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November 18, 2020

Leala Pomfret-Schiller  
MNRF - Fish and Wildlife Policy Branch - Fisheries Section  
300 Water Street  
5th floor, North Tower  
Peterborough, ON  
K9J 3C7

**ERO #: 019-1502; Changes to modernize Ontario's approach to licensing aquaculture**

Dear Ms. Pomfret-Schiller,

We are writing to provide comments on the above ERO.

The Georgian Bay Association (GBA) is an umbrella organization for 19 community associations along the east and north shores of Georgian Bay, representing around 3,000 families. We have been advocating on behalf of our land-owning members for over 100 years and estimate that we reach around 18,000 residents and business operations of the Georgian Bay coastal communities. Our mandate is to work with our water-based communities and other stakeholders to ensure the careful stewardship of the greater Georgian Bay environment.

Our primary objective is to ensure that the open net pen aquaculture industry in Georgian Bay and the North Channel of Lake Huron (the "Industry") is obliged to comply with the National Aquaculture Strategic Action Plan, (<https://www.dfo-mpo.gc.ca/aquaculture/lib-bib/nasapi-inpasa/Report-eng.htm>). This plan speaks to the necessity of "a sustainable development model that includes three components: Environmental, Social, and Economic". It depicts: "The three interconnected principles of sustainable development—a concept now familiar to businesses as the 'triple bottom line'. It also confirms that: "development is only sustainable when all three principles are incorporated into a project. In the absence of one element—such as the social or environmental component—development may be viable, but not truly sustainable."

In this respect we note that Proposal 2 under ERO #: 019-1502 reads:

*Establishing the ability to change FWCA licences and authorizations, including their conditions. This proposed change would enable greater flexibility to respond to the evolving needs of aquaculture operators, while ensuring that facilities are developed and conducted in an environmentally sustainable manner.*

The need to ensure facilities are developed and conducted in an environmentally sustainable manner should be reflected in both the MNRF Application *Guidelines for Cage Aquaculture in Ontario, 2017* licence renewal requirements, and the MECP's *Provincial Policy Objectives for managing effects of Cage Aquaculture operations on the water quality and sediment in Ontario's Lakes, 2019*, and cross referenced in the Fish and Wildlife Conservation Act, 1997 (the "FWCA"). This has not been done. Neither of abovementioned guidelines and policies reflect a regulatory process that prioritizes the development and regulation of facilities in an environmentally sustainable manner.

It is also concerning that none of the amendments to the FWCA, as currently presented in Schedule 5, Bill 213, references or incorporates a requirement that ensures licence or authorization amendments may only be issued in circumstances where operations are environmentally sustainable. We are concerned that the proposed amendment, as currently drafted, would lead to licence or authorization amendments that ignore environmental sustainability. **We therefore request that clear statutory language requiring consideration of these sustainability requirements as mentioned above be included in the changes to the Act to ensure that the Industry is "developed and conducted in an environmentally sustainable manner."**

Our aquaculture committee has been in operation for around 22 years and has made numerous submissions to the Ontario and Federal governments over the years setting out our concerns about the Industry as it prepares to expand its production, particularly by the use of the MNRF's Class EA RSFD which continuously screens Industry licence renewals for existing sites as Category A (exempt) and of low environmental or public concern. The MNRF has failed to convince the GBA and our members of the Category A definition that projects demonstrate: "low environmental effects and/or public or agency concern". Our submissions, most recently the attached GBA submission on Class EA for MNRF RSFD, Aug 28, 2020 for ER #99026, set out why a more rigorous environmental assessment pertaining to open cage aquaculture is necessary and should therefore be covered by the Comprehensive Environmental Assessment process under the recently amended *Environmental Assessment Act*.

Our next recommendation regarding Proposal 2 under ERO #: 019-1502 is that the first sentence should be amended as highlighted in red below:

***Establishing the ability to change FWCA licences and authorizations, including their conditions, **provided any such changes do not diminish environmental protections, maintain compliance with the FWCA, and are subject to public consultation in accordance with the Environmental Bill of Rights (EBR).** This proposed change would enable greater flexibility to respond to the evolving needs of aquaculture operators, while ensuring that facilities are developed and conducted in an environmentally sustainable manner.***

Generally speaking, we find that the wording of this Proposal 2 is vague and implies that the Industry can apply to change their licence conditions if they become inconvenient, or when compliance becomes difficult, and that MNRF would support changes that enable such flexibility. The vagueness of the proposal appears to have been carried over to the proposed amendments to the FWCA in Bill 213. It is not clear, based on the present statutory language in Bill 213, whether licence conditions, such as the size of the operation, water quality standards, etc., would be within the Minister's amending powers under the proposed s. 62.1.

We disagree with changes to the Act, which would grant the Minister such broad powers, since such amendments could result in serious environmental consequences. Any amendment granted, particularly amendments that increase the environmental risks associated with the licence or authorization holder's operation ought to be subject to rigorous environmental assessment with opportunity for public consultation.

**We also recommend that the Minister also be given the express authority to cancel licences of non-compliance with licence conditions, including conditions such as stated in s 21(1) of the *Fish Licencing Regulations 664/98* regarding escapes. At present there do not appear to be any significant consequences for licence holders who breach these conditions; therefore we further recommend that the licence conditions should set out specific consequences and this should be reflected in the wording of the FWCA.**

**It is important in this context that the pursuit of profit does not come at the expense of environmental protections, and we therefore recommend that any regulations associated with this Proposal are tightly worded to ensure that all environmental protections are preserved and not diminished.**

**Further, we recommend that Proposals 1-3 should be qualified by a covering condition: *"All changes to modernize and streamline the regulatory framework for Ontario's aquaculture facilities must maintain compliance with the Fish and Wildlife Conservation FWCA, 1997 and be subject to public consultation in accordance with the EBR."***

Earlier this year MNRF provided a 2-year extension to existing aquaculture licences for the Industry in advance of issuing 20-year licences, now scheduled for March 31, 2022. In this context GBA has several concerns regarding scrutiny and public consultation on these 20-year licences, which provide a further reason for including the above recommended wording changes to the Proposals. We therefore request the following:

- The interim 2-year licence extensions are not simply amended to a 20-year licence on March 31, 2022, but are treated as new licence applications with a comprehensive environmental review of each cage farm site application for licence, which affords the opportunity for public scrutiny and consultation in accordance with the EBR.
- These 20-year licences are then subject to an independent review of operator activities every 5 years and the results of these reviews are made available for public scrutiny and consultation in accordance with the EBR.
- The MNRF fulfils its statutory obligations under s. 22(1) of EBR to consult on both the **issuance** and **amendment** of any Industry licence.
- In the alternative, the FWCA be amended to establish clear public consultation requirements with respect to amendments of licence conditions pertaining to Industry licences and authorizations.

We hope that you can accommodate the above recommendations to the proposed changes to the Fish and Wildlife Conservation Act, 1997 and Ontario Regulation 664/98 and look forward to hearing from you in this respect.

Many thanks,

Yours sincerely,

A handwritten signature in blue ink that reads "Rupert Kindersley". The signature is written in a cursive style with a horizontal line underneath the name.

**Rupert Kindersley**  
**Executive Director**