



Island Marine Aquatic Working Group
7973 Chemainus Road
Chemainus, BC, V0R 1K5
Canada

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Kent Spencer
Fisheries and Oceans Canada
940 Alder Street
Campbell River BC, V9W 2P8
Kent.Spencer@dfo-mpo.gc.ca

RE: ISLAND MARINE AQUATIC WORKING GROUP – ABORIGINAL GUARDIAN PROGRAM

Dear Kent;

As per our 2016 Governance Workshop between Fisheries and Oceans Canada (DFO) and Island Marine Aquatic Working Group (IMAWG); presented in this letter is our overall recommendations and next steps for our priority topic: **Reinvigorating the Aboriginal Guardian Program (AGP)**. IMAWG hosted two Tier One sessions this fall whereas we presented the AGP to the Island Nations, supported by current activities we know are taking place within DFO and indigenous communities. Overall the AGP is a widely recognized and highly favored program that both Island Nations and DFO would like to be supported and expanded for various benefits to the resource, communities and the Department. Outlined in the letter is IMAWG's overall summary of the program, benefits that it brings and recommendations for next steps.

IMAWG Aboriginal Guardian Program Summary and Recommendations

"Today's guardians are tomorrow's educators, lawyers and leaders. In addition to offering hope to our youth, we believe this (guardian program) offers hope and a path to true reconciliation between the government of Canada and Indigenous peoples."

In December 2015 the Assembly of First Nations passed a resolution at its Special Chiefs Assembly to “fully support the concept of Indigenous guardian programs to support First Nations land management and oversight in their territories based on a cultural responsibility for the land.”

During the same time, DFO was also conducting its own research in 2013 and 2016 through an evaluation review under the name “Project Number 6B171 Evaluation of Compliance and Enforcement Program”, whereas looking at the effectiveness of their enforcement program. They concluded that “numerous best practices were identified during the evaluation including the use of Aboriginal and Contracted Fishery Guardians to complement the efforts of DFO Fishery Officers (i.e. especially as part of a compliance strategy to protect inland fish stocks)”. Four recommendations were made with #4:

recommending “that the C&E program conduct an analysis to determine if the use of Fishery Guardians could be expanded to additional regions”.

IMAWG alone as often received feedback from DFO on recommendations that state: “capacity for adequate assessments in the field is dwindling”, “assistance from First Nations in the field is essential”, and other specifics leaning towards the need for partnership.

However, as of 2016, DFO’s ability to fund and maintain a coordinated AFG program is extremely limited. To better understand what the program is about, we need to review what we know, what we want and our next steps to improve our current situation.

AFG Background

- Launched in 1992 as a response to a 1990 Supreme Court of Canada (SCC) decision (commonly referred to as the *Sparrow* decision).
- In response to the *Sparrow* decision the Government of Canada (GoC) implemented a program called the Aboriginal Fisheries Strategy (AFS).
- The focus of AFS was to develop capacity in Aboriginal communities for fisheries management initiatives, including catch monitoring. The AFG program became a key component of this strategy.

What is a Fishery Guardian?

- In Canada the *Fisheries Act* has provision for the designation of fishery officers OR fishery guardians and provides for limitations on powers: 5. (1) The Minister may designate any persons or classes of persons as fishery officers or fishery guardians for the purposes of this Act and may limit in any manner the Minister considers appropriate the powers that a fishery officer or fishery guardian may exercise under this Act or any other Act of Parliament.
- Are AFG designations limited to Aboriginal Groups? No, in the Canadian context, designated fishery guardians (with limited powers), are employed (in one province) on a contractual basis to provide compliance monitoring for inland and recreational fisheries.
- Also “Fishery Guardian” designations are used occasionally to allow specialized staff to participate in certain enforcement operations (e.g. Digital forensics staff involved in the seizure of computer files)

What is an AFG?

- There are a number of communities on the east and west coasts of Canada, with designated AFG, who undertake compliance related activities in their communities.
- These AFG have powers limited so as to restrict search, arrest or any use of force. They can seize small items used in the commission of an offense (e.g. fishing nets, rods, small quantities of fish).

- The limitation on powers is commensurate with the expectations for the fishery guardian's role in enforcement; largely "Observe, Record and Report" and "Catch Monitoring".
- AFG are employed by, and report through, their respective First Nation/Aboriginal organization, not government employees.
- Work plans with specific goals for the season are agreed upon annually between the First Nations/Aboriginal Organizations and DFO.
- AFG duties have generally involved a mixture of: Fisheries monitoring, catch reporting, community engagement/education, habitat restoration, fish sampling, technical assistance to projects, counting fences, research projects, etc.

What are the Strengths of the AFG?

