

Resource Development Newsletter

Kingsclear First Nation

New Resource Development Consultation Coordinator

Formal Introduction

My name is Keyaira Gruben and I'd like to formally introduce myself as the new Resource Development Consultation Coordinator (RDCC) for Kingsclear First Nation. I am replacing former RDCC Sydney Paul in this position. My objective is to update community members on any resource development within the Maliseet territory. This will include aid to community members, Chief and Council, and Government officials to protect the integrity of our traditional territory. To respond and track all industry activities in the territory and to receive comments/questions/con

cerns from community members in regards to any resource development. It will be my priority that all community members be informed/ included in any resource development as it relates to our community.

Job Role

Coordinate all levels of consultation activities on proposed projects in New Brunswick that have the potential to impact Aboriginal and Treaty Rights and share this information with community members

Contact

With respects to collecting and providing information, there is

currently a Community Engagement Committee (CEC). If you are interested in being a part of it, please let me know as soon as possible. I will also be posting information on the Kingsclear First Nation Website at www.kingsclear.ca, or if you prefer, all information is located at my office as it relates to Consultation in the Maliseet Nation.

My office will be located at the Bandhall and my availability will be Monday-Thursday from 9am-4:30pm and Friday from 9am-12pm. If you have any questions regarding consultation, don't hesitate to contact me by email keyairagruben@kingsclear.ca or by phone at 363-3028 ext. 143.

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What are Aboriginal Rights and Treaty Rights?

Is in Section 35 of the Constitution Act, 1982.

-The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed

-In this Act, "aboriginal peoples of Canada" including the Indian, Inuit, and Metis peoples of Canada

-For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements

or may be so acquired
-Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons

What is the Duty to Consult?

From a legal perspective, a number of court cases (for example, Haida, Taku River, Mikisew Cree) have found that governments have a duty to consult with Aboriginal peoples where their claimed rights may be impacted or infringed. The legal

situation continues to evolve, but the current legal context generally suggests:

- Governments may have a duty to consult Aboriginal peoples prior to making decisions that might adversely affect their claimed or asserted treaty rights, Aboriginal rights and title claims;

- The extent of consultation and accommodation that may be required depends on the strength of the claim and the seriousness of the impact of the proposed activity. However, ultimate decision-making authority remains with government.

Mount Carleton

On Thursday, April 20th, 2017, the first formal consultation took place between the Maliseet Nation and the proponent The Province of New Brunswick (Department of Tourism, Heritage and Culture).

Here are some updates of what took place:

- it was confirmed that Maliseet have made a solid case for the fact that the provincial government needs to accommodate the Maliseet on this file
- It was confirmed that we will hear very soon about our proposal for legal funding for a Traditional Land Use Study (TLU)
- we put on the record that we have very big concerns about the interim TLU report being used as that was never the understanding.

- Sydney confirmed KFN needs to be reimbursed for preliminary screening
- Maliseet tabled how important the area is to the Maliseet
- It was confirmed that a discovery center will be built this summer and First Nations will be involved in architecture design and the interpretive part
- Maliseet asked that Chiefs be part of the decision making on the Environmental Impact Assessment (EIA) approval and that government needs to come to the table with an open mind of rejecting the project

There were 21 people in attendance, 8 of them representing the Maliseet Nation and the others on behalf of the proponent

Kingsclear is currently the lead on the Mount Carleton file. Again, if at any time community members would like to discuss the file more in depth, I am willing to meet any time during office hours to do so.

I would also like to stress at this time the importance of community engagement, so I look forward to hearing from you in hopes of becoming new members of the Community Engagement Committee.

Woliwon,
Keyaira Gruben, RDCC

Consultation Coordinator's Monthly Meetings

Maliseet Unity

What is it?

Every month, all six Maliseet consultation coordinators, including the Director, meet to discuss, update, and inform one another on what they have been working on internally.

As one collective Nation, we strive to work in unity amongst each other. In regards to projects, some are more area specific than others and due to the heavy workload of this job, we often assign one Consultation Coordinator to be the primary point of contact on particular files, assisted by 1 co-lead. For larger files that stand

to effect all of us, every RDCC's along with their assistants or associated experts try to attend and stay current on all aspects.

