



Heritage Canada Foundation Position on the Heritage Lighthouse Protection Act and DFO's Surplus Lighthouse List

July 5, 2010

The Heritage Canada Foundation (HCF) has written to the Minister of the Environment and the Chair of the Senate Standing Committee on Fisheries and Oceans to bring attention to serious issues that have surfaced with regard to the *Heritage Lighthouse Protection Act*. Despite the efforts of Senators, Members of Parliament, heritage organizations and volunteer citizens to get the *Heritage Lighthouse Protection Act* in place, many of Canada's heritage lighthouses remain at risk.

The Issue

The *Heritage Lighthouse Protection Act* (HLP) allows lighthouses that are declared "surplus to operational requirements" to be designated under the HLP only if a person or body submits a written commitment to buy or otherwise acquire them and protect their heritage character in the event that they are designated. This acknowledges the reality that many lighthouses are no longer serving as aids to navigation, as well as the reality that federal Department of Fisheries and Oceans (DFO) has no interest in continuing to invest in these structures.

However, DFO has now declared surplus not only its inactive lights, but also what appears to be almost all of its active lights, with the total surplus list numbering close to 1,000. HCF believes that DFO's action undermines the intent of an Act of Parliament, as follows:

1. By including active lighthouses in the list of surplus lighthouses, DFO appears to be attempting to circumvent its obligations under the Act. Active lights are by definition fulfilling operational requirements, and therefore should not be designated 'surplus'.
2. This action by DFO makes designation of almost any lighthouse contingent on an offer to acquire or purchase. The irony is that once an offer to acquire or purchase is accepted and ownership transferred, designation under the Act would be null and void, because the Act is limited to lighthouses in federal ownership.

3. While many communities may be prepared to make offers to acquire or purchase their local lighthouses, not all lighthouses are easily accessible and maintainable, or surrounded by an active community. Many are complex, remote structures that need regular investment and special equipment. We have serious concerns about the fate of these lighthouses, many of them unquestionably iconic and historic, yet excluded from protection under the Act due to DFO's designation of them as surplus.

HCF believes DFO must be instructed to **remove active lighthouses from the 'surplus' list**, allowing Canadians to petition for the designation and protection of these lighthouses under the *Heritage Lighthouse Protection Act* while they are in the hands of the federal government.

Further, we believe Parliament should impose a **moratorium on actions that render existing operational lights surplus to needs** – such as installing new “lights on sticks” in the vicinity of an existing operational lighthouse. In our view, DFO should not be allowed to invest taxpayer's dollars in actions that wilfully contravene the intent of an Act of Parliament.

Finally, the Minister responsible for the Act (the Minister of the Environment) should ensure measures are in place in the interim to monitor DFO's stewardship of lighthouses on the Surplus list. Regardless of DFO's efforts to emasculate the *Heritage Lighthouse Protection Act*, these structures are still federally owned, and many of them have undeniable heritage value to Canadians.

Background

The Heritage Lighthouse Protection Act (HLPAct) was enacted “to conserve and protect heritage lighthouses”. Passed into law in 2008 and only recently brought into force, the HLPAct recognizes that lighthouses form “an integral part of Canada's identity, culture and history” and that measures are needed to protect them for posterity.

The Act only applies to lighthouses in federal ownership. Most lighthouses are held by the Department of Fisheries and Oceans (DFO), with a few held by Parks Canada Agency.

The Act was needed because the existing *Federal Heritage Building Policy* of 1982 is not binding on federal employees and departments, is not enforced, and does not provide for public input and consultation. As a result, federally owned lighthouses made surplus by automation, or replaced with lights on metal structures, were increasingly at risk. Examples:

- The lighthouse on **Mosher Island, Nova Scotia** was pushed over and burned to the ground when no longer needed by DFO

- The lighthouse at **Seal Island, Nova Scotia** (1830) is the oldest known operating wooden light, but is deteriorating due to lack of maintenance.

The new Act establishes a process to select and designate federally-owned heritage lighthouses; prevent their unauthorized alteration and disposal; and require their maintenance by the federal government.

The Act also facilitates sales or transfers of lighthouses out of the federal inventory in order to ensure the continuing public purpose of historic lighthouses. The transfer or sale requires that some alternate form of protection be put in place – such as a protective covenant, or designation under provincial enabling legislation – because once the lighthouse is no longer federally owned, the Act itself will not apply.

There are examples of lighthouses successfully taken over by community groups, in some cases actually maintaining the aid to navigation on behalf of DFO:

- The lighthouse at **Rose Blanche, Newfoundland** (1871) is a stunning structure made of huge granite blocks. The community took it over from DFO in the late 1990s and raised the money they needed to restore it for use as a local museum.
- The lighthouses at **Hampton, Nova Scotia** and **Cape Fourchu, Yarmouth, Nova Scotia** are being operated by local groups.
- Lighthouses at **Cape Anguille, Newfoundland** and **Cape Ray, Newfoundland**
- The lighthouse at **Hope Island, Georgian Bay, Lake Huron, Ontario** (1880)

The Act allows lighthouses that are declared “surplus to operational requirements” to be designated under the HLP only if a person or body submits a written commitment to buy or otherwise acquire them and protect their heritage character in the event that they are designated. This acknowledges the reality that many lighthouses are no longer serving as aids to navigation, and the reality that DFO has no interest in continuing to invest in these structures.

Accordingly, in May 2010 DFO declared surplus all of its *inactive* lighthouses. This was not surprising. However it also declared surplus what appears to be almost all of its *active* lights, with the total surplus list numbering close to 1,000.

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