January 8, 2020

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 - FLR-147-2019

On December 6, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

“DOC/2019/05310 Information Note - Proactive Disclosure of Aquaculture Events 10/30/19
DOC/2019/04995 Meeting Note - Premiers meeting with Kruger - October 10, 2019 10/8/19”

Please be advised that a decision has been made by the Deputy Minister for FLR to provide access to the requested information. Redactions have been made under Section 27 - Cabinet confidences, Section 29 - Policy advice or recommendations, Section 35 - Disclosure harmful to the financial or economic interests of a public body and Section 39 – Third Party Harm and Section 40 – Personal Privacy of the Access to Information Protection of Privacy Act, 2015. You will find a copy of responsive material attached.

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. 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).
Information Note
Department of Fisheries and Land Resources

Title: Proactive Disclosure of Aquaculture Events

Issue: An examination of past proactive disclosure on aquaculture events (ISAv and other significant events) prior to the launch of The Way Forward in September, 2017 which announced a full review of aquaculture policies and procedures. This information note was requested by the Minister of Fisheries and Land Resources.

Background and Current Status:
- ISAv is a mandatory Reportable Disease to the Canadian Food Inspection Agency (CFIA) but is not a human health concern by contact or consumption. When a federally Reportable Disease, ISAv, is detected by any person, company or laboratory it must be reported to the CFIA under the Health of Animals Act.
- Prior to June, 2012 Newfoundland and Labrador had tested negative for Infectious Salmon Anaemia (ISAv). The Department of Fisheries and Land Resources (FLR) (former Department of Fisheries and Aquaculture) regularly tested salmon at aquaculture facilities for disease.
- FLR has a comprehensive pathogen specific active surveillance program. As noted in the attached table, between June 19, 2012 and January 29, 2014 there were six aquaculture marine cage sites that tested positive for pathogenic ISAv. Depopulation occurs when pathogenic ISAv is confirmed. Companies may remove animals based on a suspect finding, as a proactive measure. All six marine cage sites were depopulated through rendering, in Burgeo, utilizing the Barry Group Inc. seiners. Approximately 3 million salmon were rendered during this period.
- Communication of ISAv events has proven to be challenging, due to notification on the CFIA website. The CFIA will report a single detection on the website, without considering clinical signs or confirmatory testing. The CFIA report on their website 6 – 8 weeks after the initial detection and they do not provide details such as site or company. The website also includes non-pathogenic detections that are not known to cause clinical disease and do not require regulatory action. This creates situations where the media and the public confuse old or non-pathogenic events with perceived new pathogenic ISAv events.
- There was no proactive reporting of the ISAv events by the department between 2012 and 2014 (see attached table). There was a superchill event in 2014 – which would not have been reported to the CFIA because there was no reportable disease. This event was not proactively publicly reported by the department at that time.
- Newfoundland and Labrador was negative for pathogenic ISAv from January 2014 until October 2017.
- In September 2017, the Government of Newfoundland and Labrador committed to review all policies and procedures related to aquaculture.

Analysis:
- In accordance with The Way Forward commitment, policies and procedures were drafted, including a specific reference to mandatory reporting of reportable disease
events, and shared with industry and Indigenous stakeholders in August 2019. The final policy and procedures were released during the Newfoundland and Labrador Aquaculture Industry Association’s annual conference in September 2019.

- On September 3 2019, FLR was advised by Northern Harvest Sea Farms of a mass mortality event at six Northern Harvest Sea Farms sites due to environmental circumstances.
- Policies and procedures released on September 24, 2019 included public reporting requirements for reportable disease events, but did not include public reporting requirements for mass mortalities.
- To ensure public reporting of mass mortality events or any other potential aquaculture incident event, the public reporting policy was amended to reflect mandatory public reporting for any incident event that may cause or, under slightly different circumstances, would cause abnormal mortality, harm or imminent threat to farmed fish, marine installation, or structure or vessel on a licensed finfish aquaculture site. This policy was implemented on October 10, 2019.
- During summer of 2018, while the policy and procedures review was ongoing, the Minister of FLR communicated an expectation that all companies disclose to the public a reportable disease. This was further articulated in a letter to Marine Harvest Atlantic Canada, in August 2018 by the Assistant Deputy Minister, Fisheries and Aquaculture.
- Compliance with this direction was evidenced in July and October 2018 and ISAv reportable disease was publicly disclosed by the companies on the Newfoundland Aquaculture Industry Association’s website and again in December 2018 through a proactive media release.

Action Being Taken:

- Proactive disclosure by companies is now required for all incident events including reportable disease detection and mass mortality.

