May 13, 2013

Dear [REDACTED]

Re: Your request for information under Part II of the Access to Information and Protection of Privacy Act [Our File #: FA/5/2013]

On March 12, 2013, the Department of Fisheries and Aquaculture received your request for access to the following records:

I am requesting, under the Access to Information Act, any and all reports or information on the number of “morts” or mortality rates of farmed salmon for the years 2011 and 2012 – and what were the determined cause of these dead fish (outside the ISA infected fish population).

Please be advised that access to these records has been refused in accordance with Section 27 of the Access to Information and Protection of Privacy Act (the “Act”), particularly the following subsections: Section 27(1)(b), 27(1)(c)(i), 27(1)(c)(ii), and 27(1)(c)(iii). See attached references.

The department has identified aquatic animal health information as highly confidential and has implemented policies and security protocols in order to protect this information. As stated under Section 9(4) of the Aquaculture Act, information prescribed as confidential shall not be available to the public.

Additionally, under Section 2.8 of the Veterinary Clinic Standards for Newfoundland and Labrador, a medical record is considered to be a confidential record that is accessible only to the owner of the animal (or representative) and the attending veterinary clinic. The requested information has been treated as confidential under this provision and shall not be disclosed.
Section 43 of the Act provides that you may ask the Information and Privacy Commissioner to review this refusal of access or you may appeal the refusal to the Supreme Court Trial Division. A request to the Commissioner shall be made in writing within 60 days of the date of this letter or within a longer period that may be allowed by the Information and Privacy Commissioner.

The address and contact information for the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
34 Pippy Place
P. O. Box 13004, Stn. A
St. John’s, NL A1B 3V8
Telephone: (709) 729-6309
Facsimile: (709) 729-6500

In the event that you choose to appeal to the Supreme Court, you must do so within 30 days of the date of this letter. Section 60 of the Act sets out the process to be followed when filing such an appeal.

Please be advised that responsive records will be published following a 72-hour period after the response is sent electronically to you or five 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 feel free to contact Kim Anstey-Stockwood, ATIP Coordinator, at (709) 729-3712.

Sincerely,

David Lewis
Deputy Minister (A)

Attachment
**ATIPPA Exceptions**

**Disclosure harmful to business interests of a third party**

27. (1) The head of a public body shall refuse to disclose to an applicant information that would reveal

(a) trade secrets of a third party;

(b) commercial, financial, labour relations, scientific or technical information of a third party, that is supplied, implicitly or explicitly, in confidence and is treated consistently as confidential information by the third party; or

(c) commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to

(i) harm the competitive position of a third party or interfere with the negotiating position of the third party,

(ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

(iii) result in significant financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

(2) The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return, gathered for the purpose of determining tax liability or collecting a tax, or royalty information submitted on royalty returns, except where that information is non-identifying aggregate royalty information.

(3) Subsections (1) and (2) do not apply where

(a) the third party consents to the disclosure; or

(b) the information is in a record that is in the custody or control of the Provincial Archives of Newfoundland and Labrador or the archives of a public body and that has been in existence for 50 years or more.

**Aquaculture Act**

**Registrar**

9. (1) The minister may designate a person in the department to be Registrar of Aquaculture.

(2) The registrar shall keep copies and records of aquaculture licences, leases of land granted for aquaculture purposes under the *Lands Act*, environmental preview reports and environmental impact statements prepared under the Part X of the *Environmental Protection Act* and other documents that the minister may direct or that may be prescribed.

(3) The records kept by the registrar under subsection (2) shall be open for inspection by members of the public during office hours upon payment of a prescribed fee.

(4) Notwithstanding subsection (3), information prescribed as confidential shall not be available to the public.
(5) The registrar may carry out a function or perform a duty delegated to him or her under an Act or regulation of Canada.

2.1 RECORDS
1. There must be a clearly legible, individual medical record maintained for every individual patient administered to by the clinic with the following qualifications;
   a) for the examination of a litter of companion animals under 16 weeks of age, the litter is considered to be the patient;
   b) for the examination of a group (e.g. herd, flock or pen) of farm animals, where the group is suffering, or potentially suffering, from the same condition and will subsequently be treated as a group, the group is considered to be the patient.
2. A medical record shall contain all clinical information pertaining to the patient, whether hospitalized or not, together with sufficient information to indicate the patient’s assessment, planned treatment and results, including;
   a) patient identification, including species, breed or signalment, age, weight and sex,
   b) name, address and telephone number of the client,
   c) present illness and history, while a patient of current clinic,
   d) current vaccination status if known,
   e) laboratory reports, which shall include clinical pathology, radiography, histopathology, necropsy, surgery, cardiology, etc., as applicable,
   f) record of all medical treatments, surgical procedures with anesthetic protocols and adverse reactions if any, including drugs prescribed and dispensed strength or dosage and quantity,
   g) hospitalization records as appropriate,
   h) identification of the attending veterinarian for each entry either by name, initials or code, and
   i) relevant signed consent forms.
3. All patient medical records shall be maintained for at least five (5) years from the date of last entry, except those of deceased patients which need only be kept for a minimum of three (3) years or other length of time as determined by the Limitations Act (Newfoundland and Labrador).
1 The impact of privacy laws on this section must be examined.
2 A sample log record is appended as Appendix A
4. All medical records shall be readily retrievable, and shall be open to a clinic inspector appointed pursuant to The Act.
5. The clinic inspector may make copies or prepare abstracts from the records only in cases of alleged violation of standards.
6. When records are retained on an electronic medium, the recorded information shall be capable of being printed promptly.
7. Any changes in recorded information shall be clearly indicated as changes.
8. Unless required for the purposes of a clinic inspection, or other legitimate action of the College, a medical record is considered to be a confidential record that is accessible only to the owner of the animal (or representative) and the attending veterinary clinic.