



Acadia First Nation

November 18, 2021

Dear Members of the Acadia First Nation,

This letter is an update to my letter to Band members of April 13, 2021 concerning our Treaty fishery.

The *Marshall* Decision

As you all know, in 1999, the Supreme Court of Canada rendered a decision in the case of Donald Marshall, Jr. that upheld Mi'kmaw Treaty rights to fish for a moderate livelihood as a result of the Treaties entered into between the Mi'kmaq and the Crown between 1725 and 1761, specifically the Treaties of 1760-61.

Treaty Rights Implementation

Acadia First Nation has a longstanding tradition of approaching access to our lands, waters and resources through community-based dialogue and planning. This approach has allowed us, as a community, to stay true to our Mi'kmaw beliefs and promote the well-being of our community members without ever compromising those ideals.

In the years since the *Marshall* decision, we have been striving with the Department of Fisheries and Oceans (DFO) to get them to recognize our rights-based moderate livelihood Treaty fishery. They have refused to do so.

We have also been looking to our traditional Mi'kmaw laws and customs as the basis for accessing the livelihood fishery. Imbedded in those ancient laws and customs is the stewardship responsibility that local communities and Districts have to the lands, waters and resources in their area on behalf of the Mi'kmaw Nation.

The Kespukwitk District Approach

In April, we announced that Acadia First Nation and Bear River First Nation had agreed to work together in the stewardship of the Kespukwitk District through a collaborative collective approach, to govern according to Mi'kmaw custom and law, and to demonstrate respect for all Mi'kmaw.

At that time, we posted to our website a draft District Protocol applicable to Acadia and Bear River. That Protocol was to be updated when other Kespukwitk First Nations joined in it.

Annapolis Valley First Nation and Glooscap First Nation have now joined in the Kespukwitk District Protocol. An updated version of that Protocol can now be found on our website. This is an important confirmation of our self-governing ability to collaborate as a District of our Nation.

The Kespukwitk District approach is not an attempt to create an exclusivity zone or to deny other Mi'kwaw the right to harvest within the District. If members of First Nations outside of Kespukwitk wish to moderate livelihood harvest in our District in a manner outside of our Netukulimk livelihood fishery plans, their Chief and Council would consult with us to develop protocols, policies or processes to reflect any changes.

Similarly, if members of the Kespukwitk First Nations wish to seek moderate livelihood fishing opportunities in districts outside Kespukwitk, you would abide by the livelihood fishery plans applicable to that District or as we might arrange with the First Nations of that District.

Member Engagement

The Protocol calls for the adoption of species specific harvest plans. In developing the Moderate Livelihood Fisheries (MLF) lobster plan, Acadia engaged in a process of engagement with our fishers, as well as a recent survey of the membership.

To summarize the survey results:

Question 1: Do you think the Mi'kmaq should be able to have lobster fishing seasons that are different than the DFO lobster seasons?

Yes – 93. No – 19. **83% in favor of distinct Mi'kwaw seasons.**

Question 2: Are you interested in going MLF fishing?

Yes – 76. No – 36. **67% interested in going MLF fishing.**

Question 3: Do you think Acadia should participate in the MLF Lobster Test Study?

Yes – 89. No – 22. **80% in favor of participation in a DFO Test Study.**

The Jakej (Lobster) Netukulimk Livelihood Fisheries Plan

In accordance with the District Protocol, the Mi'kmaw communities of Acadia, Bear River and Annapolis Valley have adopted a Jakej (Lobster) Netukulimk Livelihood Fisheries Plan. You will find it on our website.

Our Jakej (Lobster) Netukulimk Livelihood Fisheries Plan:

- sets our own Mi'kmaw fishing season from September 1 through July 31st (closed in August).
- Harvest is limited to 70 traps per Band member, maximum of 210 per vessel.
- Traps must have our Band-issued tags.
- Conservation requirements are established in accordance with our "two-eyed seeing" approach.
- Reporting is required.
- Protections are in place for species at risk.

The above are just examples. I encourage you to read the Plan on our website. It is a very strong Plan, developed using Mi'kmaw principles. We can all be very proud of it.

For clarity, any Livelihood Jakej (lobster) fishing that occurs outside of dates corresponding to current DFO Commercial Lobster Season(s) may be subject to DFO C&P enforcement action (charges or confiscation of catch, traps or other assets, such as vehicles, trailers or boats. We know this is an issue and it will be an ongoing discussion with DFO.

The DFO Experimental Lobster Fishery

In October, Annapolis Valley First Nation and Bear River First Nation announced that they would participate in a limited DFO experimental fishery for the 2021-2022 seasons in LFA's 33, 34 and 35.

Under this experiment, DFO issued an authorization that prevents DFO enforcement on this limited test fishery, and allows registered fish buyers to buy the lobster so that Mi'kmaq fishers can begin to experience what a livelihood Treaty fishery might look like in the future.

As a result of the 80% support indicated by our Band members in the survey, Acadia has decided to participate with Annapolis Valley and Bear River under this DFO experiment for the 2021-2 LFA 33 and 34 seasons. This allows a limited number of traps to be fished, with no more than 70 traps to any one harvester, and no more than three harvesters on a single vessel. Anyone wishing to participate must apply through our Kespuwick Fisheries Office, attention Curtis Falls.

No DFO licence has been issued or accepted for this experimental fishery. Acadia is not signing any agreements with DFO. All Mi'kmaw Treaty rights have been protected.

We hope that participating in this experiment will allow Band members who are experienced fishers to earn a moderate livelihood. We hope it will also encourage Band members who are not currently fishing to be able to enter into this fishery, including through the use of Kespukwitk mentors.

Summary

Our Netukulimk fishing continues to be rights-based. However, DFO may charge harvesters who are not within the DFO experimental fishery.

Through participating in the DFO experiment, we expect to gather useful data about lobster MLF harvest, and will use that data to work for proper Treaty rights recognition and implementation.

For clarity, all of the moderate livelihood fishing is in addition to the harvest authorized under Acadia First Nation's Food, Social and Ceremonial harvest plan, which has been in existence for some years now.

If you have any questions or suggestions in relation to our moderate livelihood plans or processes, please contact Curtis Falls at (902) 742-7214.

Sincerely,



Chief Deborah Robinson