



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Fish and Fish Habitat
Protection Program
Ecosystem Management Branch
Pacific Region
200 – 401 Burrard Street
Vancouver, BC
V6C 3S4

Programme de protection du poisson
et de l'habitat du poisson
Gestion des écosystèmes
Région du Pacifique
Pièce 200 – 401 rue Burrard
Vancouver (C.-B.)
V6C 3S4

January 28, 2021

Mr. Daniel Cheater
Barrister and Solicitor
Ecojustice
390–425 Carrall Street
Vancouver BC V6B 6E3

Ms. Lina Azeez
Campaign Manager, Connected Waters
Watershed Watch Salmon Society
#75, 210–128 West Hastings Street
Vancouver BC V6B 1G8

Dear Mr. Cheater and Ms. Azeez:

Thank you for your correspondence of December 3, 2020, regarding concerns Watershed Watch Salmon Society has about upgrades to Kennedy Pump Station in Pitt Meadows, British Columbia (BC). I have been asked to respond on behalf of the Honourable Bernadette Jordan, Minister of Fisheries, Oceans and the Canadian Coast Guard.

The conservation and protection of Canada's fisheries resources is a top priority for Fisheries and Oceans Canada (DFO). DFO's [Fish and Fish Habitat Protection Program](#) (FFHPP) helps conserve and protect fish and fish habitat and restore fish habitat for future generations.

The FFHPP administers and ensures compliance for development projects taking place in and around fish habitat, under the *Fisheries Act* and relevant provisions of the *Species at Risk Act*. Projects proposed in or near water have the potential to impact fish and fish habitat and DFO recommends that proponents of these projects submit them for regulatory review to determine whether an authorization is required pursuant to section 34.4(2)(b) and section 35(2)(b) of the *Fisheries Act*. In reviewing projects, FFHPP recommends that fish-friendly design options be considered, where possible, for projects involving new flood management infrastructure upgrades. At this time, DFO has not received a request for review of the project at Kennedy Pump Station and so has not assessed the impacts of the current proposed design on fish and fish habitat.

I understand that Watershed Watch is seeking DFO's views on whether the installation of a fish-friendly pump station at Kennedy Pump Station would violate the Aquatic Invasive Species Regulations (AISR) and whether non-fish friendly pumps would violate s.34.4(1) of the *Fisheries Act*. As noted above, DFO has not received a request for review of the project at Kennedy Pump

Station, and is therefore unable to comment on it specifically. Generally speaking, non-fish friendly flood control infrastructure has the potential to be in violation of section 34.4(1) of the *Fisheries Act* as there is a risk of causing death to fish during operation.

Sections 6 to 9 of the AISR prohibit the import, possession, transport, and release of invasive species listed in Part 2 of the Schedule to the Regulation. To our knowledge, none of the fish species listed in Part 2 are present in the lower Fraser River, including the Pitt River watershed. Section 10 of the AISR prohibits the introduction of an aquatic species to a region or body of water where it is not indigenous unless authorized to do so under federal or provincial law. This could also apply to aquatic species listed by the Province of British Columbia as [priority invasive species](#). If a non-indigenous species is present upstream of an existing tidal gate (e.g., pump), but not downstream, then AISR Section 10 could apply where a pump permitted the non-indigenous species to pass downstream.

If a proposal for a fish pump at Kennedy Pump Station is sent to DFO for review, the Department will take steps to determine if non-indigenous fish are present, both upstream and downstream of the station. This would include assessing information provided by the proponent and confirming if surveys have been conducted. If the same non-indigenous fish species are present upstream and downstream of the proposed pump station, the provisions of Section 10 would not be triggered.

Thank you for writing. I hope that the information I have provided is helpful.

Sincerely,

Brad Fanos
Director
Fish and Fish Habitat Protection Program
Ecosystems Management
Pacific Region

c.c.: The Office of Terry Beech
Burnaby North–Seymour
Parliamentary Secretary to the Minister of Fisheries, Oceans and the
Canadian Coast Guard