

CNL(23)91

Nova Scotia Consultation Table for Atlantic Salmon, *plamu*

Special Session

Indigenous Perspectives and Roles in Atlantic Salmon Conservation

June 8, 2023

Shelley Denny



Eastern Canada



- <5.7% of Canada's population
- Eastern Canada
 - Mi'kmaq
 - Wolastoqey
 - Peskotomuhkati
 - Innu
 - Inuit
- 25,830 Mi'kmaq in NS
 - On and off reserve
- <1.7% of NS population

Unama'ki Institute of Natural Resources (UINR)

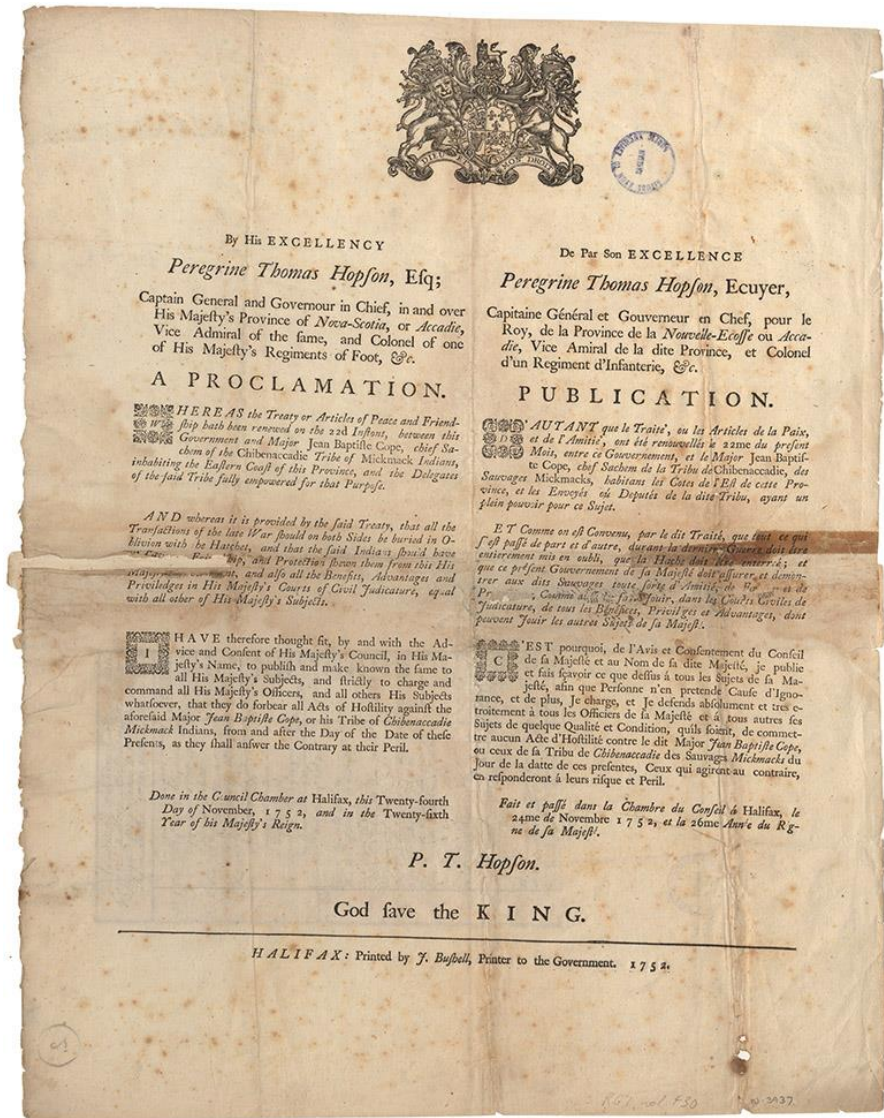
- To provide resources for Mi'kmaq equal participation in natural resource management in Unama'ki and its traditional territory. [**Governance**]
- To strengthen Mi'kmaw research and natural resource management while maintaining our traditions and world views. [**Two-Eyed Seeing**]
- To partner with other groups sharing the same desire to protect and preserve our resources for future generations. [**Partnerships**]