- Provide an avenue for further expansion of enforcement authorities similar to authorities conferred to DFO Fishery Officers subject to an approved command and control structure.
- Creation of strong working relationships federal and provincial governments, stewardship groups and other First Nation organizations.
- Helps cultivate an open line of communication with the community and the community leadership.
- Creates positive role models allowing for cultural values to help frame community conservation objectives.
- Provide economic growth through local employment.
- Monitor the health of important food, social and ceremonial species.
- Assess impacts of various resource uses throughout coastal territories.
- Implementation of land and marine use plans.
- Environmental monitoring, stock assessment and data collection.
- Increase their opportunities for fisheries co-management and build capacity.

What are the Challenges?

- **Obtaining/maintaining the funding required.**
- Lack of clear framework and consistency to guide program.
- Aboriginal Community not always in sync with the fishery guardians (e.g. fishery guardians may prefer enhanced powers while band leadership and the community may not be supportive).
- Jurisdictional issues between federal government and provincial governments which do not allow for necessary cross-designations.



DFO has been looking at “rejuvenating the program since 2012 via reviews and engaging other departments, industry and First Nations. DFO is looking for feedback on:

- **What the objective of the program should be;**
- **what benefits it can bring, overall challenges;**
- **roles and responsibilities;**
- **reporting;**
- **potential partners; and**
- **delivery model.**

Recently a nonprofit group, the Indigenous Leadership Initiative, is asking the federal government for \$500 million over five years for a new nationwide monitoring program. The proposed national "Guardians" program would send around 1,600 First Nations people out on their traditional lands. The Haida have stated that "there's not enough wildlife officers and parks officials to do an adequate job in many parts of the country, including the Northwest Territories. They have provided the perspective “it's time that we started looking at expanding that approach, that nation-to-nation basis for the relationship, and focusing on areas such as responsible stewardship of our territories our lands and waters, between Indigenous peoples, nations and Canada”.

This proposal is only a small but powerful indication on how much we need a AFG program.

Observations and Recommendations

How should an AFG run; both locally and regionally?

- Current analysis required of current programs running (SWAT) within the Nations communities first and foremost.
- Consistent educational monitoring/enforcement approach (traditional, local bylaws and modern) collaborating with local C&P and Habitat DFO.
- Connections with neighboring tribes.
- Coordinated regionally to ensure long-term consistency and a funding organization.
- Require consistent training; “ORR” to enforcement.
- Summaries of DFO analysis required; what are their expectations, needs and requirements.
- Development of modern electronic applications.

What benefits could this bring to both communities and DFO?

- Local management.
- Enhanced protection and monitoring (habitat and fisheries).
- Jobs and training opportunities.
- Restorative justice.
- Health and Safety

- Improved collaboration between communities.
- Support for DFO (less pressure due to capacity limitations).
- Increased information/knowledge.

What other connections to other organizations could the guardian program have?

- DFO
- RCMP
- Neighboring Nations
- BC Government
- Fishing and Hunting Resorts
- Educational Facilities
- Parks Canada
- Environmental Consulting Businesses
- Environmental Activists
- Stewardship Groups (David Suzuki, Moore, etc)
- BC Hydro
- Industry (forestry, oil and gas, etc.)

How do we pay for it?

- Enhanced recreational licensing (*Use Fee Act* process to change)
- AFS
- Stewardship Grants
- industry (Forestry, etc)
- Nation Governments
- DFO (Coast Guard, Habitat, Management, C&P)
- Municipalities
- By-catch Sales from Food Fisheries
- Guardian Fishery (similar to the “Use of Fish” process in DFO)
- Fines from Infractions
- Governmental Tripartite process to formalize funding
- Other Nation Cost Sharing
- Tribal Councils
- PICFI (CFE’s)
- INAC. Heath Council (traditional food)
- Casino Gaming Funds
- **Has to be long-term and consistent.*

DFO has been working on pilot projects, exploring options for delivering training locally and creating a framework and new vision document to better articulate the overall objectives and engagement. As Aboriginal communities have a vested interest in the sustainability of fisheries resources, AFG can aid in fisheries management. There however must be open dialogue between the participants and the government, clear

rules of engagement, clear understanding of roles and responsibilities, there must be adequate training, equipment and funding, and a solid framework, and collaborative evaluation.

IMAWG recognizes that this is a regional, if not national process, and the Island Nations will support any engagement to help foster a reinvigorating the AGP. We are requesting that you share this letter with the decision makers within DFO to pass along our request to revitalize the program, share with back to IMAWG any outcomes of internal DFO reviews, and to provide DFO's recommendations on how we can move forward regionally in a coordinated collaborative approach.

Please provide a response, within 30 days of the date on this letter electronically to our Coordinator at smorin.imawg@gmail.com. In your response, be sure to include the reasoning and rational for not considering our suggestions.

Sincerely,

A handwritten signature in black ink that reads "Nick Chowdhury". The signature is written in a cursive, flowing style.

Nick Chowdhury
IMAWG President and Chair

cc: Laura Brown, Area Director South Coast, Fisheries and Oceans Canada South Coast
Island Nations, Vancouver Island and Mainland Inlets