

Final Response

November 27, 2019

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 - FLR-115-2019

On October 29, 2019 the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

“Any and all messaging prepared for the fall sitting of the house of assembly. This includes key messages for the Minister and binders.”

Please be advised that a decision has been made by the Deputy Minister for FLR to provide full access to the requested information.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act* (a copy of this section of the *Act* has been enclosed for your reference).

Please be advised that this letter will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-637-2354 or by email at Lisaneville@gov.nl.ca .

Sincerely,


Lisa Neville
ATIPP Coordinator

Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25 , of the costs of reproduction, shipping and locating a record.

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

- (8) A complaint shall not be filed under this section with respect to
 - (a) a request that is disregarded under section 21 ;
 - (b) a decision respecting an extension of time under section 23 ;
 - (c) a variation of a procedure under section 24 ; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26 .
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42 , the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).

**QP Issue Note
Fisheries and Land Resources
October 2019**

ISSUE: Update on status of population and management of George River Caribou Herd

The 2018 census results for the George River Caribou Herd (GRCH) showed further dramatic decline. The estimated population size was 5,500 caribou – a 38 per cent decline since 2016 and a 99 per cent decline since 2001. Biologists from Newfoundland and Labrador and Quebec completed the census of the herd in July 2018.

A new classification will be conducted in the last week of October 2019 this will provide additional information on calf recruitment and the male component of the herd.

ANTICIPATED QUESTIONS:

What has the Provincial Government done to engage Indigenous groups in GRCH management?

Why didn't the Provincial Government act on the COSEWIC recommendation to list the GRCH as endangered?

Why hasn't enforcement been able to curtail unsanctioned hunting?

What is the Provincial Government doing to protect the GRCH's habitat?

KEY MESSAGES:

Minister Byrne and Fisheries and Land Resources officials continue to meet with Indigenous Government representatives to discuss the necessity of cooperation among Indigenous governments and organizations to reach an agreement that would help support recovery of the herd.

The Department of Fisheries and Land Resources continues to conduct intensive monitoring of the GRCH in support of science-based management and decision making, and recognizes that Indigenous cooperation is key to recovery of the herd.

Labrador is a vast and remote landscape and caribou can be spread over tens of thousands of square kilometers, making enforcement very difficult without community support.

In 2017 the Committee on the Status of Endangered Wildlife in Canada recommended listing the George River caribou herd as Endangered. The Provincial Government decided not to list but to initiate further discussions to develop a co-management approach between Indigenous governments and organizations and the Government of Newfoundland and Labrador.

SECONDARY MESSAGING:

Background:

Minister Byrne has met with Indigenous Government representatives (Innu Nation, Nunatsiavut Government and NunatuKavut Community Council) many times since 2018 to share information on the herd status and discuss a co-management agreement to help support the herd's recovery.

The federal government has completed consultations with Indigenous governments and organizations on the listing of Eastern Migratory (GRCH) and Torngat Mountains under the Species at Risk Act. The official listing decision from the federal government is not expected for at least a year.

Since the 2018 census, GRCH monitoring efforts have included an estimate of survival rates from collared animals, and a classification survey. Adult female natural survival rates have improved tremendously over the past ten years, yet male natural survival rates are thought to be well below healthy levels. The 2018 classification showed that although there are relatively few males in the population, 34 per cent of females were still with a calf in the Fall. Given the low population estimate based on the census, FLR officials continued to be concerned that any harvest on the population will continue to see the GRCH numbers decline even with the positive recruitment and female survival indicators.

Approved by: FLR Executive

**QP Issue Note
Fisheries and Land Resources
October 2019**

ISSUE: Lack of action on development of wood pellet plant in Hawke's Bay

In November 2018 the Provincial Government announced details of a proposed new biofuel plant to be constructed in Hawke's Bay by Timberlands International (Newfoundland and Labrador) Inc., a subsidiary of Active Energy Group (AEG). The Provincial Government issued two five-year commercial cutting permits totaling 500,000 cubic meters over five years to support operation of a wood pellet plant. All funding for the proposed plant will be provided by AEG's external investors.

