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Fisheries Resource Conservation Council
PO Box 2001 Station D
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December 11, 2006

Dear Mr. Willet,

The Unama'ki First Nations have recognized food, social and ceremonial rights to fish in the waters of Canada and are in favor of the conservation measures required to protect the food and lobster fisheries in Atlantic Canada. Our communities are also full participants in the lobster industry and hold communal commercial licenses for lobster fishing areas in Eastern Cape Breton. Mi'kmaw Treaty and Aboriginal Rights take precedent over commercial interests, therefore, the comments presented in this document pertain *first* to conservation and sustainability of the Aboriginal food, social and ceremonial lobster fisheries than solely from our view as commercial participants.

After careful review of the document and other related documents such as DFO research documents and stock status reports for LFAs 27-30, we have prepared the following comments to the FRCC.

In general, the document was presented and written in a manner that could be understood by the general population. It provided an adequate amount of background and summarized the contents in each section very well.

We were surprised and somewhat concerned that the section on Aboriginal Fisheries was addressed under "Conservation Issues" rather than in the "Background" section. It implies that we, Aboriginals, are part of the problem rather than part of the solution. The Aboriginal food, social and ceremonial fisheries for lobster in Cape Breton is currently underutilized and should therefore not be thought of as a conservation issue. We do understand that this document was written in a time when our Treaties and Rights were recognized but not fully understood by non-First Nations, however, we request the "Aboriginal" section (if so developed) be presented in the background of the next

document rather than discussed as a conservation issue. This section could also benefit by further expansion to include concise description of the Treaties and the implications.

If Aboriginal fisheries are considered a conservation issue in the eyes of non-natives, then further research should be completed to determine the amount of the resource removed from an area. This value would likely vary annually and is not indicative of future resource removals. Would it be wrong to assume that each community will fish and retain the amount of catch one commercial license holder would report? If the goal is to err on the side of caution, this assumption would be considered precautionary.

We are concerned that the industry is overexploiting the lobster populations and the government is neglecting the interests of First Nations as priority in resource use. If there is difficulty controlling the present situation to maintain enough of the resource for conservation and sustainable fishing, how is the government working toward general conservation, maintaining First Nations food, social and ceremonial fisheries and for sustainable fishing? From our interactions with the government, we have not seen this happen. The commercial fishery have been put ahead of First Nation food, social and ceremonial interests and we often wonder who is actually managing the fishery.

Aboriginal peoples in Canada are beginning to see the effect of a non-traditional diet on their health, especially a higher than average proportion of the population with diabetes. Returning to a traditional Mi'kmaw diet is a reality, but is one faced with obstacles and oppositions. The current food fishing agreements between Unama'ki Mi'kmaw communities and DFO do not take into consideration the population and predicted population growth in each community. The current distribution of lobster tags to the First Nation communities in Cape Breton for food, social or ceremonial fishing is not based on population. Currently, Eskasoni, the largest Mi'kmaw community in Atlantic Canada has the equal allocation of tags as the smallest First Nation community of Chapel Island. The government must ensure that there is enough resource to support expanding First Nations populations.

In your document, it is stated that "Conservation measures need to be implemented for all users including Aboriginal groups" (p. 2). First Nations in general have been cooperative by adhering to commercial fishing conditions for the area in which they are exercising their food, social or ceremonial fisheries. The conditions for each species are clearly stated in these agreements. Conditions for the lobster fishery, for example, include gear restrictions, minimum carapace length, prohibition of retaining berried females, and v-notched females. Unama'ki communities implement further conservation measures and ask that fishers do not fish during July and August when the lobsters are molting and mating.

The idea of lobster production areas is a far better approach to lobster management. Our main concern is the grouping of the Bras d'Or Lakes into the same LPA as the rest of Cape Breton and the Gulf of St. Lawrence. Since the publication of the FRCC report, there has been much knowledge gained in oceanography and lobster biology in the Bras d'Or Lakes (LFA 28 and part of LFA 27), all of which support the uniqueness of the Bras

d'Or Lakes in terms of habitat, salinity and temperature. While the idea of LPAs is modern and holistic, there is further knowledge to support the fine tuning of the Bras d'Or Lakes as a sub-division within the LPA or even as a unique LPA.

From a commercial industry perspective, we recommend having similar environments under one management unit. In particular, the Bras d'Or Lakes should be grouped into one LFA rather than having the north basin part of different system. It is just as easy to draw a line at the openings to the ocean as it is between the two basins of the Bras d'Or Lakes. With mean water circulation (surface to 10 m in depth) flowing out of the Bras d'Or Lakes¹ and prevailing winds from the south and south west from July to September², it is very possible that the larvae from LFA 28 is exported to LFA 27. In this case LFA 27 benefits from the conservation measures implemented by neighboring 28. It is unlikely that further conservation measure to increase egg production will directly benefit the Bras d'Or Lake if this is true.

