

Thetis Island Local Trust Committee

Regular Meeting Addendum

Date: May 24, 2016
 Time: 9:30 am
 Location: Thetis Island Community Centre (Forbes Hall)
 North Cove Road, Thetis Island, BC

		Pages
7. NEW BUSINESS	10:05 AM - 10:50 AM	
7.3 Limberis Aquaculture Lease		
7.3.1 <u>Email dated April 21, 2016 from Richard and Tess DeMarco</u>		2 - 2
7.3.2 <u>Letter dated April 25, 2016 from Kathryn Kennedy to Rudy Mayser</u>		3 - 5
7.3.3 <u>Letter dated May 9, 2016 from Fisheries and Oceans to K. Kennedy</u>		6 - 8
7.3.4 <u>Letter dated May 16, 2016 from Kathryn Kennedy to Heather Wood</u>		9 - 9
11. APPLICATIONS AND REFERRALS	11:00 AM - 12:00 PM	
11.3 TH-RZ-2016.1 (West Vancouver Yacht Club)		
11.3.1 <u>Memorandum dated May 16, 2016</u>		10 - 10
11.3.2 <u>Letter dated May 13, 2016 from West Vancouver Yacht Club</u>		11 - 13

April 21, 2016

Richard and Tess DeMarco DeMarcove

PO Box 19-0 [REDACTED] Thetis Island BC, V0R 2Y0 [REDACTED]

Jim Johnson, Senior Lands Officer

Ministry for Lands and Natural Resource Operations 2080 Labieux Road

Nanaimo, BC V9T 6J9

Land File # 0162341 – Limberis Seafoods Ltd. [License No. 102932] AQ 112064 – Preedy Harbour
Facility Reference Number 718 – District Lot 362, Cowichan District

Dear Mr Johnson;

We are writing in regard to the use of the Limberis license # 102932, in question. Our property is directly adjacent to this lease.

This operation has been derelict and abandoned for some time and is no longer viable under the current use regulations. The elevation of the beach is very low and the houses are extremely close to the license operation. The area in question is mostly retirees and full time residents and operations of this kind are not reasonable in this location. The license is not compatible with the owners and the Thetis Islands Trust regulations regarding the rights to peace and tranquility. We refer to the following items of the Thetis Island Official Community Plan, in particular items:

LAND USE AND DEVELOPMENT CRITERIA, Section 2, A, F and H

- (a)The preservation of a tranquil rural environment.
- (f)The protection of reasonable privacy for residents and property owners.
- (h)The provision of access to beaches and other natural features for residents and visitors.

We request that you do not renew this license which is due to expire April 30, 2016. It has been abandoned and previous problems have determined that it is not compatible with the upland owners rights. The area is clean and pristine at this point in time and we wish to preserve this. We request the return of this area to the regulation of the Department Of Fisheries. Thank you for your attention to this matter.

Sincerely,

Richard and Tess DeMarco

Kathryn Kennedy, PhD
PO Box 11-5 [REDACTED] Road
Thetis Island, BC V0R 2Y0
[REDACTED]

April 25, 2016 – *sent via email to Rudi.Mayser@gov.bc.ca*

Mr. Rudi Mayser, Manager Authorizations
Ministry for Forests, Lands and Natural Resource Operations

Land File # 0162341 – Limberis Seafoods Ltd. [License No. 102932]
AQ 112064 – Preedy Harbour
Facility Reference Number 718 – District Water Lot 362, Cowichan District

Dear Mr. Mayser,

Requesting policy review with intent to eliminate above zoning of mariculture land use since such operations have proven to be incompatible with adjacent land and recreational uses. Damage had been caused to sensitive ecosystems that are now recovering.

When this aquaculture license was originally approved in the 1950s, Foster Point, (Preedy Harbour) was undeveloped. (Pete Limberis was co-owner of the inaugural license with Richard Ringma whom had the property adjacent to the above licensed site). Over the years, Foster Point was developed with sub-divisions adjacent to District Water Lot 362. The uplands are now fully developed offering the serene retirement community for its residents.

