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Moderate Livelihood Fishery Update



Maw-lukutijik **Saqmaq**
Assembly of Nova Scotia
Mi'kmaq Chiefs

What has been developed?

For years, discussions have been ongoing within Mi'kmaq communities on how the rights of the Mi'kmaq, as recognized and affirmed in *R. v. Marshall*, [1999] 3 SCR 456, will be implemented.

According to the Supreme Court of Canada, the Mi'kmaq have the right, pursuant to treaties made with the Crown in 1760-61 and Section 35 of the *Constitution Act, 1982*, to harvest and to sell fish to obtain a moderate livelihood for themselves and their families.

While we are all frustrated at the lack of movement by the Federal Government's Department of Fisheries and Oceans, that does not mean that work has been a standstill on the Mi'kmaq side.

The members of the Assembly of Nova Scotia Mi'kmaq Chiefs who are part of the *Made-In-Nova Scotia Process*' discussions on fish, have drafted documents for community engagement and input. The Fisheries Team is now meeting with Chiefs and Councils to review these documents and is looking forward to also bringing these documents to the communities for the input of our Mi'kmaq harvesters.

Our work is based upon the long-held Mi'kmaq philosophy of netukulimk. Netukulimk is defined as the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic and spiritual well-being without jeopardizing the integrity, diversity or productivity of the "natural bounty".

Throughout this information sheet, you will learn a bit about the documents and how they can help to support the Mi'kmaq of Nova Scotia to finally implement their right to a Moderate Livelihood.



Netukulimk

Our work is based upon the long-held Mi'kmaq philosophy of *netukulimk*.

Netukulimk is defined as the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic and spiritual well-being without jeopardizing the integrity, diversity or productivity of the “natural bounty”.



What is Mi'kmaq Netukulimk Fishing?

Mi'kmaq Netukulimk Livelihood fishing is a small scale, artisanal fishery with commercial attributes, for any viable aquatic species, fished within and surrounding the traditional territory of Mi'kma'ki, using traditional and modern methods and techniques, non industrial vessels (under 49 feet), practiced under the management and protection of Mi'kmaq Community Livelihood Fishery Plans, following the expectations of the Assembly of Nova Scotia Mi'kmaq Chiefs' Guiding Principles and the Mi'kmaq concept of Netukulimk, with the goal of improving the well-being of many Mi'kmaq individuals and their families.

Statement of Interim Principles of the Netukulimk Livelihood Fishery

The Assembly, with the support of the Grand Council and Band Councils, have established overarching governance expectations for the Mi'kmaq Netukulimk livelihood fishery. These expectations are called the *Statement of Interim Principles of the Netukulimk Livelihood Fishery*. This draft working document are intended to provide a common set of minimum expectations for Mi'kmaq fishing for a moderate livelihood in the province of Nova Scotia. These principles are meant to act as a guide for communities when they set their community standards, expectations, regulations and compliance measures for a Netukulimk Livelihood Fishery Plan (LFP).



PRINCIPLES OF A NETUKULIMK LIVELIHOOD FISHERY



Maw-lukutjik **Saqmaq**
Assembly of Nova Scotia
Mi'kmaq Chiefs



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PRINCIPLES OF A NETUKULIMK LIVELIHOOD FISHERY

The Mi'kmaq have a legally recognized, Constitutionally affirmed
Right to fish for a Moderate Livelihood.

The Assembly of Nova Scotia Mi'kmaq Chiefs is developing a set of
interim principles to guide a Mi'kmaq moderate livelihood fishery. These
draft principles have been developed through engagement with the Grand
Council, Councillors, community members, and Fisheries Managers.
We also need to hear from YOU on what you think of these
principles before we adopt them.

Share your thoughts and feedback with us at info@mikmaqrights.com

Basic Principle: Netukulimk

Netukulimk is the use of the
natural bounty provided by the
Creator for the self-support and
well-being of the individual and
the community by achieving
adequate standards of community
nutrition and economic and
spiritual well-being without
jeopardizing the integrity,
diversity or productivity of the
"natural bounty".

PRINCIPLE 1

EACH MI'KMAQ COMMUNITY IN
NOVA SCOTIA SHALL HAVE ITS
OWN NETUKULIMK LIVELIHOOD
FISHERY PLAN.



PRINCIPLE 2

NETUKULIMK LIVELIHOOD
FISHERY PLANS MUST BE
CONSISTENT WITH THE
MI'KMAQ CONCEPT OF
NETUKULIMK.



