of Denman Island Marine Stewards
Lesley Fettes, Ministry of Forests, Lands, Natural Resources and Rural Development
John Mackie, Navigable Waters Protection Program, Transport Canada
Lawrence Kuan, Navigable Waters Protection Program, Transport Canada
Roberta Dight, Navigable Waters Protection Program, Transport Canada
Marnie Eggen, Island Planner

From: ADIMS info <diconcerns@gmail.com>

Sent: Wednesday, January 29, 2020 4:36 PM

To: Denman Island Local Trust Committee <DenmanIslandLocalTrustCommittee@islandstrust.bc.ca>

Cc: Lisa Pierce [REDACTED]; Mills Barbara [REDACTED]; dorrie woodward [REDACTED]; Johnston Liz [REDACTED]

Subject: Denman Island Shellfish Aquaculture Complaint

Dear Sue Ellen, Laura and David

ADIMS would be most grateful for your assistance in addressing issues with a shellfish aquaculture raft tenure at Denman Point. On the 21st of January I emailed Islands Trust Bylaw Enforcement, wishing to register a complaint against the tenure. I was subsequently forwarded to David who recommended I bring the matter to the attention of the LTC.

The current concerns presented by this tenure are as follows:

- The tenure rafts now extend beyond the tenure site into busy marine traffic lanes, encroaching into Public Crown Land Waters as well as into W1 (Conservation) Waters within Islands Trust jurisdiction. The tenure operates without required flashing light markers in narrow shipping lanes.
- Equipment stored on the rafts is poorly secured with aquaculture debris regularly washing up on beaches.
- In storms in early January, rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, with raft structures and ropes expanding even further outside of their tenure and into Public Crown Land Waters than pre-storm. The rafts and are reportedly drifting again.

The Shellfish Management Plan for the tenure is attached for your information.

We have contacted the DFO, FLNRO and Transport Canada to formally lodge a complaint on behalf of the community. The DFO referred us to the FLNRO. Jordan Wagner, Land Officer for FLNRO forwarded marine safety concerns to Transport Canada (from whom we have not heard to date). On the matter of making the tenure holder accountable, her response was "*In terms of the potential trespass and debris concerns, once the tenure holder has had an opportunity to remedy the issue, I will determine appropriate next steps.*" In other words, the remedy for this unsafe tenure is put back to the tenure holder who has historically ignored any regulations.

As you can see from the summary of our communications below, the finger pointing is making the rounds with little in the way of action. The issues of environmental protection and marine safety are not being addressed. We are most grateful for any

assistance you may be able to provide in gaining Islands Trust's advocacy in this and other aquaculture issues negatively affecting both marine and intertidal areas in our community.

Kind regards

Beth Janz and Lisa Pierce
on behalf of
Association for Denman Island Marine Stewards (ADIMS)

Complaint Background	<table border="0" style="width: 100%;"> <tr> <td style="width: 25%;">Facility</td> <td style="width: 25%;"></td> <td style="width: 25%;">Information</td> <td style="width: 25%;"></td> </tr> <tr> <td>Facility Number: 1004 BC Landfile</td> <td></td> <td>Number: 1400036</td> <td></td> </tr> <tr> <td>PFMA:</td> <td></td> <td>14-15</td> <td></td> </tr> <tr> <td>Total Tenure Size: 4.05</td> <td></td> <td></td> <td></td> </tr> </table>	Facility		Information		Facility Number: 1004 BC Landfile		Number: 1400036		PFMA:		14-15		Total Tenure Size: 4.05			
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Site Description	<p>Deep Water Tenure site north of Denman Point located on West Denman Island. Originally approved for Long line oyster operation but new operation installed 30 raft structures approx 24' x 24' many of which are anchored outside allocated crown land tenure site. The most important issue re navigation is that the rafts have now drifted into an important boat traffic corridor. Farm structure is poorly anchored and numerous rafts have broken loose. Equipment stored on rafts is poorly secured. In a January storm rafts broke free and drifted to 1 km from Baynes Sound ferry. The rafts were re-secured and returned but remain poorly and dangerously tied outside their original location and further outside tenure site than pre-storm.</p>																
DFO Complaint & Response	<p>Complaint made 21st January:</p> <ul style="list-style-type: none"> • The rafts extend beyond the tenure site into busy marine traffic lanes. • Equipment stored on the rafts is poorly secured. • The farm structure is poorly anchored and numerous rafts have broken loose into marine traffic lanes. • In the earlier storms this month, rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, expanding even further outside of their tenure than pre-storm. The rafts are reportedly drifting again. <p>Response (Chris Marrie): “Our C&P fishery officer unit are not able to respond to this and as you can see it’s looped back to me as the one to respond. <i>We simply have no field staff able to go look at this issue. I’ve been told that all staff are tasked to other priorities, which I know doesn’t help this situation. Have you reached out to the B.C. Government (FLNROD)?</i>”</p>																