The current Aquaculture License No. 102932 was a ten-year grant from October 4, 1989. During 1990s the aquaculture operations caused conflict with the adjacent residents. Barge loads of empty clumped oysters shells were hand-shoveled onto beach at high tide, in some cases above the median high tide. The impact of these large fused-clumps of shells accumulated on the seabed smothering other sea-life. In

Kathryn Kennedy, PhD
PO Box 11-5 [REDACTED] Road
Thetis Island, BC V0R 2Y0
[REDACTED]

addition, the beach rapidly deteriorated visually, prevented accessibility for both marine and for recreational use.

The dumping and harvesting operations became a nuisance and annoyance to the residents. Those residents whose properties were in close proximity to the shoreline were able to see and hear the operations. When winter operations began at low tide in the early morning, upland owners also had their sleep disturbed. The operations caused raucous sounds of voices and clanging metal (wheel-barrows and metal boat). Workers trespassed on adjoining properties to defecate.

The adjacent landowners jointly contacted the local MP and the Office of the Ombudsman with their complaints concerning the operations. Shortly thereafter, the empty oyster-shell-cluster debris was removed and beach cleanup was completed on District Water Lot 362. The other complaints of the adjacent residents were resolved when the operations ceased approximately twenty years ago. Since the cessation of the operations, the marine habitat has recovered with increasing quantities of eel-grass encroaching the shoreline, additional marine and bird life returning which includes resident bald eagles, blue herons, and more species of migratory flocks, more bull-heads, larger quantity of seals, and schools of smaller fish.

It is submitted that neither the quiet enjoyment of Preedy Harbour by its residents and visitors nor the ecological recovery of the area since the cessation of aquaculture operations many years ago should be allowed to be jeopardized by any renewal of Aquaculture License No. 102932 and that no future aquaculture license should be issued for District Water Lot 362.

I would welcome your advice as to how I and the other residents of Foster Point may have our views on this matter best considered.

Kathryn Kennedy, PhD
PO Box 11-5 [REDACTED] Road
Thetis Island, BC V0R 2Y0



Sincerely,

Kathryn Kennedy, [REDACTED]

cc: Foster Point neighbours; Islands Trust - Thetis Island Peter Luckham and Ken Hunter

Subject: Your file 2016-502-00111
Date: Mon, 16 May 2016 12:14:31 -0700
From: Kathryn Kennedy [REDACTED]
To: susan.lim@dfo-mpo.gc.ca
CC: jim.johnson@gov.bc.ca, Peter Luckham <pluckham@islandstrust.bc.ca>, Ken Hunter <khunter@islandstrust.bc.ca>

Land File # 0162341 - Thetis Island
License No. 102932 - Limberis Seafoods.

Dear Susan,

Thank you for sending May 9th letter from Heather Wood, A/Director Aquaculture Management Division, replying to my April 25, 2016 letter. Surely you will get my reply letter to her. For the others that have been copied, attaching Ms Wood's letter to me. Look forward to Ms Wood's reply to which takes precedent: (1) Protection of fish habitat; or (2) Promoting aquaculture activities that destroy the fish habitat?

Kathryn Kennedy, PhD



Fisheries and Oceans
Canada

Pêches et Océans
Canada

LettPacific Region
Suite 200 - 401 Burrard Street
Vancouver, British Columbia
V6C 3S4

Région du Pacifique
Pièce 200 - 401 rue Burrard
Vancouver (C.-B.)
V6C 3S4

Your file Votre référence

Our file Notre référence
2016-502-00111

MAY 09 2016

Kathryn Kennedy, PhD
PO Box 11-5

Thetis Island, BC V0R 2Y0

Dear Ms Kennedy:

Re: Land File # 0162341 – Limberis Seafoods Ltd. [License No. 102932]

Thank you for your letter dated 25 April 2016, in which you request a policy review to change the zoning at a particular shellfish tenure (0162341). The responsibility for the regulation and licensing of aquaculture in British Columbia is shared by a number of provincial and federal agencies, which I have outlined below.