PRINCIPLE 3

NETUKULIMK LIVELIHOOD
FISHERY PLANS WILL
EMPHASIZE RESOURCE
CONSERVATION,
ENVIRONMENTAL
STANDARDS
AND SAFETY.



PRINCIPLE 4

** THIS PRINCIPLE IS STILL
UNDER REVIEW AND NEEDS
COMMUNITY DISCUSSION.



PRINCIPLE 5

FISH CAUGHT, BY MI'KMAQ
REGISTERED AND HARVESTING
IN COMPLIANCE WITH A
COMMUNITY PLAN, MAY BE
SOLD, TRADED, BARTERED,
CONSUMED
OR DONATED.



PRINCIPLE 6

MI'KMAQ HARVESTERS FISHING
UNDER THE NETUKULIMK LIVELIHOOD
FISHERY PLANS, NET BENEFITS
SHALL GO TO THE HARVESTER AND
THEIR FAMILIES, BUT IF DIRECTED
SHALL GIVE BACK TO THE
FISHERIES OR COMMUNITY
ACCORDING TO THEIR
COMMUNITY PLAN.



PRINCIPLE 7

OPPORTUNITIES TO REGISTER
UNDER A COMMUNITY
LIVELIHOOD FISHERY PLAN WILL
BE ACCESSIBLE, TRANSPARENT
AND FAIR FOR ALL MEMBERS OF
THE MI'KMAQ OF
NOVA SCOTIA.



PRINCIPLE 8

** THIS PRINCIPLE IS STILL
UNDER REVIEW AND NEEDS
COMMUNITY DISCUSSION.



PRINCIPLE 9

HARVESTERS FISHING UNDER
NETUKULIMK LIVELIHOOD
FISHERY SHALL CARRY
PERSONAL IDENTIFICATION
AND PROOF OF
REGISTRATION UNDER
A COMMUNITY PLAN.



PRINCIPLE 10

EACH MI'KMAQ COMMUNITY IN
NOVA SCOTIA SHALL ADMINISTER
A SYSTEM TO ENSURE
COMPLIANCE OF HARVESTERS
REGISTERED UNDER THEIR
COMMUNITY NETUKULIMK
LIVELIHOOD FISHERY PLAN.



PRINCIPLE 11

ALL NETUKULIMK LIVELIHOOD
FISHERY HARVESTERS MUST
COMPLY WITH ANY PLAN
CONDITIONS IN RELATION TO
SPECIES, LOCATIONS, AND
ANY OTHER CONDITIONS
AS SPECIFIED.



PRINCIPLE 12

ALL FISHING GEAR USED BY
HARVESTERS MUST BE MARKED,
TAGGED AND IDENTIFIABLE AS
REGISTERED UNDER THE
NETUKULIMK
LIVELIHOOD FISHERY.



PRINCIPLE 13

NETUKULIMK LIVELIHOOD
FISHERY HARVESTERS MUST
REPORT THEIR CATCH IN
ACCORDANCE WITH ALL
CONDITIONS OF
REGISTRATION OF
THEIR COMMUNITY PLAN.



PRINCIPLE 14

HARVESTING UNDER THE NETUKULIMK
LIVELIHOOD FISHERY PLAN IS TO BE
MONITORED TO ENSURE THE SAFETY
OF HARVESTERS AND TO ENSURE THE
INTEGRITY, DIVERSITY AND
PRODUCTIVITY OF THE FISH AND
THEIR ENVIRONMENT IS PRESERVED.



PRINCIPLE 15

** THIS PRINCIPLE IS STILL
UNDER REVIEW AND NEEDS
COMMUNITY DISCUSSION.



PRINCIPLE 16

FOOD, SOCIAL & CEREMONIAL;
COMMERCIAL;
COMMUNAL-COMMERCIAL
AND NETUKULIMK LIVELIHOOD
FISHERY ARE DISTINCT
AND SEPARATE, WITH
THEIR OWN RULES AND
REGULATIONS.



PRINCIPLE 17

** THIS PRINCIPLE IS STILL
UNDER REVIEW AND NEEDS
COMMUNITY DISCUSSION.



"Confidential, privileged and under the protection of the February 23, 2007
Mi'kmaq-Nova Scotia-Canada Framework Agreement."

For discussion and feedback from
the Mi'kmaq of Nova Scotia.