<https://novascotia.ca/abor/aboriginal-people/community-info/>

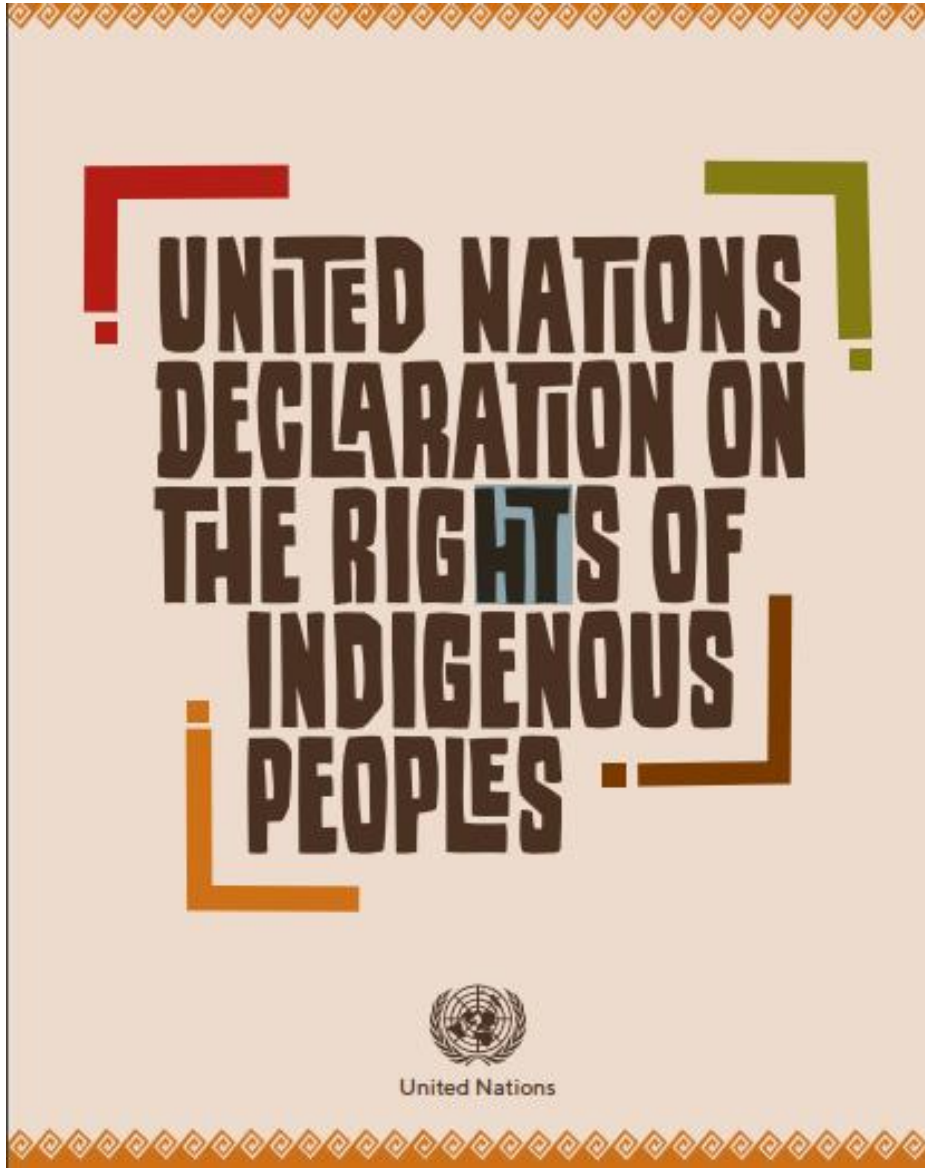
The Mi'kmaq

- Self-governing society overseen by the Mi'kmaq Grand Council
- Family units living in harmony with surroundings using traditional teachings, *Netuklimk*
- Treaties with the British in the 18th century
 - Peace and Friendship
 - End war and secure trade



