

A message from the Ecology Action Centre.

Sent: Mon, Jan 20, 2014 3:51 pm

Subject: Ecology Action Centre Goes to Court over Genetically Modified Salmon

Dear Members

This morning the Ecology Action Centre announced that we are going to Federal Court to uphold Canada's environmental laws regarding products of biotechnology. Specifically, we, along with Living Oceans Society with legal representation from lawyers at Ecojustice want a court to decide if the federal government violated its own law by permitting the manufacture of genetically modified salmon in Canada.

On November 23rd 2013, it was disclosed that the federal Ministers of the Environment and Health approved an application from the company AquaBounty Canada Inc. which has operations in P.E.I., to manufacture genetically modified salmon. The company's plan is to produce its eggs in P.E.I., grow the salmon to adult size in Panama and then, pending approval from US Food Drug Administration, sell the salmon in US stores. If approved, it would be the first genetically modified food animal in the world approved for human consumption.

To create AquAdvantage salmon, genetic material from West Coast Chinook salmon and the eel-like species, ocean pout, was inserted into Atlantic salmon eggs. According to AquaBounty, the genetically modified salmon grows to market size faster than conventional salmon.

We assert the approval is unlawful because it failed to assess whether genetically modified salmon could become invasive, potentially putting ecosystems and species such as wild salmon at risk. We are asking the court to set aside the government's assessment and require the government to comply with the law before permitting the manufacture of these genetically modified organisms.

The Ecology Action Centre has initiated legal action only a few times in its 43 year history. The last time we went to court was in 2002 over the impact of dragging on the ocean floor and marine life.

We look forward to your support and thoughts as we go forward on this crucial matter. While the emphasis has been placed on containing this genetically modified salmon, the consequences of an escape are not fully known and could be irreversible and immeasurable. The press release and backgrounder can be found at

<http://www.ecologyaction.ca/content/GM-Salmon-Trial-Release>. Copies are available in French and Spanish.

We are lucky to have Ecojustice, a national charitable organization dedicated to defending Canadians' right to a healthy environment, representing us in court on a pro-bono basis. However, we still need to raise money to cover disbursements and related legal costs. We also have additional costs related to staff time and communications. If you would like to donate to our campaign costs for this initiative, please [click here](#).

We did not take this step lightly. As one of our board members put it: We are a Maritime

people. We have an obligation to ask that Canada's environmental laws be upheld to protect the Atlantic salmon and the ecosystem of which it is part.

Sincerely,

Mark Butler and Susanna Fuller on behalf of EAC

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From the Halifax Chronicle Herald of January 21, 2014:

Feds face salmon egg lawsuit Action targets Ottawa's approval for production of fast-growing fish in P.E.I.

SELENA ROSS Staff Reporter

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A lawsuit is expected to force the federal government to explain, step by step, its decision to allow genetically modified salmon eggs to be produced on Prince Edward Island.

In November, with little warning, a hatchery near Souris got Ottawa's go-ahead to start commercially producing eggs for AquAdvantage salmon, which grow twice as quickly as regular salmon.

AquAdvantage fish are made with a growth hormone gene from the chinook salmon and other genes from an eel-like species.

Developed mostly in Canada by AquaBounty Technologies Inc. of Massachusetts, the fish are poised to be the first genetically modified animals sold as food, if approved.

They haven't yet been permitted to enter food markets anywhere. But producing the eggs required a separate review meant to look largely at whether the genetically engineered eggs could threaten other salmon stocks.

That review was incomplete, allege environmental advocates who last week finished formally serving the Environment and Health departments, and the company producing the eggs, with legal documents.

"If those eggs got out somewhere, ... what could they do to the natural environment?" said Susanna Fuller of Halifax's Ecology Action Centre, one of two groups behind the lawsuit.

"If they were viable eggs, could they then grow out? There's all these questions that just have not been

answered.”

A spokesman for Environment Canada declined to comment, saying the matter is before the courts. An AquaBounty spokesman could not be reached Monday.

AquaBounty has spent two decades developing AquAdvantage salmon. It has received more than \$2 million in taxpayer support from various agencies, said Fuller.

Only the eggs are to be produced in Canada. The company will then fly them to Panama and grow them there in a closed-containment facility.

What’s legally required for the government to make a decision about the eggs is not obvious, but how it did so in this case is even more unclear, said Tanya Nayler, an Ottawa lawyer working on the case.

Organisms new to Canada must be assessed for the risk they pose to the environment, but companies responsible for the organisms can apply to waive that process if the organisms are deemed to be sufficiently separated from the environment.

AquaBounty applied for a waiver, citing the closed-containment facility in Souris, but it appears to have been turned down, said Nayler. Any granted waivers must be published in the Canada Gazette, and the legal team could not find one for AquaBounty.

Federal fisheries scientists completed a review of the eggs in November. The scientists were uncertain on some points, but Environment and Health ministers made their decisions so quickly that the company could not have followed up with tests and new data, said Nayler.

The scientists wrote that “the potential hazard of (the fish) to biodiversity in Canada is unknown.” Overall, the Souris facility and transport methods to Panama inspired their confidence that the eggs would be secure.

But the government’s final approval did not limit AquAdvantage to one company or to just the Souris facility, said Nayler.

“What we’re seeking is a judicial review of their decision,” said Fuller. “All the information that went into their decision should come out in court.”

Before the omnibus bill of 2012, environmental assessment law would likely have triggered a public consultation, she said. Without that option, a lawsuit seemed the best way to achieve transparency.

Another motivator was the involvement of Panama, she said.

“Even if there were really good regulations in Canada, we’re exporting the first (genetically modified) food to a developing country.”

The case is unlikely to see a courtroom before summer.