



November 14, 2023

Kent Laborde and Jasmine Prat
Office of International Affairs, Trade, and Commerce
National Marine Fisheries Service
1315 East-West Highway, 5th Floor
Silver Spring, MD 20910

RE: “Permits; Foreign Fishing”; Agency/Docket Number RTID 0648–XD462

Don't Cage Our Oceans is a nationwide coalition of over fifty organizations and businesses working to stop industrial-scale offshore finfish farming while uplifting values-based seafood systems led by local communities.¹ We represent nearly 4.5 million people nationwide. Responsible forms of aquaculture are community-driven, thoughtfully-sited, and appropriately scaled, using low impact methods. We appreciate the opportunity to provide comments on the transboundary permit request (RTID 0648–XD462).

¹ For examples of values-based seafood systems led by local communities, see Farr, E., Webb, S., Holdeman, S. & Tolley, B. Aquaculture Values Report: A Visioning Project of the North American Marine Alliance. (Aug 2023.) Available at: <https://namanet.org/wp-content/uploads/NAMA-Aquaculture-Visioning-Report.pdf>

At issue is whether Cooke Aquaculture, a Canadian farmed salmon company with a poor track record of environmental stewardship and social responsibility, should be granted a permit to transship farmed salmon from the state of Maine to Canada (for processing), using Canadian-flagged vessels. NMFS has published this opportunity for public review and to comment on this proposal. The application for a transshipment permit is submitted under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Authority under MSA; An Omission in the Federal Register

Section 204(d)² of MSA authorizes the Secretary of Commerce to issue a transshipment permit for a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the United States Exclusive Economic Zone (EEZ) or, with the concurrence of a state, within the boundaries of that state, to a point outside the United States.

This Federal Register notice indicated that Section 204(d)(3)(D) of MSA provides that an application to transship from U.S. waters to another country using non-U.S. vessels may not be approved until the Secretary determines that “no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated . . . an interest in performing the transportation at fair and reasonable rates.”

However, the Federal Register notice fails to also indicate that the Secretary may approve the permit only if all four conditions are met, and the notice only cites the fourth one out of four. The first condition, Section 204(d)(3)(A), requires that “the transportation of fish or fish products to be conducted under the permit, as described in the application, **will be in the interest of the United States** and will meet the applicable requirements of this chapter.” (emphasis added). Our members maintain that granting this permit would not be in the best interest of the United States.

Allowing Cooke Aquaculture to Outsource Processing Jobs Offshore Harms the U.S. Economy

First off, allowing Cooke Aquaculture to operate floating factory-scale finfish farms in either State or Federal waters harms the marine environment, coastal communities, and wild fish populations. **The August 2023 escape of over 50,000 juvenile salmon from two of Cooke Aquaculture’s cages off Cross Island in Maine** raised serious concerns about the company’s

² 16 U.S.C. 1824(d); <https://www.govinfo.gov/link/uscode/16/1824>

competency, marine mammal (seal) interactions, and serious risks to wild fish.³ But as this story unfolds, it is worth remembering that in 2017, this same company had lied and notoriously undercounted its massive fish escape in Washington state.⁴ This massive fish escape in Washington ultimately led to the state shutting down Cooke’s fish farms in state waters, to avoid repeating another catastrophe. **Recognizing the regularity of fish escapes from ocean-based net pens, the U.S. Council on Environmental Quality has stated that it “must be assumed that escapes will occur” from net pens.**⁵

Second, even if a foreign corporation exploits American state waters to grow its fish, at a minimum these fish should be processed in the U.S. Here, the corporation would rather ship these farmed fish from the U.S. to Canada for processing, and use Canadian-flagged vessels to do so. In that sense, neither the processing nor the transboundary shipment of the product would be handled by U.S. companies.

This exacerbates the problem of offshoring American jobs. It also flies directly in the face of Goal 4 of NOAA’s National Seafood Strategy,⁶ (“Strengthen the entire U.S. seafood sector”), which in part stresses the importance of strengthening seafood infrastructure by “work[ing] across federal agencies to modernize and maintain U.S. seafood infrastructure (e.g., vessels, hatcheries, port and dock facilities, processing, storage, and working waterfronts) in order to strengthen and enhance opportunities for coastal seafood communities and regional food networks.” In other words, a foreign corporation extracts the wealth and ecosystem services of Maine state waters to grow its product in an open discharge, polluting manner, and Mainers are further cut off from any economic opportunities, and left with an ecological mess.

The Transboundary Permit Request Should be Rejected

Our national members and Maine-based members, such as Fish & Whistle, Greenhorns, and One Fish Foundation, agree that offshore fish farming is an antiquated practice that we should not be emulating in this country. Globally, leading countries are *actively pulling away from this*

³ French, Edward. *Salmon escape raises concerns about seals, risk to wild fish*. Maine Monitor, August 26, 2023. Available at: <https://themainemonitor.org/salmon-escape-raises-concerns-about-seals-risk-to-wild-fish/>

⁴ Mapes, Lynda V. *Fish farm caused Atlantic salmon spill near San Juans, then tried to hide how bad it was, state says*. Seattle Times, February 2, 2018. Available at: <https://www.seattletimes.com/seattle-news/fish-farm-caused-atlantic-salmon-spill-state-says-then-tried-to-hide-how-bad-it-was/>

⁵ Council for Environment Quality & Office of Science and Technology Policy, Case Study No. 1: Growth-Enhanced Salmon, at 23 (2001), <https://clintonwhitehouse5.archives.gov/media/pdf/salmon.pdf>; *CEQ and OSTP Assessment: Case Studies of Environmental Regulations for Biotechnology*, https://hygeia-analytics.com/wp-content/uploads/2016/12/RP_RegGETech_CEQ.pdf.

⁶ <https://www.fisheries.noaa.gov/s3/2023-08/2023-07-NOAAFisheries-Natl-Seafood-Strategy-final.pdf>

practice either by banning it outright or heavily taxing the practice (e.g., Canada (British Columbia), Denmark, Argentina, and even Norway). They are doing so because of the enormous ecological harms caused by allowing these corporations to proliferate and expand operations in their countries' waters for years.

Therefore, the harmful practice itself, added with the job loss impact of removing U.S. citizens from the opportunity to either transport or process the farmed fish, **is against the interest of the United States**, thereby failing the first part – Section 204(d)(3)(A) – of the four criteria laid out in MSA Section 204(d)(3). It is also against the agency's own policy in its National Seafood Strategy (Goal 4). For these reasons, **the National Marine Fisheries Service should not grant the permit** to transship farmed salmon across national borders with foreign vessels for offshore processing.

Sincerely,

James Mitchell
Legislative Director
Don't Cage our Oceans