Active Energy Group has informed Fisheries and Land Resources officials the company is concentrating on commissioning of their CoalSwitch facility in Lumberton, North Carolina in 2019. Plans for development at Hawke's Bay are contingent on shareholder approval and successful operation of the North Carolina plant. AEG officials advise this process is not expected to be complete until early 2020.

ANTICIPATED QUESTIONS:

Why is there no development activity by Timberlands International?

KEY MESSAGES:

Active Energy Group, the parent company of Timberlands International, has notified the Department of Fisheries and Land Resources that the company is in the process of updating harvesting and development schedules related to its commercial cutting permits on the Northern Peninsula.

Timberlands International has not violated any conditions of its five-year commercial cutting permit. However, conditions of the commercial cutting permit require the company to harvest 25 per cent of its five-year timber allocation by May 2021.

The Provincial Government has not provided the company with financial subsidies for construction of its proposed wood pellet plant at Hawke's Bay.

SECONDARY MESSAGING:

- The Provincial Government is committed to revitalizing the forest industry on the Northern Peninsula.
- The Provincial Government has been taking measures to diversify the forest industry in Newfoundland and Labrador and increase timber allocations and harvest levels by 20 per cent by 2020.

Background:

No timber harvesting or plant construction activity has taken place to date. Officials with the Department of Fisheries and Land Resources have been in contact with Active Energy Group, the parent company of Timberlands International, and were informed the company is presently in the process of adjusting harvesting schedules associated with the five-year commercial cutting permits. There have been no violations of conditions associated with the permits. However, the permits do require the company to harvest 25% of its five-year timber allocation of 500,000 cubic meters by May 2021.

Approved by: FLR Executive

**QP Issue Note
Fisheries and Land Resources
October, 2019**

ISSUE: Crown Lands Continuous Improvement - Update

Crown Lands improvements now include a new feature that allows applications to be completed and submitted through email to ensure faster, more efficient processing.

Improvements include, a new Crown Lands application, a fillable, PDF format. Assistance via 1-800 telephone line and dedicated email, in-group information services and one-on-one assistance, by appointment. A new online payment option allows for greater security and protection of personal and financial information, and provides enhanced self-service options in the application process.

ANTICIPATED QUESTIONS:

How will Crown Land Services improve?

KEY MESSAGES:

We are making access to this province's greatest publicly owned natural resource – our land – available for all manner of activity – farming, forestry, building, creating, innovating, exploring, appreciating and enjoying.

In addition to the traditional paper application process, applicants can now access a Crown Lands application, in fillable, PDF format, and submit the document by email.

The online payment option allows for greater security and protection of personal and financial information. It provides enhanced self-service options in the application process.

A chronic application backlog that began and flourished under the previous administration has been virtually eliminated.

Background:

- The application processes for Crown land now feature:
 - 1-800 line upgraded to an Automatic Call Distribution System to support increased telephone calls;
 - step-by-step guidance to complete an application online with assistance available through the Inquiries Line, dedicated email, group information

sessions, or one-on-one assistance, by in-person office appointment, skype or telephone.

- On average, the Crown Lands Division receives 3,600 applications per year. These improvements reduce counter service wait time, streamline application processing, provide optimal and stable staffing and standardized service.
- Residents have access to the new Crown Lands application and guidelines and online payment services as of July 29, 2019.
- The Crown Lands Inquiries Line (1-833-891-3249).and email address crownlandsinfo@gov.nl.ca are the first points of contact for applicants. The telephone line has been upgraded to an Automatic Call Distribution System to support increased telephone traffic.
- Using the new, streamlined application form residents can apply for a Lease, Grant, Easement, Licence to Occupy, Transfer of Administration and Control, and Section 36 Grant.
- Residents cannot use the new application to apply for Title Renewal or Notice of Consent of Assignment to lease/licence.
- Applicants are encouraged to use the new online payment feature to pay for Crown Lands applications which allows for greater security and protection of personal and financial information, and provides enhanced self-service options in the application process.
- Payment by cheque, money order or credit card can be arranged by calling the Central Cashier's Office at 709-729-3042 or by visiting the Central Cashier's Office. The Crown Lands Division does not accept cash or cheque payments for applications at the front counter.