Prepared/Approved by: Dr. D. Whelan/R. Walsh/L. Companion

Ministerial Approval: 

October 30, 2019

[Signature] thank you for this information
Prior to June 19, 2012 – Newfoundland and Labrador was negative for Infectious Salmon Anaemia virus (ISAv).

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Company and Site</th>
<th>Number of Species Affected</th>
<th>Date Event Reported to Department</th>
<th>Date of CFIA Confirmation</th>
<th>Date FLR Proactively Disclosed to the Public</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 19, 2012</td>
<td>ISAv</td>
<td>Gray Aqua Group Butter Cove site</td>
<td>Approximately 450,000 fish</td>
<td>Detection reported to FLR on June 19, 2012</td>
<td>CFIA confirmed July 6 2012</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>November 26, 2012</td>
<td>ISAv</td>
<td>Cold Ocean Salmon Pot Harbour site</td>
<td>Approximately 360,000 fish</td>
<td>Detection reported to FLR on November 26, 2012</td>
<td>CFIA confirmed December 17, 2012</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>May 17, 2013</td>
<td>ISAv</td>
<td>Gray Aqua Group Goblin Bay site</td>
<td>Approximately 850,000 fish</td>
<td>Detection reported to FLR on May 17, 2013</td>
<td>CFIA confirmed June 5, 2013</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>June 26, 2013</td>
<td>ISAv</td>
<td>Gray Aqua Group Pass My Can site</td>
<td>Approximately 656,000 fish</td>
<td>Detection reported to FLR on June 26, 2013</td>
<td>CFIA confirmed July 4, 2013</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>June 26, 2013</td>
<td>ISAv</td>
<td>Cold Ocean Salmon Manuel Arm site</td>
<td>Approximately 406,000 fish</td>
<td>Detection reported to FLR on June 26, 2013</td>
<td>CFIA confirmed July 4, 2013</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>October 23, 2013</td>
<td>ISAv</td>
<td>Cold Ocean Salmon Sugarloaf site</td>
<td>Approximately 461,000 fish</td>
<td>Detection reported to FLR on October 23, 2013</td>
<td>CFIA confirmed November 7, 2013</td>
<td>No public disclosure</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Company and Site</td>
<td>Number of Species Affected</td>
<td>Date Event Reported to Department</td>
<td>Date of CFIA Confirmation</td>
<td>Date FLR Proactively Disclosed to the Public</td>
</tr>
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<td>----------------------------------------------</td>
</tr>
<tr>
<td>May 6, 2014</td>
<td>Superchill</td>
<td>Northern Harvest Sea Farms; Gray Aqua Group and Cold Ocean Salmon Fortune Bay and Harbour Breton Bay</td>
<td>• 2,000 MT fish&lt;br&gt;• Depopulation by rendering&lt;br&gt;• 1,039,141 total reported fish mortalities</td>
<td></td>
<td>N/A</td>
<td>No public disclosure</td>
</tr>
</tbody>
</table>
Meeting Note
Department of Fisheries and Land Resources
Kruger Inc.
October 10, 2019, 3:00pm
Premier’s Boardroom, 8th Floor, East Block

Attendees:
Honourable Dwight Ball, Premier of Newfoundland and Labrador
Honourable Gerry Byrne, Minister of Fisheries and Land Resources
Mr. Peter Miles, Senior Economic Policy Advisor, Premier’s Office
Ms. Lori Anne Companion, Deputy Minister, Fisheries and Land Resources
Mr. Francois D’Amours, Senior Vice President Publication Papers
Mr. Jean Majeau, Vice President Communications and Government Relations

Purpose of Meeting:
- Kruger has requested a meeting to discuss the recent downturn in the newsprint industry
- Kruger officials may also wish to discuss ongoing initiatives with the Government of Newfoundland and Labrador including their upcoming meeting with Minister Bragg regarding water rights.