Legal Landscape

- *Indian Act, 1876*
 - Nations to First Nations
 - Working collectively in NS
- *Constitution Act, 1982 s. 35, 52*
 - Recognition of Aboriginal and treaty rights
 - Exercise of rights may be inconsistent with federal or provincial law
- Treaties recognized by SCC as not extinguished
 - Treaty of 1752 “...to hunt, fish, and gather as usual”
 - *Simon v. The Queen, [1985] 2 S.C.R. 387*
- Aboriginal right to fish for food, social and ceremonial needs
 - Priority of access
 - Limits to federal jurisdiction
 - *R. v. Sparrow, [1990] 1 S.C.R. 1075*
- Duty of Crown to Consult
 - Depends on the seriousness of impact to the demonstrated right
 - TOR
 - Does not imply agreement
 - *R. v. Haida, 2004; R. v. Taku River Tlingit, 2004; R. v. Mikisew Cree, 2005*



PRINCIPLES



Respecting the Government of Canada's Relationship With Indigenous Peoples

The Government of Canada recognizes that:

- 1 All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.


- 2 Reconciliation is a fundamental purpose of section 95 of the Constitution Act, 1982.


- 3 The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.


- 4 Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.


- 5 Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.


- 6 Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources.


- 7 Respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.

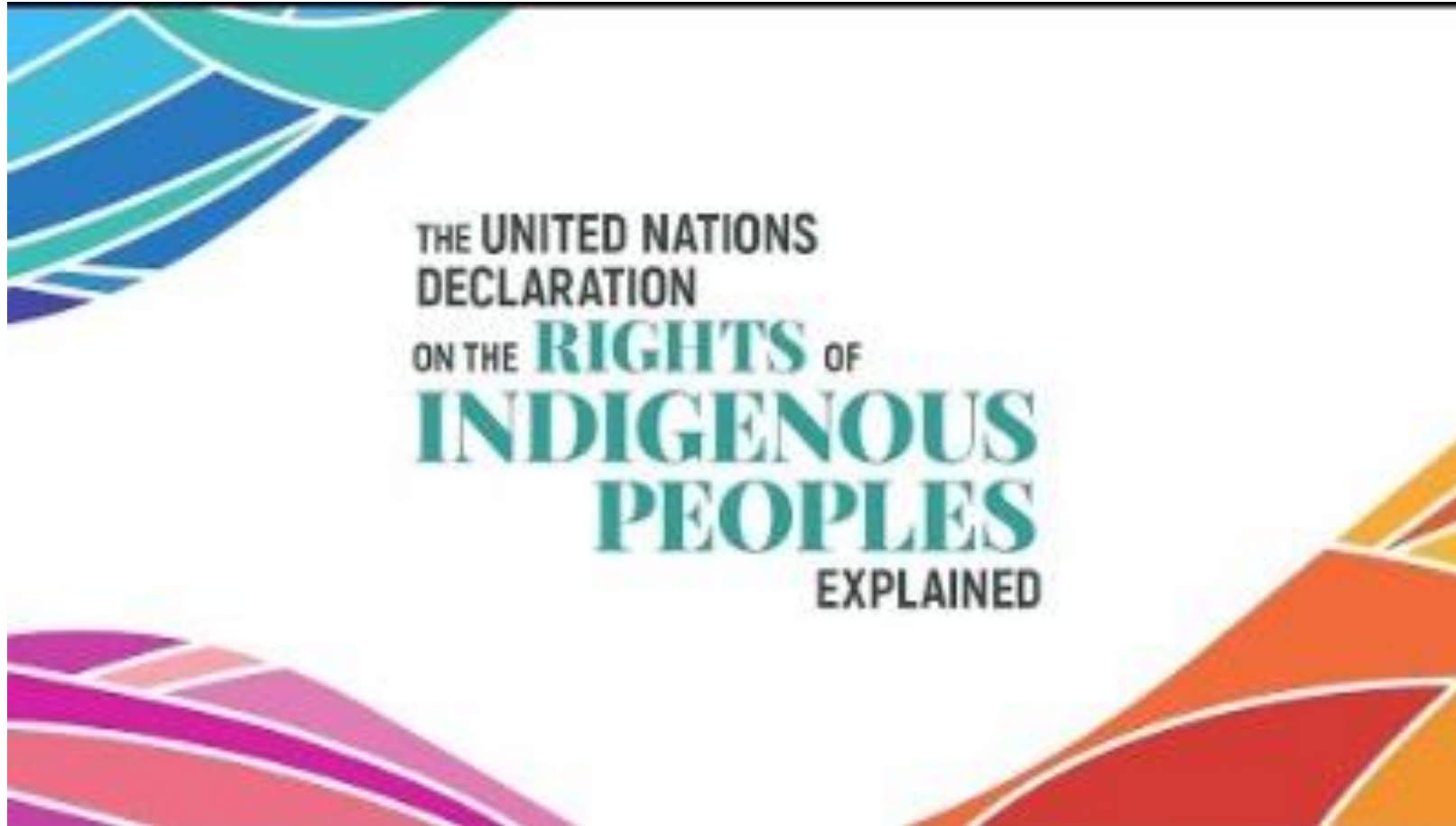

- 8 Reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.


- 9 Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.


- 10 A distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.



UNDRIP





Kwilm'w Maw-ki-anagw
Mi'kmaq Rights Initiative
Our Rights. Our Future.