**QP Issue Note
Fisheries and Land Resources
October 22, 2019**

ISSUE: Employment impact of Atlantic salmon mortalities

Northern Harvest Sea Farms reported on October 11, 2019 that in total, 2.6 million salmon over 10 sites were being removed as mortalities due to the high temperature event that occurred in late summer and early fall 2019. On October 21, the company advised Barry Seafoods because of this event and loss of fish that its processing requirements for the Harbour Breton plant would be three more weeks of work, with no further processing required at the facility until September 2020.

ANTICIPATED QUESTIONS:

How will this event affect future production and employment?

What will the Provincial Government do to help plant workers affected by this event?

KEY MESSAGES:

People on the south coast are understandably worried, and the Provincial Government will continue to work with them, their union, and the federal government to find solutions to assist during this difficult time.

If this coming season results in hardship for those working in the fish processing sector, the Provincial Government has employment programs and supports in place to assist.

The aquaculture industry is vital to the livelihoods of people on the south coast, and will remain so as we continue to work with the union and industry to improve regulations and build a sustainable, safe aquaculture sector for years to come.

SECONDARY MESSAGING:

- Newfoundland and Labrador's aquaculture industry adheres to sustainable best practices and biosecurity.
- Aquaculture policies and procedures regarding public reporting have been amended to improve standards and public trust.
- Our province provides top-quality seafood raised in accordance with the highest global industry standards.
- Safety and protection of salmon is our highest priority.

BACKGROUND

APPROVED BY:
Stephanie Synard
Rosalind Walsh

**QP Issue Note
Fisheries and Land Resources
October 24, 2019**

ISSUE: Response to Atlantic salmon mass mortality event

Northern Harvest Sea Farms reported on October 11, 2019 that in total, 2.6 million salmon over 10 sites were being removed as mortalities due to the high temperature event that occurred in late summer and early fall 2019.

ANTICIPATED QUESTIONS:

Why didn't the Provincial Government disclose this event as soon as it occurred?

What is the Provincial Government going to do to restore public trust in the aquaculture industry?

KEY MESSAGES:

All public disclosure in the department is guided by the ATTIP Act. In this instance, ATIPP 31(1)a prevents the disclosure of information which could interfere with or harm a law enforcement matter – including a potential one.

The department's Active Aquatic Animal Health Division was actively investigating the cause at the time to determine if there was non-compliance with the Aquaculture Act. As well, the Aquaculture Act provides no explicit authority for the Minister to release this information.

When the salmon mortalities were first reported, the department pressed Northern Harvest to disclose the event publicly. The company refused. This won't happen again. The policies have been changed to compel companies to disclose whenever a major mortality occurs.

The department has arranged for an independent, third-party review by Memorial University's Marine Institute, which is autonomous and operates at arms-length from government, a status enshrined and guaranteed under the Memorial University Act.

SECONDARY MESSAGING:

- Under legislation, we have committed to making the aquaculture industry safer by implementing new policies and procedures, including strict regulations to compel companies to disclose events in a timely manner.
- The Minister has amended policies to require companies to publicly report on escapes, mortality events, and incidents considered to be in the public interest,

including any quarantine or depopulation orders or directives given to a company. Federally Reportable Disease detections reported to the CFIA will have to be publicly reported by the company once the amended Public Reporting policy is approved.

- Our collective goal is to strengthen policies and practices, ensure public transparency is ever-present, and arm the industry and the federal and provincial governments that oversee it – and the women and men who make their living at it – with the necessary knowledge to prevent a similar incident from occurring.
- Newfoundland and Labrador’s aquaculture industry adheres to sustainable best practices and biosecurity.
- Aquaculture policies and procedures regarding public reporting have been amended to improve standards and public trust.
- Our province provides top-quality seafood raised in accordance with the highest global industry standards.
- Safety and protection of salmon is our highest priority.

BACKGROUND

The Active Aquatic Animal Health Division’s Chief Aquaculture Veterinarian determined the mortalities on the original reported sites were consistent with environmental causes. Elevated water temperatures decrease dissolved oxygen available to the fish and crowding of the fish occurs to the bottom of the nets. The investigation is continuing into the mass mortality event including the new reported sites. The report will not be finalized until investigation of all affected sites is complete. The final report will entail description of the mortality event and any known contributing factors to the fish mortalities.

APPROVED BY:

FLR Executive