

First of all, let me begin by stating that in no way is this to be considered Consultation. Under the Terms of Reference with the KMKNO and the Assembly of Nova Scotia Mi'kmaq Chiefs all consultations are to be between the KMKNO Consultation Table or the Chiefs themselves not band members. There is a process that was agreed to by the Federal Government, Provincial Government and the Mi'kmaq which your government is not following so I would suggest that you ask the Federal Government to clarify that and return when you properly consult with the Mi'kmaq of Nova Scotia. Since I am not a Chief and this is not consultation I will provide my personal opinion on this matter.

My Name is Hubert Nicholas and I am the Fisheries Director for Membertou First Nation and I felt the need to provide my comments today because your government is neglecting to follow proper consultation protocol when Rights are impacting the Mi'kmaq of Nova Scotia. So, I am here to express my personal opinion on this process and that of the MPA design process.

I want to thank you for asking me to join you today to provide my input into this national review on MPAs. I am sure you are interested in listening to the First Nation perspective on this matter since one of the five focus questions you are asking non-natives is if they could focus their responses on their opinions on "what kinds of guidelines will help Canada to honour its commitments to reconciliation and a new relationship with indigenous peoples?" I am not surprised at all that you would ask others to help you determine what to do to meet your commitments when the Treaties that exist are interpreted in the way that benefits others and not the Mi'kmaq. Those commitments and promises are only recognized by the Supreme Court of Canada when it has no choice but to admit that they are as clear now as were 250 years ago. I was not asked to try to focus my response to any particular design so I will provide you with my own personal opinion as to how I have seen the process develop in my own area and how I see it continuing.

First of all, I want to welcome you to Mi'kmaki the unceded territory of the Mi'kmaq people. I assume that you opened your panel discussions thanking the Mi'kmaq people for welcoming you into this territory to have these discussions that will impact their way of life and livelihoods. This should be a courtesy that is extended to all First Nations at the beginning of every meeting that you attend across this country. I want to begin by saying that I do not understand why this panel would not come to Nova Scotia where a significant portion of the Atlantic MPAs will be when we reach the target of 10% and eventually 20% and beyond. Your Government will be impacting the way of life of Nova Scotia Mi'kmaq with the decisions you will make as a result of this panel so you should have had panel discussions in Nova Scotia with those directly impacted.

What I have seen so far is that DFO has spoken about this process much the same way in which the Federal Government has always spoken to First Nation people in which they promise no impact will occur on the way things are but they always impact our lives. The Rights of the Mi'kmaq extent to the marine environment and have been protected Constitutionally by the chain of treaties including the latest in 1761. We are now discussing standards that will be used going forward by a panel that has been chosen by your Government that do not include any Mi'kmaq or commercial fishermen from Atlantic Canada. Our coast is different than the others and for you to think that what works on one coast will work on others is naïve. Oil and Gas currently have exemptions to MPAs yet they do not have

constitutionally protected Rights to the land and its resources yet I beseech you do not make any changes that will impact our Rights and our Communal Commercial fisheries that we heavily depend on.

I have supported MPAs in the past for the simple reason that I have to. It is the way of the Mi'kmaq to help protect, preserve and save our resources from the destruction that has occurred over the past to help protect our future. I am in a position now where I feel that the Rights of the Mi'kmaq need to be Affirmed and recognized truly and need to ensure that we are not just a check in the box as you consult. I also feel that the interest of the Mi'kmaq are not being truly considered and true consultation is not occurring as it should when Rights are impacted. First of all, this panel and the Federal Government should have asked to meet with the Consultation table of Nova Scotia and not individuals, yet here we are. I felt that I had to take advantage of this opportunity and if I did not your panel would have continued on meeting ENGOs and other people that fully support this. I need to express my opinion despite my feeling that the writing is on the wall and your ideas will be incorporated into the MPA design. My experience regarding the current and future MPAs in my area had changed my opinion of the value of MPAs because of how the current MPA impacted my community. That process was one that bears mistrust in the process and had made me fearful of the decisions that will be made by your government and that of the current MPA planning group in the Maritimes region. I was part of the initial discussions for the potential AOIs in the Maritimes region where we were asked to help determine specific AOIs that would move forward to be potential MPAs. We received a map initially of eleven AOIs and at that time were not told of any criteria that was used to determine what was protected or why. At the various advisory meetings, we quickly realized that the DFO staff had three specific AOIs in mind where we had to choose one to go forward. With the three to choose from, two provided the Mi'kmaq communities with employment and revenues so we had no choice but to lobby to have the current AOI go forward as the MPA. Prior to this AOI being chosen I was assured that my community could continue to fish our pelagic tuna license since no impact would occur on the benthic environment. This is where my faith in the process was lost when that promise was broken. I have since met with DFO staff from the Oceans group as well as our local office up to the Minister of Fisheries trying to reverse the decision that was made to restrict my access; the access that I was told would not be taken away. The end result is that my community cannot access a portion of this area for tuna fishing after my community spent half a million dollars acquiring a license that would utilize that area for our tuna charter business that was years in planning. Our community had to go through many hurdles to get this license moved to this area including getting authorization from many DFO staff that all knew my plan of having a charter fishery for my community that would create jobs and a source of revenue. DFO could have at any time told me that there was a potential of my half million-dollar investment may be impacted at any point during my two years trying to purchase and move this license from one part of the province to the other when in history this was never done. There was still an opportunity for me to make the best of this situation where I can help shape the boundaries to help preserve some of the prime fishing grounds. So, at that time I had worked with DFO staff that again assured me that by working with them the lines would be moved to help my community; the end result was the lines were not moved to help me but were moved to help the halibut fleet.