CONSULTATION PROCESS



STEP 1: CROWN SENDS LETTER

Crown notifies the Mi'kmaq and requests consultation on a project happening in Nova Scotia



STEP 2: ASSEMBLY PROVIDES DIRECTION

Will a community proceed on their own or will they direct KMK to guide the work?

COMMUNITIES CAN CHOOSE TO TAKE THE LEAD OR DIRECT KMK TO WORK ON THEIR BEHALF UNDER THE *TERMS OF REFERENCE FOR A MI'KMAQ-NS-CANADA CONSULTATION PROCESS (TOR)*



STEP 3: IF THE ASSEMBLY DIRECTS KMK TO GUIDE THE WORK

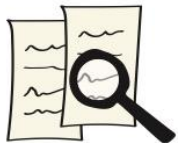
KMK works with the Assembly's portfolio lead, begins research and community engagement to identify impacts to Rights and Title



STEP 4: WORKING WITH MI'KMAQ

KMK works alongside other Mi'kmaq communities, organizations (MCG and UINR) and experts

CONSULTATION WITH THE MI'KMAQ MUST HAPPEN WHEN PROJECTS COULD HAVE ANY IMPACTS TO OUR MI'KMAW RIGHTS AND TITLE



STEP 5: PROTECT MI'KMAW RIGHTS, WORK AND RESPOND

KMK coordinates consultation with the Crown about Mi'kmaq concerns and potential impacts to archaeology, environment, natural resources, animal and aquatic species, etc.



STEP 6: ONGOING OBSERVATION OF PROJECTS

Continuous monitoring and management from planning to reclamation with the goal of protecting and implementing Mi'kmaq Rights and Title

WHEN THE MI'KMAQ ARE ENGAGED IN MEANINGFUL CONSULTATION AND OUR CONCERNS ARE ADDRESSED, IT CAN LEAD TO POSITIVE RESULTS FOR THE MI'KMAQ

- **NOT** co-management
- **NOT** consent
- Does not imply parties must come to an agreement or 'veto'

'Consultation Table'

- Impacts of recreational fishery to Mi'kmaq salmon fishery
- Multi-jurisdictional table with support from Mi'kmaq technical organizations to the ANSMC



