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Acoura, Fisheries Department  
6 Redheughs Rigg  
South Gyle  
Edinburgh, EH12 9DQ

January 14<sup>th</sup>, 2019

Dear Ms. Burns,

As stakeholders in the certification assessment of the Eastern Canada Offshore Lobster Fishery, we are writing to request an expedited audit be undertaken immediately on this fishery. The certificate holder, Clearwater Seafoods Limited Partnership (made up of general partner CS Manpar, who holds the license and now the conviction, and Clearwater Seafoods as limited partner) has been charged and convicted of 'gross violation' of Section 115.2 of the Atlantic Fisheries Regulations, also known as the '72 hour rule'.

The company was convicted on September 20, 2018 with documents showing violations spanning years. A CBC news article published details on January 10<sup>th</sup>, 2019<sup>1</sup> with several other outlets following up. Neither DFO or Clearwater have issued a statement confirming the company is now in legal compliance with the regulation.

Given the long term and egregious nature of the illegal fishing, we submit to Acoura (and to MSC) that an expedited audit should be required and the certificate immediately suspended until Clearwater can provide evidence they have indeed changed their fishing practice to be within the law. A verbal verification by the company should not be seen as sufficient evidence to keep their certification at this point.

Court documents show that Clearwater was found to be leaving their traps unattended for weeks, sometimes months at a time at sea. This is illegal fishing. Department of Fisheries and Oceans (DFO) enforcement officers found evidence that more than 8500 traps were left unattended on the ocean floor for 68 days in 2014 and carried out an at-sea boarding later in the year, again confirming weeks of unattended traps. Further enforcement monitoring led to official warnings to the Clearwater management in June and August of 2016, including a letter directly to Christine Penny VP Sustainability and Public Affairs for both CS Manpar and Clearwater Seafoods Ltd. Enforcement officer analysis of fishing practice and trap hauls in 2015

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<sup>1</sup> <https://www.cbc.ca/news/canada/nova-scotia/seafood-giant-clearwater-convicted-of-gross-violation-in-lobster-fishery-1.4971558>

and 2016 (revealed in the court documents) showed traps consistent lack of gear tending and an average of 48% of traps going unhailed during trips as well as misreporting in the log book. Enforcement officers also specifically note discrepancies between the MSC certification report and observed fishing practice.

Ongoing enforcement monitoring confirmed the company ignored the 2016 official warnings and continued the practice resulting in a charge for violations committed between September and November of 2017. The company plead guilty and was convicted on September 20, 2018.

The court documents show the fishery has been operating illegal over a span of at least four years and ignored multiple warnings and discussions with DFO. Throughout this time they have held their MSC certification.

We submitted concerns to Acoura about this very practice requesting your assessment team provide evidence the fishery was able to fish within the 72 hour law during both the 2016 and 2017 certification audits for this fishery. Our concerns and detailed suggestions for ways to confirm this were dismissed by the assessment team. In fact, our 2017 letter was given to the client to answer. Clearwater's answer is noted on pg 12 of the 2017 audit report 'the client confirmed they do not store traps on the sea bed and that gear is tended.' It appears now that this statement was given at the same time they were being investigated for this exact violation.

Their initial court date to hear charges was July 12, 2018 and the most recent audit by your assessment team started June 2018 and was published in August 2018. It appears the client was not fully transparent with Acoura about the ongoing court procedure. Since this 2018 audit was a shortened version of the audit procedure – only a 'review of information audit' – no letter from DFO was sought, as would be usual, to confirm infractions or changes to the fishery - only the verification of the client.

We have many concerns about the lack of rigorous auditing process that this case demonstrates. The credibility of the MSC certification system rests largely on having 'independent third-party verification' procedures and stakeholder information and expertise included in assessments. Over the past few years for this fishery, both of these fail safes seem to have been circumvented leading to a situation where a certified fishery has now been shown to have long term illegal practices.

We would also note, that while the '72 hour rule' gear tending regulation may undergo a review process with possible amendments in the future – it is still and has been the law throughout Clearwater's certification. They were breaking it knowingly and have now been convicted of that. Legal fishing is the very minimum a fishery should need to demonstrate in order to be even considered for MSC assessment.

As we have pointed out to you before with only one boat, upwards of 8500 traps (confirmed by court documents) in the offshore area – it appears logistically impossible to tend their gear within the law.

Again, we request an expedited audit and suspension of their certification until they can show proof they have changed their fishing practice in some way that ensures their fishing is legal and that would be required to have ongoing evidence of such through the trap haul electronic data and VMS records.

Sincerely,



Shannon Arnold  
Marine Program, Senior Coordinator

Cc:

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