- Fisheries and Oceans Canada is responsible for regulating, monitoring and licensing shellfish aquaculture operations in British Columbia.
- Transport Canada's Navigation Protection Program is responsible for administering the Navigation Protection Act through the review and authorization of works in navigable waters.
- The Ministry of Forests, Lands and Natural Resource Operations is responsible for land use policy, authorizing the use and occupation of provincial Crown land for shellfish, finfish, marine plants purposes.
- Local governments have authority to approve broad objectives, policies and guidelines respecting land use and development. They exercise this authority through zoning bylaws, permits and other instruments.

The concerns you note in your letter fall within the jurisdiction of the local government and the Provincial Government. I would encourage you to share your zoning concerns with the local government and the Ministry of Forests, Lands & Natural Resource Operations.

.../2

Nevertheless, should you witness the licence holder engaging in any activities at the site that could result in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, we would appreciate you advising us promptly by contacting our Observe, Record, Report Line at 1-800-465-4336.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Heather M', with a long horizontal stroke extending to the right.

Heather Wood
A/Director
Aquaculture Management Division

Kathryn A Kennedy, PhD
PO Box 11-5
Thetis Island, BC V0R 2Y0

May 16, 2016

Heather Wood, A/Director
Aquaculture Management Division
Let's Pacific Region
Suite 200 – 401 Burrard Street
Vancouver, BC V6C 3S4

Dear Ms Wood: **sent via email to** Susan.Lim@dfo-mpo.gc.ca;

Your File 2016-502-00111

Re: Land File # 0162341 – License No. 102932

Received your May 9, 2016 letter pointing out the complexities to make policy review to change the zoning at a particular shellfish tenure. Nevertheless, competing factors exist at this site that may require your participation. Your Shellfish Aquaculture Licence under the Pacific Aquaculture Regulations clearly state:

Part B, Section 9.5. – The licence holder shall not conduct aquaculture activities in eelgrass beds or salt marshes.” Shellfish Aquaculture Licence under the Pacific Aquaculture Regulations - Shellfish Aquaculture Conditions of Licence. May 1, 2015 (p 7 of 27).

Appendix II: Standard Infrastructure -

The following infrastructure types are considered to be standard infrastructure in their respective culture areas, provided that the following sensitive habitats are avoided: intertidal stream channels, eelgrass beds (Zostera sp.), fish spawning areas.... May 1, 2015 (p 18 of 27).

This site has recovered from an industrialized operation from over twenty years ago as was explained in my April 25th letter. If such operations were to start again, fish habitat would likely be destroyed. This eco-marine recovery may give evidence of a foraging fish beach. I have been looking into having a Marine Biologist investigate. Will this make a difference if it is a foraging fish beach? Will you consider reviewing and possibly reversing past policy decisions?

Two simple questions, but which takes precedent?

- (1) Protection of Fish habitat? OR
- (2) Promoting aquaculture activities that destroy the fish habitat?

Please clarify. Issues at this site may be applicable to other aquaculture licenses. The public has a right to transparency in how governmental bodies prioritize their decision-making. Perhaps, more interesting, how information between governmental bodies is shared or not shared.

Sincerely,

Kathryn Kennedy, PhD

cc: Peter Luckham, Chair, Islands Trust Council Islands Trust -pluckham@islandstrust.bc.ca

cc: Ken Hunter, LTC Islands Trust – khunter@islandstrust.bc.ca

cc: Jim Johnson, FLNR – jim.johnson@gov.bc.ca



Memorandum

700 North Road Gabriola Island BC V0R 1X3

Telephone (250) 247-2063 FAX: (250) 247-7514

Toll Free via Enquiry BC in Vancouver 660-2421. Elsewhere in BC 1.800.663.7867

northinfo@islandstrust.bc.ca www.islandstrust.bc.ca

Date May 16, 2016

File Number TH-RZ-2016.1 (West
Vancouver Yacht Club)

For LTC Meeting May 24, 2016

To Thetis Local Trust Committee
From Marnie Eggen, Planner 2

Re Early Referral Comments from Lyackson First Nation, received April 27, 2016

Planning staff met with Lyackson First Nation on April 27, 2016 at their monthly meeting to review referrals with local governments and the Provincial staff who attend. Referral coordinator, Kathleen Johnny, was very appreciative of receiving an early referral on behalf of the Lyackson First Nation for the West Vancouver Yacht Club rezoning application, and relayed their concerns.