FLNRO Complaint & Response	<p>Complaint made 21st January:</p> <ul style="list-style-type: none"> • The tenure rafts now extend beyond the tenure site into busy marine traffic lanes, encroaching into Public Crown Land Waters. • Equipment stored on the rafts is poorly secured. • In storms earlier this month, rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, with raft structures and ropes expanding even further outside of their tenure and into Public Crown Land Waters than pre-storm. The rafts and are reportedly drifting again. <p>Report of Natural Resource Violation # 144649 25th Jan response from Jordan Wagner – <i>“As the concerns mentioned below largely relate to navigation, the e-mail has been forwarded to Transport Canada (TC). TC is one of the three key agencies involved in the review of aquaculture applications, specifies any lighting or boundary marking, and are in a better position to review impacts to marine traffic and navigational safety. In terms of the potential trespass and debris concerns, once the tenure holder has had an opportunity to remedy the issue, I will determine appropriate next steps.”</i></p>
Transport Canada	<ul style="list-style-type: none"> • The tenure rafts now extend beyond the registered tenure site into busy marine traffic lanes and pose a safety risk for marine traffic. • In addition to extending beyond their permit area, the tenure is also operating without required flashing light markers in narrow shipping lanes. • In storms earlier this month, a number of rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, with raft structures and ropes expanding even further outside of their tenure and into traffic lanes. The rafts remain loosely and dangerously secured and are reportedly drifting again. <p>(Sent 22nd Jan - as of 29th Jan no response)</p>

From: ADIMS <diconcerns@gmail.com>
Sent: Tuesday, January 21, 2020 3:07 PM
To: Bylaw Enforcement <bylawenforcement@islandstrust.bc.ca>
Cc: Lisa Pierce [REDACTED]
Subject: Aquaculture complaint - tenure raft encroachment into W1 (Conservation) waters

Re: Aquaculture Tenure Facility Number: 1004, BC Landfile Number: 1400036 - PFMA: 14-15

On behalf of the community we would like to officially register a complaint concerning the above mentioned tenure. The Shellfish Management Plan is attached for your reference.

- The tenure rafts now extend beyond the tenure site into busy marine traffic lanes, and into W1 (Conservation) Waters within Islands Trust jurisdiction.
- In storms earlier this month, a number of rafts were torn free and drifted within a kilometer of the Baynes Sound connector ferry. These were recovered and loosely retied, with raft structures and ropes expanding even further outside of their tenure and into W1 Conservation waters than pre-storm. The rafts and are reportedly drifting again.

We are most appreciative of your efforts in resolving the issues currently associated with this tenure.

Sincerely
Beth Janz and Lisa Pierce
on behalf of the
Association for Denman Island Marine Stewards (ADIMS)



Aquaculture Site Management Plan (Shellfish Facilities)

Facility Information	
Facility Number: 1004	BC Landfile Number: 1400036
PFMA: 14-15	Total Tenure Size: 4.05
Legal Description: Unsurveyed Crown foreshore or land covered by water being part of the bed of Baynes Sound, Nanaimo District.	
General Location / Common Site Name: Denman Point, Denman Island, Baynes Sound	
Facility Type: Growout Operations	

Culture Methods, Area (hectares), Maximum Production		
Culture Method:	Area: (ha)	Maximum Production (for Culture Method):
Deepwater Suspended Culture	3.60	720 t
Subtidal Culture	2.80	140 t
Total Culture Area	6.40	
Maximum Site Production		860 t