Background:
- Corner Brook Pulp and Paper Limited (CBPPL) newsprint shipments in 2018 totaled 234,000 tonnes. It is expected that the shipments in 2019 should be similar, but market prices are decreasing.
- Analysts are indicating that though the industry-wide average pulp and paper market prices are consistent with last year (approximately $700USD/tonne), actual transaction prices in some key markets are down as low as $400 USD/tonne and that in these cases, it is better to take downtime than to lock in money-losing prices. At the end of August, CBPPL had approximately ...
- Industry indicates that the only way for this downturn to correct itself (for newsprint production) is to take more production out of the North American marketplace to bring the supply/demand balance more in line. CBPPL continues to look at India as a growing market and in 2018 shipped... of their production to India. Recently, the Indian Government has imposed a 10% duty on all paper products entering the country.
- CBPPL is maintaining a competitive cost position among other producers in North America. Recent cost benchmarking data received from Resource Information Systems Inc (RISI) by the Dept. of Fisheries and Land Resources has the Corner Brook mill positioned third for cash cost out of 19 mills still in operation. These cash costs represent the cost to produce a tonne of newsprint and do not include administration and marketing costs or transportation costs to get the product to the market.
- CBPPL have been reimbursed for all duties previously paid to the US Department of Commerce ($10.6M) and in 2018 their...
- In recent months, there has been downtime and reductions taken across the newsprint industry (there are upwards of 6 paper mills currently engaged in various forms of downtime). Operating rates in the US fell to 72% of capacity in August and Canadian mills ran at 83% of capacity. The downtime (the reduction in supply) has not yet fixed the problem as inventories continue to rise is now 65% higher than what it was this time last year.
Agenda item #1 – Downturn in the pulp and paper industry and potential energy solution (in consultation with NR)

- In 2018, under a power purchase agreement with CBPPL, NL Hydro (NLH) purchased 66 gigawatt hours of energy from the biomass cogen plant at total cost of $12.5 million, which equals approximately 19 cents/kilowatt hour based on the price of fuel in CBPPL’s fuel tanks. These costs are included in the electricity rates NLH charges to its customers. Government of Newfoundland and Labrador Regulation 96/00 exempts these CBPPL biomass purchases from application of the Electrical Power Control Act, 1994 and the Public Utilities Act and thus exempts the purchases from PUB regulatory oversight.

- CBPPL also has a Capacity Assistance Agreement with NLH that provides NLH with generating capacity during system demand peaks or times when NLH’s capacity is limited. In 2018, Hydro made payments under this agreement of $2.5M for up to 90MW of capacity assistance, as well as the corresponding energy supplied.

- Currently, NLH has an agreement with CBPPL to provide up to 4 MW of power on demand.

- NLH also has a pilot agreement with CBPPL whereby CBPPL can generate more power than it requires in exchange for a generation credit which allows it to pay for interruptible energy based on NLH’s cost of thermal generation to provide non-firm energy. In addition, NLH can call on CBPPL to maximize its generation to provide additional capacity to the grid if required.

Analysis

- CBPPL indicates that Deer Lake Power’s hydroelectric generating station provides 129.6 megawatts - however, Newfoundland and Labrador Hydro (NLH) regulatory filings indicate only 81 MW of capacity is provided the power grid.

- The 2014 Loan Agreement provides that CBPPL has in the past and will in the future be entitled to periodically sell electricity generated by the power assets and water rights to the grid where it is not required for the operation of the Corner Brook mill.

Sec 29 (1)(a), Sec 35 (1)(d)

Sec 29 (1)(a), Sec 35 (1)(d)

Sec 35 (1)(d), Sec 29 (1)(a)

Sec 29 (1)(a)
Sec 29 (1)(a), Sec 35 (1)(d)

Actions Being Taken

Agenda item#2: Ongoing initiatives (potential discussion):

- Corner Brook Pulp and Paper Limited Water Rights (MAE):
  - CBPPL has water rights to Deer Lake and Corner Brook Stream through the Bowater’s Newfoundland Act and the Christopher Fisher Lease respectively.
  - On December 31, 1938, the Bowater’s Newfoundland Act granted rights for Humber River and Gander River at Big Chute for the Mill’s Operation and Water Power. These rights are due to expire on December 30th, 2037.
  - In 1913, the Christopher Fisher Lease for Corner Brook Stream was granted to Christopher Fisher. Subsequently, the lease was assigned to International Power and Paper Company of Newfoundland Limited in 1923 and then to CBPPL in 1928. The Fisher Lease is due to expire on July 13, 2022.
  - On March 29, 2019, MAE officials wrote to CBPPL to confirm the water rights expiration dates, as requested by the company. The letter confirmed that once these leases expire, CBPPL will be required to obtain water use licenses under the authority of the Water Resources Act.
  - The application fee for a water use license varies from $8,000 to $40,000 for water power generation. An approved license is valid for five years and guarantees the holder to water rights for the period of the license. The licenses are subject to the provisions of the Water Power Rental Regulations, including an annual rental fee per megawatt hour of power generated.

- Centre for Research and Innovation in Corner Brook (prepared in consultation with TCII):
  - Memorial University Grenfell Campus (MUN), the College of the North Atlantic (CNA), and CBPPL are working collaboratively toward the establishment of a Centre for Research and Innovation in Corner Brook.
  - Funding support has been requested from TCII and Atlantic Canada Opportunities Agency (ACOA) for the redevelopment of the CBPPL Human Resources building to house the Centre and research and development (R&D) activities related to the use of waste byproducts of the mill and new product development. Funding has also been requested from AESL for the development of training opportunities for CBBPL employees at CNA and MUN Grenfell Campus.
  - It is proposed that the Centre will support local and regional economic growth through innovation, research, and training and will serve as the hub of a regional innovation system.
TCII’S Regional Innovation System pilot for Corner Brook is also focused on forestry and agriculture to stimulate innovation, and collaboration of private sector, academia and government. CBPPL has a representative participating on the committee for this pilot.

