

UPDATE FROM THE CHIEF'S DESK... March 2021...vol 24



Hello to all Band Members,

What a year it has been. Covid-19 has definitely changed our daily lives. Thank you to everyone who has done their best to follow the rules and regulations, working together has kept Covid-19 out of Community and protected our most vulnerable. After the last year of an overwhelming amount of community notice updates relating to Covid-19 we decided it was time to do update since our annual report printed last fall. So let's begin with some very exciting news...

HOUSING UPDATE - RAPID HOUSING FUND

We are pleased to announce the BRFN has been successful in securing five new housing builds through Canada's Rapid Housing Initiative. This fund through the Government of Canada "aims to create new permanent affordable housing for people and populations who are vulnerable". This fund was developed for municipalities, provinces, territories, Indigenous governing bodies and organization and non-profit organizations Nationwide to apply. We applied for the funds to cover the cost of modular housing in the Community to help alleviate some of the stress from our fast and ever growing housing list. It is important to note these are not section 95 houses (our regular allocated yearly mortgage homes) and will not affect our ability to move forward as normal with our Section 95 builds. It also means because they are not Section 95 homes they will fall under a different policy created legally within the parameters of the provided funds. The fund requires us to follow a strict and fast paced timeline so there will be lots of activity happening on Splint Road over the next few months. We know it is exciting but we are asking people to avoid this area. Likely Splint Road will be closed to the public within the next few weeks.

A special thanks to our Housing and Finance department who were instrumental in the completion of this fund.



COVID-19 UPDATE

What a whirlwind of a year it has been regarding the World Wide Pandemic. While at times it was scary, confusing, and there was so much uncertainty, this Community handled it very well. Thank you for your patience and cooperation as we continue to do our best to prevent and avoid the spread of the virus to protect our most vulnerable and the entire Bear River First Nation Community. Let's continue to do our part so we can end this pandemic.

A special thank you to you all for going with the flow and adapting to way we had to do things this year such as a drive through graduation, Santa visits on a trailer etc.



FIRST NATION ELECTION ACT

A Band Council Resolution has been sent to Indigenous Services Canada to enter into the First Nation Election Act. We believe the First Nation Election Act best matches what we have heard from the Community over the year. This act does not effect this Council term, it will come into effect with the upcoming election.

If you would like to have a copy of the entire FN election Act please contact the Band Office and a copy can be made for you. Some notable changes are:

- Eligibility 9(1) - Only an elector of a participating First Nation is eligible to be nominated as a candidate for the position of chief or councillor of that First Nation.
- Limitation (4) - An elector must not nominate more than one candidate for each position to be filled.
- Tied Vote (24) - If it not possible to award a position under section 23 because there are two or more candidates with the same number of votes, the electoral officer must conduct a draw to break the tie.
- Terms of office 28(1) - Subject to subsection (2) and section 29, the chief and councilors of a participating First Nation hold office for four years commencing on the expiry of the term of office of the chief and councilors that they replace.

If you have any questions or comments regarding the switch to the First Nation Election Act please feel free to do so in writing to the Chief and Council.

FNFMB/FNFA PROCESS

FNFMB - First Nation Finance Management Board

FNFA - First Nation Finance Authority

The BFRN is currently going through both of these processes. Basically this certification process "gives you as members and other stakeholder's confidence the Nation is well run, transparent and accountable". Certifications are based on international finance and governance standards adapted to meet the needs of First Nations but are not specific to First Nations. We are pleased that BRFN has a lot of the requirements such as policy and procedure developed, approved and set in place. This will save a lot of time and work. However, they do need to be gone over and updated accordingly so they reach the certification process standards. This is a lengthy process but one we feel will be beneficial to the BRFN. This process is time consuming for the Chief, Council, Finance department and the Band Administrator but comes with very little cost. There will be some legal fees associated with the process of policy, regulation etc. but FMB has provided funding to cover these fees so essentially there is no cost to the Band.

DIGBY PINES

We have our first year under our belt as part owners in the Digby Pines. Although it was an unprecedented year with many obstacles especially the Covid-19 Pandemic the Digby Pines did very well all things considering. While things have not moved as quickly as we had originally planned, we are pleased through hard work and dedication it held its own financially. Councillor Carol Ann and Kerry Payson, Band Administrator continue to sit as Board of Directors and are currently meeting every two weeks to work on items such as business planning, financing etc. A more detailed update will be provided within the next couple of months.

FOOD DISTRIBUTION

This past year we have been able to provide Moose meat, scallops, lobster, fixings for Christmas Dinner to Band Member households both on and off reserve. Thank you to all the departments and staff who helped to organize these distributions, it is a lot of organizing.

