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## **Marine Harvest appeals aquaculture decision**

BC's largest aquaculture company, Marine Harvest Canada Ltd, has announced that it intends to appeal the February 9 BC Supreme Court decision that the federal government, not the provincial government, has jurisdiction over aquaculture on BC's coast (see *Island Tides* February 26, 2009).

The original case was brought by Alexandra Morton, who lives in the Broughton Archipelago, and who has fought long and hard to prevent sea lice from salmon farms attacking juvenile salmon on their way from the streams where they are hatched to the sea. While it is unusual for the courts to hear constitutional challenges, Justice Hinkson accepted the case as a matter of public interest.

Morton, represented by well-known environmental lawyer Greg McDade, argued that salmon raised in floating net-pen

salmon farms were in fact a 'fishery,' and thus fell, constitutionally, under the federal *Fisheries Act*. The case was defended by the provincial government and Marine Harvest, who said that aquaculture was in fact a form of agriculture, and was properly the domain of the province.

Justice Hinkson agreed with Morton, and gave the federal and provincial governments twelve months to organize the change of jurisdiction.

Marine Harvest will argue that their fish are in fact private property from the time they are hatched to the time they are harvested, and thus not subject to the *Fisheries Act*. According to provincial Minister of Agriculture and Lands Ron Cantelon, the provincial government will not join in the appeal, and it is negotiating with the federal government. ✍

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