Now with the current AOI process we are given two areas that we are told will be the next MPAs without any consultation with the Rights holders of the province; the Mi'kmaq. In the Fall of 2016 (Oct 2016) the Mi'kmaq of Nova Scotia met with senior DFO staff to work out a plan to implement a moderate livelihood fishery which involved testing our governance in the commercial fishery. We

collectively agreed that in order to do this without impacting the non-native fishery in any way we need to test our governance model in an area that has no current fishery. DFO wanted the Mi'kmaq to take existing banked licenses and go into existing fishing areas and expect that no conflict would materialize; we knew this would have lessened our chances of success when we would have dealt with conflict along with trying to test our governance model. Why did we want to enter an area that had no fishermen such as LFA 40 is because we wanted to manage the entire area with our own rules, policies and regulations in collaboration with DFO. That discussion happened in the Fall of 2016 and DFO staff said that they would get back to us and let us know how this area became protected and why it was set aside back in the 70s. As an area that was set aside as a conservation area for lobster back in the day is not needed now because there are no conservation concerns with lobster like there was in the 70s. Despite us reminding DFO of the Supreme Court of Canada helps ensure that our Rights are protected by considering Conservation then Rights prior to commercial access in all decisions that impact Rights. In this case DFO admitted there were no conservation concerns yet provided an explanation just a couple of months ago stating that they have conservation concerns so this area will remain closed to the Mi'kmaq. Shortly after that explanation we were notified that the area that we expressed interest in would now be part of a new MPA. This is the reason why I do not trust the MPA process because it is built on lies and broken promises. Is this due to a lack of communication between DFO departments or a concerted effort to ensure that the Mi'kmaq do not impact the commercial fishermen's lives of South West Nova Scotia or any other area. I see the process unfolding again in another area where fishermen are being told that their fisheries would not be impacted long before the boundaries and criteria have been determined.

I welcome your Indigenous Circle of Experts to work with the Mi'kmaq but as the MPAs impact our way of life I feel that there should be more Indigenous people on the panel especially Mi'kmaq since your decisions will impact all our Mi'kmaq communities. Along with more Mi'kmaq representation on the panel there should also be more with commercial fishing experience. I am happy to see that your Circle of Experts has two Indigenous people; but feel that more effort should have been taken by your government to seek panel members from the Mi'kmaq Nation and especially those with commercial fisheries knowledge. It feels to me that we are again being told what is best for us by the Federal Government under the guise of experts who know what is best for us. What bothers me most of how your government developed this panel is that you are developing policies that will impact the Mi'kmaq of Atlantic Canada without involving any Mi'kmaq in the process or properly consulting with the Mi'kmaq Chiefs as laid out in the consultation process that your government has agreed to do when Rights are impacted. You are experts in terrestrial policies that when implemented can be easily monitored yet not one person has commercial fisheries experience and there is no plan in place for monitoring or what to do when the species you are trying to protect either move out of the area or die off from something other than commercial fishing. Your agenda seems to have a focus on listening to people with similar views as you with that will support your opinions and welcome closing off large tracts of water in hopes of reversing the wrongs that have been done for years by DFO policies and non-natives. What you are trying to protect has survived your current and past policies yet the solution is to continue to put restrictions that will not change a thing. You have management practices in place now that address what you are trying to do so the solution is not to close off areas for the sake of protecting species that are susceptible to global warming and impacts from outside of the closed areas.

This panel has much experience in the terrestrial design of protected areas so I feel that you will definitely come up with standards. Unfortunately those standards are going to be similar to those that you have been standing behind for years on protected areas of land because the results do not impact many livelihoods on land yet these marine areas will impact an entire region and most importantly the Mi'kmaq people. The Mi'kmaq of Atlantic are new to the commercial fisheries and as we have started to grow yet we continue to face obstacles to limit that growth. Our communities rely on the income generated in our commercial fisheries for funding our community's needs. We use fisheries revenues to help with social development, operational costs, housing, infrastructure, education, elder care and most importantly economic development. We depend on our fisheries revenues and by having restrictions on our communal commercial fisheries you are impacting the livelihoods of our communities. You are impacting our Rights.

I want to remind the panel that the Mi'kmaq have never agreed to give up its land or its resources in Mi'kmaki and we never will. We have always maintained true ownership of this land and its resources but you ask us a question that you know the answer to. You ask us – "Do you want to help preserve the species that reside in that MPA?" How are we to respond when we live by the words of our ancestors in that we cherish our land, our resources and the animals that use it. We have been raised to respect the land and only take what we need in the guiding principles of Netukulimk. It is your way to take as much as you can until stocks collapse and when we begin to think like you and act like you, you want to limit our participation and try to pull us back by closing areas and restricting access. What we need from your government is true recognition of our Rights along with reconciliation. Reconciliation seems to be a term being thrown out by your government in hopes that we will forget all the injustices that occurred after you offer some more shiny beads. Our Rights need to be recognized and if the Federal Government will not recognize our Treaties and honor the fact that we have never given up our land or its resources than like this process we have already determined how things will end up. We will be told what is best for us again! The Federal government wants to help rebuild our nations yet we continue to face restrictions on opportunities that we see to govern our own land and resources. I appreciate the fact that you are here to help us some more but I must remind you that your governments help is what got our people in this position in the first place – please stop helping us. Let us govern ourselves and resume true ownership of our resources, your government has done enough helping regarding the management of our resources. I must remind you that the Mi'kmaq are true Rights holders to the land and the resources and everyone else is using that privilege to benefit themselves at our expense.

I want to thank you for listening to me and to remind you that despite what each person here is saying you are not listening to the most important people in this process. I would recommend that you reach out to the Consultation tables to hear what the Chiefs and communities are saying and take the necessary steps to help recognize the Rights and the Rights holders to the land and its resources and not that of those that are not financially impacted.

Welaliaq

Hubert Nicholas