*Please know while we try to provide as much as possible each year, it is not guaranteed and should not be depended on.



As the end of March and the beginning of April approaches we end and enter into a new fiscal year which means a bit more paperwork for the staff. Please have patience as we make this transition. Our annual Audit is scheduled for May. We will put out a notice with the actual date as the time nears and it is confirmed.

Although Covid-19 has changed the way we meet, please know I am attending meetings daily through Conference Calls. I continue to deal with the higher levels of Government such as the Premier, Ministers and other Organizations such as KMKNO, MK, MFCS, CMM, Tripartite, DFO etc. I have and will continue to fight to protect our Environment, Resources, Future Generations, Fishing, Hunting, Roads, Schools, and Treaties etc.

If you would like to see an update on a particular program or service in our next update please feel free to email the Band Administrator at kerrypayson@bearriverfirstnation.ca and we will do our best following within the confidentiality and privacy laws.

Reminder you can reach the Chief and Council by email at:

Chief - caroldeepotter@bearriverfirstnation.ca

Council - fredharlowrobar@bearriverstnation.ca

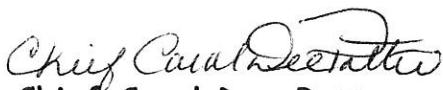
Council - robertmcewan@bearriverfirstnation.ca

Council - carolannpotter@bearriverfirstnation.ca

Prayers continue to be said for our Elders, Youth and all our Band and Community Members. We have a lot to be thankful for as a Community and it is so nice to see everyone pull together when needed.

Wishing you all a happy and healthy Spring!

Sincerely,



Chief Carol Dee Potter

On behalf of Council

Attachments: Letter from the 13 Mi'kmaq Chiefs of NS
Statement from Senator Daniel Christmas (Senate of Canada)



LETTER FROM THE 13 MI'KMAW CHIEFS OF NOVA SCOTIA

March 5, 2021

Honourable Minister Bernadette Jordan
Minister of Fisheries and Oceans and Canadian Coast Guard
House of Commons
Ottawa, ON
Via E-mail: Bernadette.Jordan@parl.gc.ca

Dear Minister Jordan,

We, the 13 Mi'kmaq Chiefs of Nova Scotia, united, cannot accept your March 2nd letter and March 3rd announcement regarding our Constitutional Right to manage our fisheries including our Right to harvest and sell fish for a moderate livelihood. This announcement and decision are disrespectful of our leadership, our Rights, and the twenty years of work between your office and our communities.

We reject your attempt to limit our Constitutional Rights. We were not consulted about this and have never agreed to restrict our fisheries.

Our Rights have been passed down to us from our ancestors and are also enshrined in the Constitution, and as such you have no authority to violate them. Your proposed actions will have direct adverse impacts on our Treaty Rights and as such **must** be fully justified through a transparent consultation process with the Mi'kmaq, following the *Badger* test criteria. The Government of Canada must:

1. Consult on any limitations to our implementation of our Rights;
2. Provide the minimal infringement of the Rights possible to meet your public purpose objective; and
3. Seek to accommodate the Right if there is to be any infringement.

Your letter and announcement this week have failed to meet the Constitutional duty to consult, do not provide for minimal infringement, and do not accommodate the fishing Rights of the Mi'kmaq. No science or other evidence has been provided to justify the imposition of commercial seasons on our moderate livelihood fisheries.


Furthermore, you have not provided science-based evidence that there is a conservation, or other substantial or other compelling public purpose that can justify unilateral imposition of commercial seasons on our Rights-based fishery. If such evidence exists, then it should be shared and there should be a reduction in the number of traps in the commercial fishery. This would demonstrate the Government's reasonable response to conservation issues.


You threaten us with statutory enforcement action when we exercise our Constitutional Rights. You and C&P need to be reminded that Donald Marshall fished out of the commercial season without a license. The Supreme Court of Canada found the then-existing fisheries regime to be inapplicable and without force and effect because it left you with an unstructured discretion to license or not, without criteria. That same *Fisheries Act* and regulations have never been amended and are likewise of no force and effect against us now. Any attempt to enforce and uphold that regime by C&P is unlawful and means your officers in seizing our livelihood equipment and taking other enforcement action are acting without lawful authority.