Often these meetings lead to action items which may then be brought back to communities and their associated Chief and Council's for further engagement. Ultimately, the people are the voice we represent, and as such we attempt to provide as much back and forth as is necessary to keep people up to date. For this to work, your input is necessary. Various community meetings, monthly newsletters, the webpage, as well as one-to-one conversations are available.

Food, Social, and Ceremonial (FSC) fishery - KFN

Under section 35 of the Constitution, there is **not** a list of established "rights" which Aboriginal people can claim. However, because of several Supreme Court cases the notion of Aboriginal Right is maintained using a pre-existing format. Where it can be argued that we used resources for food, social and ceremonial purposes prior to European contact, we have the continued right to use them today. Fishing, hunting, lumber, gathering, and harvesting all fall under these categories. Despite this recognition, only a moderate livelihood can be made through trade of these goods (R. v Marshall 1999), and only with resources that were traded historically during the period of 1760/61 (R v Marshall, R v Bernard 2005), which precludes lumber.

Currently KFN's FSC rights include only Striped Bass at 1 per person per day, and Lobster as required for food, social and ceremonial needs. Atlantic Salmon Aboriginal fishery has been closed since 1998

We're on the Web!
www.kingsclear.ca

NB Department of Agriculture, Aquaculture and Fisheries (DAAF) - Aquaculture in NB

The Maliseet have been in open talks with the DAAF regarding their aquaculture programs around NB. The first meeting took place January 31st, 2017 and was regarding the increasing aquaculture of shellfish (mainly oysters, with some increase to clams and bay scallops). This increase was non-linear, but had a trend of +5% per year over the last 5 years (2011-2015). They want to increase this further by a +10% per annum increase over the next 5 years. Approximately 420,000 bags of oysters are being produced, with a 10% increase this number could be as high as 615,000 bags by 2021 this would represent over \$10 million dollars in revenue (at current market value), and 400+ jobs. Oyster aquaculture is generally healthy for water columns, as oysters are filter feeders and remove excessive pollution and plankton stocks from waters suffering from cultural eutrophication (man made nutrient loading from wastewater and agriculture practices). The reason we feel this may be an issue is that this aquaculture currently occupies 2700 hectares of submerged crown lands from the Indigenous inventory of accessible lands. They assure us that the increase in land use will not be directly proportional to the increase in effort, meaning that a 10% increase per year in production will not mean that 10% more land is used. Rather, they plan to increase site quality, and effort saturation in areas already used. They could not say how much more land will be used, however. While the increased production has minimal environmental impact, it does effect the amount of submerged crown land available for our use. The majority of the site expansions will be on the East coast of NB, however, so will

have minimal effects on Maliseet use. The Bay of Fundy was our focus, and so another meeting was scheduled regarding aquaculture in the Bay of Fundy.

This meeting took place on March 20, 2017. The agenda included a good history in the aquaculture for the Bay of Fundy:

- 1970's initial research trials
- 1986 moratorium imposed, while legislation and regulations approved
- 1989 Aquaculture Act and Regulations came into effect
- 1991-1992 applications were received, policy gave priority to those with current commercial licences (20 year site leases)
- 1997 first instances of Infectious Salmon Anemia (ISA)
- 2005 establishment of 3 year production cycle

Infectious Salmon Anemia (ISA) – is caused by a virus, which limits treatability. As the name implies the virus effects the ability of Salmon to produce red blood cells, which are important for getting oxygen causing pale gills in the fish. They may also attempt to surface in attempts to breath, which can be an important indicator for identifying the disease. Several studies have been completed, and there have been no known effects on human health on consumption of infected salmon. Once an aquaculture population has been identified as infected that pen is killed to prevent further spreading. Mortality for populations can be as high as 100%, even without the prescribed culling.

There are 6 Bay Management Areas (BMAs), which were established to separate age classes, create genetic diversity, and to limit the effects of an ISA outbreak. For any given year approximately 4 million Salmon are stocked, and nearly as many are harvested; in 2015 3.8 million fish were harvested, yielding 33 million pounds of salmon worth \$127 million. Currently there are 93 marine sites under lease, although only 38 currently in production, with 3 research and development projects for Sea Urchin, Sea Cucumber and Giant Scallop, and 1 site farming Blue Mussels.

