



Fraser Salmon Management Council

PO Box 188 Merritt BC V1K 1B8

Tel: 250-378-4235 Fax: 250-378-9119

www.frasersalmon.ca

June 11, 2020

Rebecca Reid, Regional Director General

Department of Fisheries, Oceans and the
Canadian Coast Guard - Pacific Region
Suite 200, 401 Burrard Street
Vancouver, British Columbia
V6C 3S4

<SENT VIA EMAIL>

Dear Ms. Reid:

Re: DFO EXECUTIVE APPOINTMENT AND FUNDING

I write on two specific matters related to the Fraser Salmon Collaborative Management Agreement (the "**Agreement**"). The first is to provide clarity on the FSMC's reading of the Agreement as it relates to Department of Fisheries, Oceans and the Canadian Coast Guard's ("**DFO**") appointment to the Executive and the second is DFO's long-term funding obligations under the Agreement.

As you know, this important Agreement was signed on July 5, 2019 by (then) Minister Jonathan Wilkinson on behalf of DFO, and myself on behalf of the Fraser Salmon Management Council ("**FSMC**"). It was a momentous day that you witnessed and at which you confirmed your continued commitment to work with us to implement the Agreement. Since that time, the FSMC has been working with your team to operationalize the Agreement.

DFO and First Nations spent over a decade preparing for, negotiating and finalizing this Agreement - which is a fundamental achievement in Crown/Indigenous relations related to the management of Fraser Salmon, and in particular the relationship between DFO, the FSMC and the FSMC's 76 Member Nations. As clearly set out in the Agreement, the Agreement establishes a renewed, nation-to-nation, government-to-government relationship between Canada and the FSMC's Member Nations as it relates to the governance, management, and conservation of Fraser Salmon.

.../2

A. DFO's Representative on the Executive

We have recently been advised that DFO intends to appoint your colleague, Andy Thomson, Regional Director, Fisheries Management Branch, as its representative on the Executive.

In principle, we welcome Mr. Thomson's appointment as DFO's representative on the Executive - *provided* DFO can confirm in writing that he carries the required delegated authorities from Minister Bernadette Jordan. Surprisingly, when this was raised with DFO's representatives on the Fraser Salmon Management Board, it was summarily dismissed as "unnecessary and irrelevant". We respectfully disagree and write to bring to your attention very clear commitments made in the Agreement.

The Executive plays an important role in the overall collaborative management structure established by the Agreement and is integral to the proper functioning of the management structure. The stated purpose of the Executive, as set out in section 3.3 of the Agreement, demonstrates its importance:

The purpose of the Executive is to work on a government-to-government, nation-to-nation basis to find solutions and make consensus decisions that support the Collaborative Governance and Management and conservation of Fraser Salmon at the Migratory Route Scale, including with respect to:

- (i) providing the Fraser Salmon Management Board with direction and mandates necessary for the Collaborative Governance and Management and conservation of Fraser Salmon;
- (ii) if/when the Fraser Salmon Management Board has been unable to reach a consensus decision or recommendation and requests assistance from the Executive, or a Party intends to make a unilateral decision; or
- (iii) if/when either Party proposes to make a decision or implement an action that is substantively inconsistent with a consensus recommendation of the Fraser Salmon Management Board.

As part of the structured decision-making process under the Agreement, the Executive is a government-to-government, nation-to-nation decision making body. This is why the Agreement is clear that mandated decision makers must populate the Executive. As set out in Schedule E of the Agreement, the Executive must be comprised of

representatives of the FSMC and DFO who hold positions in their respective organizations equal to:

- (i) in the case of DFO, the Minister or his or her Delegate; and
- (ii) in the case of the FSMC, the President of FSMC or his or her Delegate.

Delegate is defined in the Agreement as "...an individual who is vested with the decision-making power of their appointing authority".

Schedule E of the Agreement also clarifies that the FSMC's and DFO's Delegates to the Executive must carry the mandate and authority of his/her organization when dealing with a matter within the purpose of the Executive. Having the mandate and authority at the Executive to reach consensus (on recommendations or decisions) is fundamental to how collaborative governance and management will work under the Agreement.

The Executive must carry the necessary authority to deal with the challenges arising in fisheries management, including the challenges of reaching consensus on a government-to-government, nation-to-nation basis. Internally to the FSMC, it is a requirement that we develop and implement a Tier 1 process to ensure our Executive member carries the FSMC's authority. Similarly, DFO's representative on the Executive must be either Minister Jordan or be delegated Minister Jordan's decision-making power. It is our understanding that when Minister Jordan's authority is delegated that is a matter of clear written record. The Agreement is clear that DFO's representative on the Executive is the Minister or an individual who is vested with her decision-making power. If Minister Jordan is making a decision on an issue that comes to the Executive, she is on the Executive. If Minister Jordan has delegated her authority to someone (e.g. yourself or Andy Thomson), that person can be on the Executive. The FSMC must have written confirmation of that delegation of authority.

B. Long-term funding obligation

Under Section 5.3 of the Agreement, DFO and the FSMC agreed to negotiate funding agreements in good faith which will allow the FSMC to effectively implement the Agreement. This includes the Tier 1 processes required to support FSMC's meaningful and mandated participation on the Executive, the Fraser Salmon Management Board, the Joint Technical Committee and the FSMC's support for relevant Pacific Salmon Commission activities. Further, DFO and the FSMC acknowledged that a key objective of the Agreement is to implement multi-year funding agreements as soon as possible.

To-date, instead of pursuing a comprehensive approach to meaningful funding for the FSMC and Fraser Salmon Management Board, DFO has followed the Aboriginal Aquatic Resource and Oceans Management (AAROM) Program criteria and processes. Collaborative governance at the scale committed to in the Agreement will not easily fall within AAROM criteria and processes.

Securing funding towards first, Agreement implementation funding, and, second, sustainable long-term funding (A-Base) is essential. Adequate and predictable funding is integral to the success and viability of the overall collaborative management structure established by the Agreement. The need to implement the funding requirements set out in the Agreement must be a priority. As well known to DFO, the FSMC does not have any other revenue source as we are not an organization where the AAROM program is supplemental funding to a global budget.

The FSMC was formed after years of Tier 1 work to facilitate co-management of Fraser Salmon with the DFO. We were not formed as part of DFO's AAROM process. However, working together, we can develop the collaborative funding agreements contemplated by the Agreement, rather than a DFO-lead and dictated process that is project "activities" based.

We look forward to your timely response.

Mussi Cho,



Darren Haskell
President, FSMC

cc: Minister Bernadette Jordan min@dfo-mpo.gc.ca
Member of Parliament Terry Beech terry.beech@parl.gc.ca
Executive Director, FSMC Brent Ryan-Lewis executivedirector@frasersalmon.ca
Mandell Pinder, Brenda Gartner Brenda@mandellpinder.com