Kathleen indicated that the Lyackson First Nation Chief and Council are not prepared to approve the proposed breakwater at this time. They have concerns with regard to the breakwater and potential impacts it may have with regard to facilitating access to traditional sites that might not otherwise exist currently. Additionally, they take issue with the fact that they were not consulted when the Yacht Club use was first established. The First Nation will be conducting their own studies with regard to impacts on their sites, which they expect to be conducting within the year.

Staff will be seeking further detail from Lyackson about their concerns regarding consultation and establishment of the yacht club. Staff relayed this information to the applicant along with the requests for further information as per the Thetis Local Trust Committee resolution made at the March 29, 2016 Local Trust Committee meeting:

TH-2016-013

It was MOVED and SECONDED

that the Thetis Island Local Trust Committee request staff to request additional information 1) from the applicant regarding potential impacts of the proposed breakwater on coastal processes and adjacent marine areas and shorelines, and 2) from the Archaeological Branch, archeological site and traditional uses information.

CARRIED

Additionally, a Community Information Meeting is now scheduled for Saturday, June 18, 2016 at the Frank Jameson Community Centre in Ladysmith (810 6th Avenue) from 11:30 AM to 1:30 PM in order to gather public comments on the proposed breakwater prior to drafting a bylaw amendment.

pc Ann Kjerulf, Regional Planning Manager



**WEST VANCOUVER
YACHT CLUB**

May 13, 2016

Islands Trust
Northern Office
700 North Road
Gabriola Island, BC V0R 1X3

Attention: Marnie Eggen

Dear Sirs/Mesdames:

**Re: Bylaw Amendment Application to allow for breakwater and maintenance
Valdes Island Rural Land Use Bylaw No. 42 ("Bylaw")
Licence of Occupation Lands in the vicinity of Lot 88, Kendrick Island
Applicant: West Vancouver Yacht Club ("WVYC")**

I write on behalf of the WVYC to respond to your email dated May 6, 2016 with respect to the two resolutions made by the Thetis Island Local Trust Committee ("LTC") at the meeting on March 29, 2016, and to respond to the additional points raised in your email to the writer dated May 6, 2016.

Community Information Meeting – June 18, 2016

Thank you for coordinating the Community Information Meeting on June 18, 2016. The WVYC's Outstation Director, Graeme Trigg, plans on attending the meeting. Mr. Trigg also intends to attend the next LTC meeting on Thetis Island on May 24, 2016.

Coastal Processes

Regarding further information about potential impacts of the proposed breakwater maintenance on coastal processes and adjacent marine areas and shorelines, WVYC is continuing to work on collecting information and will provide it to you when complete.

Need for the breakwater, and alternatives

Regarding the question from the LTC about the need for the breakwater and whether alternatives were considered, the WVYC confirms that a floating breakwater was considered as an option to a fixed structure; however, the WVYC considers that a floating breakwater would be much more expensive to construct and to maintain than the proposed maintenance to the existing rock breakwater. A floating, anchored breakwater could also potentially be a hazard if it broke loose in winter storms, and could cause damage to the WVYC docks, or to persons or other property if it broke loose.



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www.wvyc.ca 11

The proposed maintenance to the existing breakwater is needed because the wave action through the small gap in the reef where the existing breakwater is situated causes damage to the WVYC dock at Kendrick Island, and the wave action affects boats moored to the docks and tied to the anchor buoys. The planned maintenance of the breakwater will provide protection from damage to the docks and to boats moored at the dock. The breakwater also moderates the wave action on boats tied to the anchor buoys.