Licensed Species
Eastern Blue Mussel (<i>Mytilus edulis</i>), Gallo Mussel (<i>Mytilus galloprovincialis</i>), Geoduck Clam (<i>Panopea generosa</i>), Giant Rock Scallop (<i>Crassadoma gigantea</i>), Horse Clam (<i>Tresus</i>), Japanese Scallop (<i>Mizuhopecten yessoensis</i>), Kumamoto Oyster (<i>Crassostrea sikamea</i>), Manila Clam (<i>Venerupis philippinarum</i>), Nuttall Cockle (<i>Clinocardium nuttallii</i>), Pacific Oyster (<i>Crassostrea gigas</i>), Pacific Scallop (<i>Patinopecten caurinus x yessoensis</i>), Pink Scallop (<i>Chlamys rubida</i>), Spiny Scallop (<i>Chlamys hastata</i>), Weathervane Scallop (<i>Patinopecten caurinus</i>), Western Blue Mussel (<i>Mytilus trossulus</i>)

Equipment and Structures	
Description:	Culture Method:
Long Lines	Deepwater Suspended Culture
Predator Netting	Subtidal Culture
Rafts	Deepwater Suspended Culture

Site Specific Conditions
1. Geoduck Clam harvest shall be conducted as outlined in the approved harvest plan, entitled 1004_Harvest_Plan_8June2016.pdf submitted to the Department on June 8, 2016, attached to this licence.

Licences	
Licence Holder(s): Baynes Sound Oyster Co. Ltd.	
Licence Number: 119203	Licence Status: Valid
Effective Date: May 01, 2019	Expiry Date: Apr 30, 2025





Report created date: 2019-11-20





JAN 28 2020

Mr. Peter Luckham
Chair
Islands Trust Council
200-1627 Fort Street
Victoria BC V8R 1H8

Dear Mr. Luckham:

Thank you for your correspondence of December 9, 2019, regarding shellfish aquaculture in Baynes Sound.

Fisheries and Oceans Canada (DFO) shares your concerns about debris in the marine environment and about the issue of plastic gear being lost by the shellfish industry and washing up on beaches.

For the past two years, DFO has conducted compliance monitoring and follow-up with several licence holders in Baynes Sound who have been found to have violations of conditions of licence. As a result of inspections carried out this summer by the Province of British Columbia Lands Tenure Branch, DFO's shellfish aquaculture biologist is currently working with provincial compliance partners to compel cleanup of the majority of beach tenures on the west side of Denman Island.

To address non-compliance, DFO's biologist contacts violators by letter, informing them of the requirement that they remove debris and take action to prevent further marine debris. The approach is collaborative in nature, with the biologist working with the licence holder to compel cleanup, rather than through prosecution.

In addition, DFO Conservation and Protection staff have been engaged with stakeholders, industry, First Nations, and NGOs as part of working groups, shared forums and annual beach cleanup events.

Earlier this year, the Government of Canada announced the development of a Sustainable Fisheries Solutions and Retrieval Support Contribution Program. This program will provide up to \$8.3 million to assist fish harvesters, environmental groups, Indigenous communities, the aquaculture industry, and coastal communities to find and retrieve harmful marine litter or ghost gear from the ocean, and dispose of it responsibly. The program will also support industry in acquiring new clean technologies to reduce gear loss.

A website for this funding program is anticipated to launch in early January 2020. It will include information on the program and how to apply. I have asked DFO staff in the Pacific Region to share the link with you once the website has launched.

.../2

Please be aware that the requirement to clearly mark tenure boundaries falls under provincial jurisdiction, via the land tenure contract rules established by the Province of British Columbia and the shellfish grower. I have forwarded a copy of your letter to the Honourable Doug Donaldson, British Columbia's Minister of Forests, Lands and Natural Resource Operations and Rural Development, for his consideration.

DFO appreciates your concern for the marine environment and your dedicated work towards cleanup efforts. I assure you that the Department will continue to work with First Nations, industry, the Province of British Columbia, and stakeholders to address the issue of lost, abandoned, and discarded aquaculture gear.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'B' followed by a long horizontal line.

The Honourable Bernadette Jordan, P.C., M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard

c.c.: The Honourable Doug Donaldson, M.L.A.
British Columbia's Minister of Forests, Lands, Natural Resource Operations
and Rural Development