As well as the Bay of Fundy we were told about 100 inland/freshwater sites in the St. John River watershed. The majority are Brook Trout and Rainbow Trout ponds. Only 3 are leased on Crown land. 45 sites have commercial activity associated with them, such as U-catch or hatchery operations. The remainder are small, personal stocked ponds.

We will be meeting with DAAF again come May 1st, 2017, where we hope to discuss ISA and other infectious diseases associated with fish farms, new site leases, site amendments, and multitrophic aquaculture.

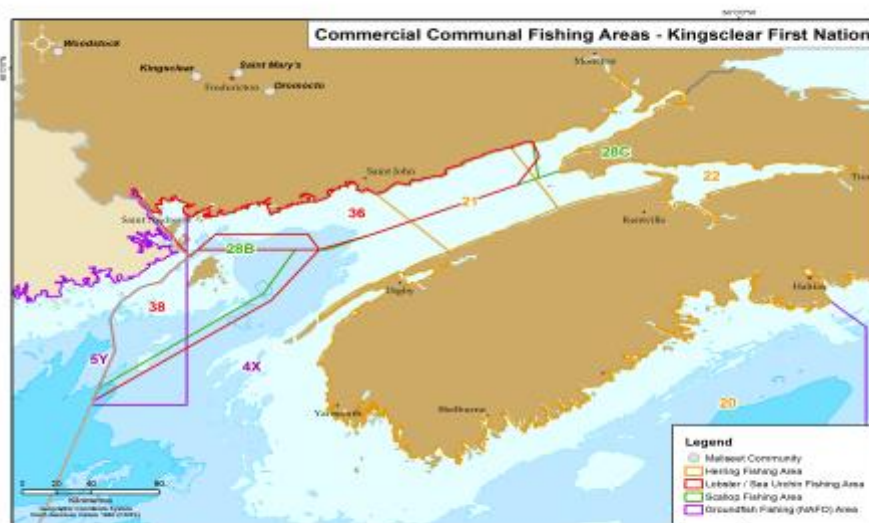
For any comments or questions contact Gordon Grey during regular working hours, via email at gordongrey@kingsclear.ca, or via call at 363-3028 ext 162.

Department of Fisheries and Oceans (DFO) – Salmon Protections

On February 22nd, 2017 the Maliseet Nation in New Brunswick (MNNB) consultation department attended a meeting hosted by DFO regarding Salmon Protection and Enforcement. Here is a brief timeline of conservation measures taken to date:

- 1984 Closure of commercial fisheries
- 1998 Aboriginal fisheries closure
- 2010 Committee on Status of Endangered Wildlife in Canada (COSEWIC) listed outer Bay of Fundy Salmon as endangered
- 2017 Tobique downstream bypass at dam

Despite these measures the Salmon faces a steady decline in population, with consistently lowering 5 year, and 10 year population averages. In 2016, roughly 700 salmon were counted at the Mactaquac Dam, before their eventual release above the Tobique. Of these 700 only 190 were Multiple Sea Winter Salmon (the breeders). An additional 475 Salmon were counted in the Nashwaak below the dam. This equates to **1175 salmon in the St. John River, with a breeding population of roughly 265**. The Conservation Egg requirement (CER) is a measure of the amount of eggs per measure of productive habitat to reach a viable return of population for a species. For viable area in the St. John River watershed, we would need 12.8 million eggs, we have approximately 4% of that. Salmon runs begin in mid June with returns through late October. We cannot stress the importance of fishing bans, poaching reporting, and catch and release when accidental captures occur. Roughly 20% of the returning population shows evidence of gill netting activity. This 20% represents what escaped gill nets, which is likely a much lower number then what was captured. Under the Harper government agencies such as DFO faced steep declines in budget, and these declines are reflected in their staffing issues. Conservation and Protection while a continued priority, has taken a turn away from boots on the ground towards, intelligence gathering, which requires collaboration of environmental and watershed groups, educating towards conservation, and may require a revision of current Fishery Guardians powers. This meeting is due to take place on May 16th, 2017. Further an Atlantic Salmon Advisory Committee meeting will be taking place May 2nd & 3rd in Halifax, which consultation and fisheries coordinators will be attending as well.



Above: KFN's Communal Commercial Licenses locations