First Nations' concerns

Regarding the Lyackson First Nations' concerns, as discussed in our telephone discussion on May 6, 2016, and at the LTC meeting on March 29, 2016, WVYC members have met with Lyackson representatives on two occasions, the first on February 6, 2012 in Chemainus, and again February 17, 2016 in Chemainus. WVYC members also met with representatives of the Snuneymuxw First Nation on April 16, 2012 regarding the WVYC's plans for the breakwater.

The purpose of the 2012 meetings was to exchange information and to address any concerns from the First Nations regarding the WVYC breakwater proposal.

At the February 6, 2012 meeting with Lyackson representatives, the concern expressed by the Lyackson at that meeting was the impact, if any, of the breakwater on wildlife habitat. Following that meeting, the WVYC addressed the Lyacksons' concern by retaining Envirowest Consultants Inc. to visit the site and prepare a report on wildlife habitat. The Envirowest report dated May 31, 2012 concluded the breakwater has a positive impact on creating and protecting habitat for the encrusting community and, hence, habitat for fish food organisms. The Envirowest report was provided to the Lyackson in 2012 and was also included in the WVYC's application to the Islands Trust earlier this year.

Following the 2012 meetings with First Nations representatives, the WVYC wrote to the First Nations to summarize the discussions and to follow up to request any questions or further concerns from them. The WVYC received no further communications from the First Nations following the 2012 meetings. A copy of each of the WVYC letters to the Lyackson and Snuneymuxw were included in the WVYC application to the Islands Trust.

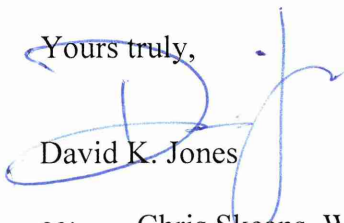
At the February 17, 2016 meeting between WVYC and Lyackson representatives, the Lyackson representative expressed concern about the Province of British Columbia's process in granting the Licence of Occupation to WVYC over the area of the breakwater in August 2015. That concern is not something that the WVYC is able to address, other than to say that the WVYC has done everything asked of it by numerous government agencies, including consulting with First Nations representatives including the Lyackson and the Snuneymuxw First Nations, as noted above.

Your email to the writer dated May 6, 2016 mentions a possible Lyackson concern that they were not consulted when the WVYC use was first established. If that concern relates to the WVYC purchase of the fee simple interest in Kendrick Island, believed to be in the early 1970s, it is difficult to know how such a concern can be addressed by the WVYC as that concern is not known to have been previously mentioned to the WVYC in the more than forty years of the WVYC's ownership of the Island.

Your email to me dated May 6, 2016 also refers to a Lyackson concern about the breakwater and potential impact on traditional sites. In our telephone discussion on May 6, 2015, I asked you about that concern and any other specific concerns expressed by the Lyackson to you at your meeting with Lyackson representatives on April 27, 2016. You responded that they were concerned that the breakwater could be a "pathway" to traditional sites on Valdes Island. The WVYC response is that the reef upon which the breakwater is located dries at lower tides so the breakwater does not enhance or detract the ability of the very limited number of people who may be on the reef at any time to move along the reef. More importantly, there is a channel of water between the south end of the reef and Valdes Island. That channel does not dry, there is reportedly at least 4 – 5 feet depth of water in the channel at low tide, and the channel is approximately 40 feet wide. Consequently, anyone who is on the reef in the area of the breakwater cannot gain access to any sites on Valdes Island without either making use of a boat to cross the channel, or by swimming across the channel.

Regarding archaeological sites, the existing breakwater and the intended maintenance of the breakwater are not known to have any impact on any archaeological or traditional sites because the breakwater is a relatively small fixed structure on a sandstone reef surrounded by water and there are no discernible manmade features where the breakwater is located. The very limited area of sand near the breakwater is not known to be a clamming ground. Any other archaeological sites that may exist on Valdes Island will not be affected by the breakwater because the breakwater is a relatively small, fixed structure the limited purpose of which is to provide some protection to the WVYC dock and boats from the wave surge from Georgia Strait.

Yours truly,



David K. Jones

cc: Chris Skeans, WVYC Commodore
Graeme Trigg, WVYC Outstation Director
Martin Wale, WVYC General Manager