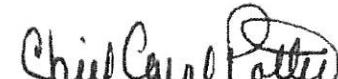
As you are aware your colonial approach is contrary to our Rights. These Rights can be acknowledged by a decolonized approach where we collaborate in the joint management of the fishery through complimentary and parallel management systems that respect our mutual objectives of environmentally, socially, culturally, and economically sustainable fisheries. You must repair this relationship, fulfill your Constitutional obligations and justify any infringement or limitation on the exercise of our Rights in accordance with the Supreme Court's decision in *Badger*.

Finally, you failed to uphold the Honour of the Crown, have disrespected our Nation-to-Nation relationship, and have breached your fiduciary duty to protect the Rights of the Mi'kmaq nor acknowledge our inherent Rights. The imposition of departmental control without consultation with the Mi'kmaq is not a Nation-to-Nation relationship, rather, it is Your-Nation-Over-Our-Nation. This is completely unacceptable.


Yours in Recognition of Mi'kmaw Rights and Title,


Chief Deborah Robinson
Acadia First Nation



Chief Gerald Toney
Annapolis Valley First Nation


Chief Carol Potter
Bear River First Nation



Chief Leroy Denny
Eskasoni First Nation

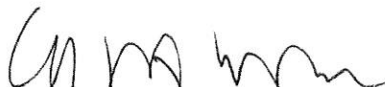

Chief Sidney Peters
Glooscap First Nation


Chief Terrance Paul
Membertou First Nation



Chief Robert Gloade
Millbrook First Nation



Chief Tma Francis
Paqtnkek First Nation


Chief Andrea Paul
Pictou Landing First Nation


Chief Wilbert Marshall
Potlotek First Nation


Chief Michael Sack
Sipekne'katik First Nation


Chief Norman Bernard
Wagmatcook First Nation


Chief Annie Bernard-Daisley
We'koqma'q First Nation

cc:

The Right Honourable Justin Trudeau, Prime Minister of Canada

The Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations and Northern Affairs

National Chief Perry Bellegarde

Senator Daniel Christmas

Senator Brian Francis

(Via email)



Statement by Nova Scotia Senator Dan Christmas on DFO's "New path for First Nations to fish in pursuit of a moderate livelihood"

(Membertou, Nova Scotia, March 4, 2021) Yesterday afternoon Federal DFO Minister Jordan issued a statement regarding what she terms "new path for First Nations to fish in pursuit of a moderate livelihood". If this is the government's new path, I must express my profound concern that it is a map for a journey now headed completely in the wrong direction.

Minister Jordan's statement is based in the false assessment that conservation is a key issue with the moderate livelihood fishery. This is just not so, and DFO's own numbers attest to this. There are currently 12,047 commercial licenses in DFO's Maritimes Region, compared to only 472 licenses held by First Nations. It's difficult to conceive how such a "David and Goliath" situation poses any sort of threat to conservation.

Today's statement asserts that the moderate livelihood fishery is a threat to conservation. This mistaken position forms the basis for the department's unjustified and provocative infringement upon Section 35 constitutionally-protected Aboriginal and Treaty rights.

This new regime signals a continuation of a colonial, top-down, prescriptive approach to the relationship with Maritime Indigenous Peoples and Canada. One would think that such postures had ended – yet, here we are dealing with new shades of governance reminiscent of the *Indian Act*.

It dismisses the pursuit of a Nation-to-Nation, treaty relationship; it abrogates and derogates the constitutionally-protected right of self-governance; it completely disrespects the Mi'kmaw traditional law of *Netukulimk* – and it totally abandons the duty to consult, as there was absolutely no consultation with the Assembly of Nova Scotia Mi'kmaw Chiefs on this policy statement.

Consequently, it's not an overstatement to suggest that this undertaking constitutes an abject failure to uphold the Honour of the Crown.

What makes it all the more troubling is that the Mi'kmaw parliamentarians, myself, PEI Senator Brian Francis and Cape Breton MP Jaime Battiste, had been providing advice and guidance to DFO and the Minister in an attempt to avoid regressive actions as this.

To this end, we wrote to the government in later September making a number of recommendations, which sadly appeared to have fallen upon deaf ears. As Minister Jordan stated, we believe we had been working together, towards a peaceful and productive resolution.

If only DFO would listen and what's more, "hear": from the Courts; from Moderate Livelihood First Nations fishers; and from the communities who support them. Until it does, we remain in rough waters – the same rough waters that the *Marshall* decision sought to quell over two decades ago. And that's difficult to reconcile.

Senator Dan Christmas, Membertou, Nova Scotia
Dan Christmas is Canada's first Mi'kmaw Senator and was named to the Upper Chamber in 2016.

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For further information, please contact:

Al Fleming
Office of Senator Dan Christmas
(613) 996-2188