Many fishing areas have implemented recommended conservation measures suggested by the FRCC. Conservation measures would benefit the lobster industry if they were targeted in areas where there is high exploitation such as the larger fishing areas of 27, 33 and 34 rather than the smaller LFAs or even the smaller Aboriginal food fisheries. Small LFAs such as 28-30, that fish 25 less traps, have increased their minimum legal size (MLS) *and* implemented maximum hoop sizes for traps or maximum carapace lengths. The largest area in Eastern Cape Breton and the one with the most licenses, LFA 27, increased the MLS but did not implement measures to protect large female or reduce exploitation by reducing effort such as a trap reduction. We recommend implementing conservation measures where the greatest impact will be evident. To date, this is not evident in Eastern Cape Breton.

Research dollars must be available to the scientists to gather the necessary data as the basis for sound management decisions. With lobster sales contributing \$27 million dollars to the Cape Breton economy in 2003³, there should be more research and monitoring dollars to ensure sustainability. Lobster is a very important industry and equally valuable food fishery to our area.

At the end of the FRCC workshop recently held in Halifax (Oct. 31, Nov. 1 and 2), two questions were posed. The first question was "Where do we want to be in 10 years?" As First Nations in Unama'kik, we would like to have certainty that the lobster populations will be healthy enough to support our expanding Mi'kmaq populations. Without the resource, our Rights as Aboriginal people are worthless. From a communal economic development perspective, we would like to see no further degradation or over exploitation of the resource.

¹ Petrie B. and G. Bugden. 2002. The physical oceanography of the Bras d'Or Lakes. *In*: Proceedings of Nova Scotia Institute of Science. Pp. 9-36 .

² Atlantic Climate Centre. [On-line] <http://www.climate.weatheroffice.ec.gc.ca/>. Oct. 15, 2006.

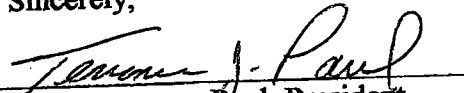
³ DFO News Release. "Lobster season opens in eastern Nova Scotia and the Atlantic coast of Cape Breton". [On-line]: <http://www.mar.dfo-mpo.gc.ca/communications/maritimes/news04e/NR-MAR-04-04E.htm>. Oct. 12, 2006.

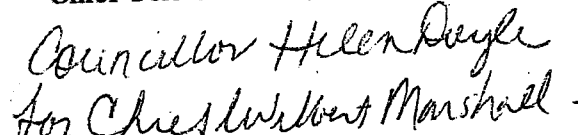
The other question, "With regards to conservation, what needs to be done in your area to get there", is perhaps more difficult to achieve. On behalf of LFA 28 (the Bras d'Or Lakes), in addition to a 25 trap reduction, increase in minimum legal size and increase in hoop size, there have been several voluntary measures taken into consideration in the past 5 years. Eskasoni First Nation purchased 5 lobster licenses for LFA 28 during the Marshall program and has not fished them because of conservation concerns. In 2005, artificially reef structures were deployed in East Bay to enhance the natural lobster habitat in a traditional fishing area. Now we need the lobster.

We do know several things about our lobster population in LFA 28. There are large lobsters, few smaller pre-recruits and 50% of the female population is berried. We do have higher estimates of productive lobster when compared to other areas, lobster by lobster. We do not have the abundance. Traditional knowledge indicates that our lobster population thrived in the middle of the 20th century. Can we get there again? Probably not but we would like to improve the current situation. Enhancement of the population using hatchery rearing larvae may be our only option at this point. UNIR is currently pursuing this idea.

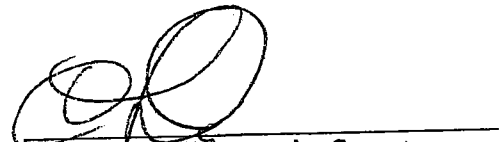
We look forward to hearing a positive response from the Council to work toward long-term sustainable lobster fishing for all user groups.

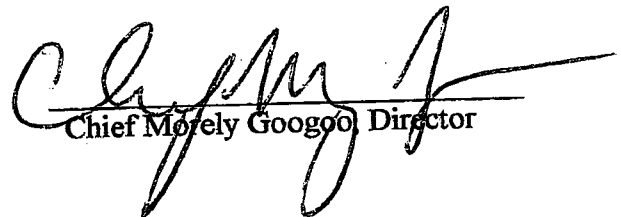
Sincerely,


Chief Terrance Paul, President


Councillor Helen Doyle
for Chief Wilbert Marshall, Director


Chief Lester Peck, Director


Chief Charlie Dennis, Secretary


Chief Morely Googoo, Director