We all know that building this process will take time. We want to ensure that it's done right. The Assembly also respects & understands that there needs to be a plan in place for those Mi'kmaq harvesters who want to be out on the water today.

Harvesting Interim Authorization by Band Council Resolution

We all know that building this process will take time. We want to ensure that it's done right. The Assembly also respects and understands that there needs to be a plan in place for those Mi'kmaq harvesters who want to be out on the water today. We all know that despite the *Marshall* decision, Mi'kmaq harvesters are still being harassed on the water, having their gear and equipment seized as DFO still considers Moderate Livelihood Fishery outside their regulated fishery. We're fighting to address that.

In the meantime, we have drafted a Band Council Resolutions for our member bands to consider, that provided interim livelihood authorization to individual members to harvest and sell fish to provide a moderate livelihood for themselves and their families, pending our adoption of a Netukulimk Livelihood Fisheries Plan.

Netukulimk Livelihood Fisheries Management Plans

This plan is to provide clarity on the roles and responsibilities of the Band Councils (or their delegate) and community members with respect to implementing our inherent right to manage fisheries. We have written a working document to assist Mi'kmaq communities, Band Councils (or delegate) and community Fisheries Departments in their development and implementation of livelihood fishing activities for their community members.

Exercising our rights to what the waters provide.



Distinct Fishing Activities in NS, in order of protected and affirmed access

Food, Social and Ceremonial (FSC)

FSC fishing is an Aboriginal Right. The Supreme Court of Canada (SCC) in the 1990 *R. v. Sparrow* case affirmed that Aboriginals have an ancestral right to fish — one that had not been extinguished by the Canadian Constitution. The Court found that when Sparrow was arrested, he was exercising legitimate “existing” rights to fish.

This fishery is to provide food for family and for social and ceremonial engagements.

As an Aboriginal Right, this fishery is priority over all other fishery access.

Moderate Livelihood - Netukulimk

Moderate Livelihood is a Treaty Right. The Supreme Court of Canada (SCC) in the 1999 *R. v. Marshall* case affirmed that Mi'kmaq, Wolastoqiyik and Peskotomuhkati people of Atlantic Canada have the Treaty Right to sell, trade or barter items that are hunted, fished or gathered to obtain necessities, with respect to conservation, safety and other justifiable public purposes, and Moderate Livelihood is not for the accumulation of wealth.

The Assembly of Nova Scotia Mi'kmaq Chiefs further describe this Treaty Right as “an individual exercising a collective right”.

The Mi'kmaq, Wolastoqiyik and Peskotomuhkati have a right to “an equitable share” of the resource.

While the Department of Fisheries and Oceans (DFO) insists that all fisheries be licensed, the Minister has not made provision for a livelihood license, and so DFO does not license this legitimate, constitutionally protected fishery.

Commercial & Communal Commercial

Commercial Fishing, which includes Communal Commercial, is for profit, or for-profit maximization. This fishery is for the creation and accumulation of wealth by the individual or the community (communal), in the most efficient way possible. This fishery is a privilege, whereas owners are provided a licence from the Federal Government (through DFO) yearly and are always at the complete discretion of the Minister of Fisheries.

Recreational & Sport

Recreational & Sport Fishing is fishing solely for pleasure of catching fish for personal use. This fishery is a privilege, whereas owners are required to purchase a licence from the Provincial Government annually.

What we envision:

We need to have extensive engagement with our communities and their members as we know that we need to build consensus on how individuals implement the collective Mi'kmaq Treaty Right to a Moderate Livelihood.

Mi'kmaq Concept of Implementation:

- Mi'kmaq Governance and Principles
- Access based on Mi'kmaq need
- Collaborative Management
(potential for committee to include both Mi'kmaq & DFO representatives)

Implementation is NOT:

- Communal Commercial Fishery

What now?

We need to have extensive engagement with our communities and their members as we know that we need to build consensus on how individuals implement the collective Mi'kmaq Treaty Right to a Moderate Livelihood.

We have been successful over the past few months in engaging our Chiefs and Councils, via video meetings, and it is equally as important that we talk to harvesters.

As the COVID-19 pandemic restrictions are lifted, we will begin to host community engagement meetings. Online surveys, Facebook groups, mail outs and other options are being utilized and explored during these pandemic restricted times to increase engagement events and opportunities. Education communication materials are also in development and are currently being deployed.