Transportation:
- Representatives from Kruger have raised concerns regarding differences in weight readings from Government of NL’s fixed and portable weigh scales and the scales located at Corner Brook Pulp and Paper and may raise this issue.
- Officials from Motor Registration Division of Service NL note that fixed scales in Pynnbrook are calibrated twice per year to ensure accuracy. Further, portable weigh scales are calibrated annually, inspected daily and cross referenced with the fixed scales monthly to ensure accuracy. There is no indication that any scales are reading incorrectly.
- A Government of Nova Scotia official contacted Service NL on September 12, 2019 to advise that they had discovered loads of paper rolls that were being transported incorrectly, originating from Corner Brook Pulp and Paper. On September 13 representatives from Service NL participated in a conference call with Nova Scotia, trucking carriers and Kruger to discuss proper securement methods.
- Service NL offered to have an officer visit the site for an educational session to ensure correct cargo securement procedures were being met. A transport carrier on September 18, 2019 advised Service NL that they received more citations in Nova Scotia for cargo securement. Service NL again offered to send an officer for an educational session, but offer was declined.

Forestry Master Agreement with CBPPL:
- In 2017 GNL and CBPPL signed a master agreement which waived CBPPL from paying annual Land Management Tax ($1,740,845), annual contributions towards forest inventory ($340,000), annual forest insect and disease monitoring ($365,000) and annual silviculture ($1.5 million). The agreement will expire in spring of 2021 and is valued at $15.78M. CBPPL has a taxable landbase of 1.31M hectares.

Corner Brook Port Corporation (CBPC) (prepared in consultation with TCII):
- $11 million project will be delivered in partnership with CBPPL, Logistec, the Government of Canada and GNL to build a warehouse (60,000 sq ft) and install a new crane to load and unload container ships; allowing faster delivery of goods directly to international markets; reducing reduce greenhouse gas emissions; and enhancing and optimizing the usage of the port. TCII is contributing $850,000 and CBPPL will contribute $625,000. Remaining is funded by the federal government, CBPC and Logistic Stevedores.
Some of the largest components of CBPPL overall costs are the transportation and logistics of shipping their product to the marketplace. Paper shipped to markets in India are shipped by breakbulk and cross-docked into containers in Amsterdam, and other paper is trucked to Halifax and cross-docked into international containers. This project will enable the use of international container services; ensure a more efficient, cost effective direct trade route; increase the value and volume of goods to overseas markets; generate opportunities for seafood producers as well as other forestry related products; and ensure a regular shipping service for future industrial business opportunities.

Loan Agreement (prepared in consultation with FIN):

- CBPPL loan agreement is in good standing – interest payments and principal repayments (which commenced in March, 2019) are up to date. Only $101.8M of the $110M loan has been advanced to CBPPL to date. The outstanding balance as of Sept. 30 is $96.3M. During 2019, CBPPL is replacing penstock #9 at Deer Lake Power but because of an improved cash flow position (due to higher newsprint pricing), no disbursements from the loan were made in 2018-19 or is anticipated in 2019-20. The loan is to be repaid by December 31, 2033. A condition of the loan was to ensure that the employee pension plan was solvent, and in 2017 Government took security in the company’s power assets at Deer Lake and Watson’s Brook – this met the requirements of the loan agreement.
- The Loan Agreement requires operation of both machines and that CBPPL advise Government by December 15 each year of any planned downtime.

Improved transportation:

- CBPPL is in the process of major infrastructure improvements at their mill operations. These include the installation of two weigh scales and transition to mass scaling (near completion), improvement in pulpchip screening and handling systems (in progress) as well as the proposed installation of a large biomass dryer (summer of 2020).
- CBPPL is reconfiguring their woodyard to improve handling efficiencies and engaged in discussions with sawmilling sector to expand sawlog sales in return for pulpchips.

Sec 29 (1)(a), Sec 35 (1)(d)

Prepared/Approved by:  
G. Murphy/E. Young/B. Oke/L. Companion (FLR)  
C. Snook/Ted Lomond (NR),  
G. Boland/D. Hannahan (FIN),  
R. Williams/C. Bown (TCII),

Ministerial Approval:  
Hon. Gerry Byrne

October 10, 2019