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PEI Chiefs Respond to PEIFA and MFU Statement on Banked Lobster Licenses

The Chiefs of the Mi'kmaq First Nations of Lennox Island and Abegweit say that there is no legitimate concern respecting conservation in relation to “banked licenses” being reactivated and assigned to Indigenous communities.

As confirmed by the Supreme Court of Canada, the Mi'kmaq of Prince Edward Island have an entrenched constitutional right to harvest fish for food, social and ceremonial purposes; as well as to generate a moderate livelihood from the fishery. It must be understood that the Mi'kmaq fishery is a rights-based fishery, which has legal priority over the non-Indigenous “privilege” based fishery. The only limitation on the Aboriginal/Indigenous right to fish is conservation.

The Mi'kmaq, who have inhabited Prince Edward Island for over 10,000 years, have throughout the generations depended on the fishery to sustain themselves and their way of life. The Mi'kmaq are the ultimate stewards of the land and resources that comprise Prince Edward Island and its surrounding waters.

“The Mi'kmaq take only what they need for sustenance and the rest is left to ensure that there will be sufficient resources for the next seven generations of our People”, said Chief Darlene Bernard of the Lennox Island First Nation. “For centuries we have been denied access to the fishery and our way of life as a result of colonization. The limited access we have to the lobster fishery is not adequate for us to realize a moderate livelihood.”

The Treaty right to fish for a moderate livelihood was recognized by the Supreme Court of Canada in the 1999 *Marshall* decision. Following *Marshall*, the Government of Canada purchased licenses which were then banked so as to provide access to the lobster fishery by the Mi'kmaq. The Government of Canada is now in negotiations with the Mi'kmaq of the Atlantic region, including Prince Edward Island, on a nation to nation basis through the Rights and Reconciliation process, which is aimed at implementing constitutionally protected rights and promoting true reconciliation. The Rights and Reconciliation process is based on the unique relationship between Canada and its Indigenous Peoples – it is inherently different than the relationship between the government and privileged based non-Indigenous fishers. The PEI Chiefs have identified the Rights and Reconciliation process as a longer-term process and are calling for the immediate transfer of any banked licenses to the communities.

Efforts to meet constitutional obligations by increasing Mi'kmaq access to the fishery through banked licenses pose no risk to conservation or the sustainability of the fishery.

“The number of lobster fishing licenses held by the Mi'kmaq in the Atlantic region is a very small percentage of the licenses held by non-Indigenous fishers”, said Chief Junior Gould of the Abegweit First Nation. “In addition to the regulations put in place by Canada, we have our own management plans to ensure the sustainability of our lifeblood – the fishery.”

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L'nuey is an initiative focused on protecting, preserving, and implementing the constitutionally entrenched rights of the Mi'kmaq of Prince Edward Island.