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June 10, 2013

The Honourable Keith Ashfield  
Minister of Fisheries and Oceans  
House of Commons  
Parliament Buildings  
Ottawa, ON K1A 0A6

Dear Minister Ashfield,

Re: **New Fisheries Protection Provisions under the *Federal Fisheries Act***

I would like to thank you Minister for arranging the opportunity for the BC Wildlife Federation to discuss this issue at meetings arranged by the Pacific Region in Vancouver on May 21, 2013 with Bonnie Antcliffe, Regional Director Ecosystem Management Branch, and staff. Many of the fisheries protection provisions have been explained and clarified.

The BC Wildlife Federation believes that the Serious Harm Provisions as currently defined in writing in the amended Fisheries Act are an impediment to effective fisheries protection. Where Serious Harm is defined as the death of fish or any permanent alteration to or destruction of fish habitat; we believe the word “permanent” in the legislation is a fundamental flaw in achieving the goal of fisheries protection.

We also believe that the written legislation definitions under “Serious Harm Provisions” are an impediment to effective fisheries protection and enforcement. The Fisheries Protection Program discussions have focused on project authorizations under the Fisheries Act where the conditions are enforceable. However, in instances where enforcement action is taken against habitat violations, we believe the legislation, not policy, will be paramount before the courts. This lack of clarity in the written legislation will limit enforcement to circumstances of “permanent harm” to the detriment of fish protection.

The proposed policy interpretations, not written in the new Act legislation, include:

1. The death of fish.
2. The permanent alteration to fish habitat as an alteration of such duration that limits or diminishes that ability of fish to carry out one or more of the life processes. And

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3. The destruction of fish habitat as an elimination of habitat such that fish can no longer rely on this habitat to carry out one or more of their life processes.

The fact is that some temporary alterations to fish habitat, depending on the location, timing and duration, can have profound impacts on fish and the productivity and sustainability of fisheries. An example would be construction or excavation which causes silt to run into spawning and incubations areas. The silt settles out in the gravel in which incubating eggs are found, and prevents oxygen from reaching the developing embryo, or cements the gravel together preventing emergence of young, just hatched fish. It has been argued in the past that silt is eventually washed out during periodic flooding, and is not "permanent harm". Similarly, driving vehicles over gravel beds containing incubating eggs or emerging young fish may be a temporary disturbance but profoundly impact a fish population.

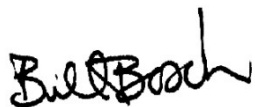
The policy statement 2 says "permanent" is interpreted to mean "of such duration that limits the ability to carry out one or more of its life processes". This is a policy statement, not written in the New Act Legislation, and therefore presents a conflict between the written legislation and proposed policy direction for authorizations and prosecutions under the Fisheries Act. It will also limit Fisheries and Oceans staff ability to negotiate conditions of approvals.

The policy statement is in fact a good clarification and needs to be placed in written form directly into the new Fisheries Act as an amendment. The BC Wildlife Federation recognizes that DFO has attempted to address this concern in policy but we believe the legislation requires an amendment to address this issue conclusively.

We would like to discuss this issue with you at the next Hunting and Fishing Advisory Committee. We will follow up and raise the potential for this amendment to the Fisheries Act with your Parliamentary Secretary, Randy Kamp, and members of the Conservative Caucus in British Columbia. This would address a great concern to our membership in British Columbia that is concerned with the suitability and health of our fish and fisheries.

Yours sincerely,

**BC WILDLIFE FEDERATION**



Bill Bosch, President

BB/cwm



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cc: Stephen Harper, Prime Minister  
Christy Clark, Premier of BC  
Randy Kamp, MP  
Mark Strahl, MP  
Mary Polack, BC Minister of Environment  
Matthew King, Deputy Minister, Fisheries and Oceans Canada  
Canadian Wildlife Federation  
BCWF Tidal Fisheries Committee