Fisheries and Oceans
Canada

Pêches et Océans
Canada



Maw-lukutijik **Saqmaq**

Assembly of Nova Scotia
Mi'kmaq Chiefs



WESTERN PERSPECTIVE	MI'KMAQ PERSPECTIVE
<p>Worldview</p> <ul style="list-style-type: none"> * Western, scientific based reflected in belief of human superiority * Application of single rule to multiple watersheds 	<p>Worldview</p> <ul style="list-style-type: none"> * Multiple ways of knowing * Equality of life with humans as part of the ecosystem * Mi'kmaq knowledge place-based
<p>Management Philosophy</p> <ul style="list-style-type: none"> * Species specific * Surplus production model * Policy based; written 	<p>Management Philosophy</p> <ul style="list-style-type: none"> * Customary laws: Oral tradition and practice * Applies to all resources, habitat included * Relationship, respect, reciprocity
<p>Beneficiaries</p> <ul style="list-style-type: none"> * “Resources“ for human benefits 	<p>Beneficiaries</p> <ul style="list-style-type: none"> * “Gifts“ extend beyond human needs
<p>Management</p> <ul style="list-style-type: none"> * Hierarchical and segregated structure of science and management * Prescriptive 	<p>Management</p> <ul style="list-style-type: none"> * Holistic – includes habitat and spirituality * Preventative * “Netukulimk“- no waste, take what is needed
<p>Conservation Measures (e.g salmon in NS)</p> <ul style="list-style-type: none"> * Zero retention * Max daily limit for “catch & release“ (C&R) * Prior to 2015, targeted smaller portion of the population (grilse; <63 cm); no retention of MSW 	<p>Conservation Measures</p> <ul style="list-style-type: none"> * Rotational fishing – sharing of rivers * Opposed to C&R fisheries * Do not target one stage (balance) with emphasis on taking what Mother Earth “offers”
<p>Knowledge Used in Decision Making</p> <ul style="list-style-type: none"> * Quantitative, scientific assessment * Advisory committees * Open to IK only as TEK as information to feed into science 	<p>Knowledge Used in Decision Making</p> <ul style="list-style-type: none"> * Quantitative and qualitative * Open to science as a tool but fishing methods don't “fit” assessment criteria (spear vs reel)

Mutual Benefits

Relationship

Allocation

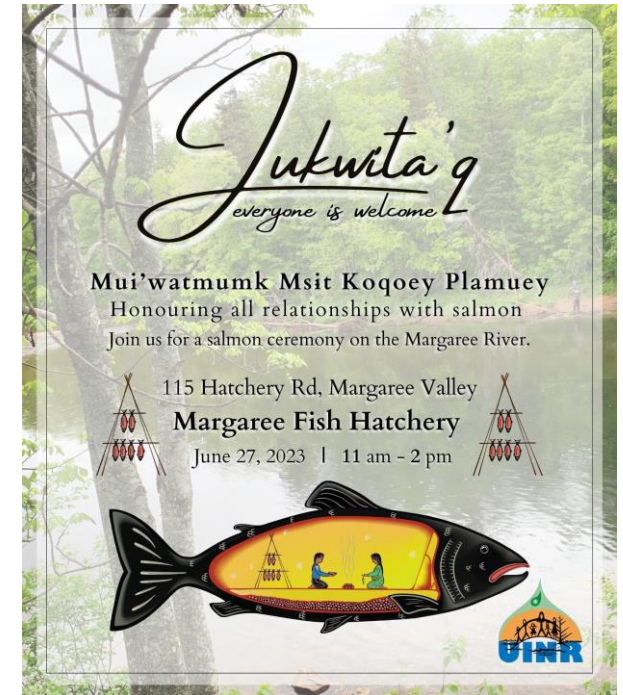
Flexibility

Include
observations

Responsibility

Collaborators

- Stock updates
 - Support DFO in annual swim thrus
 - Peer review process
- Educational opportunities
 - Salmon ceremony
 - Provincial
 - Salmon associations



Pjila'si! Welcome!

We are pleased to announce the following individuals to our advisory committee for habitat restoration of the Margaree and Mabou Rivers for 2021-2023



Darren Sylvester

From Membertou, Darren appreciates the outdoors and is known for his love of hunting and fishing.



Kyle Denny

An avid fly fisher from Eskasoni, Kyle spends his leisure time in the Margaree River fly fishing for salmon and trout.



Dan Paul

A respected spear fisher, Dan from Membertou honors Mi'kmaw traditions through practice and mentoring the next generation in the art and skill of spearing for salmon and trout, especially in the Margaree River.



Joey Sylvester

As an all-around harvester, Joey from Membertou also enjoys fishing by spear and mentoring Mi'kmaw youth.



Terry Denny

A man of many talents, Terry from Potlotek, encourages and mentors Mi'kmaw youth in hunting, fishing, spear-making, preparing moose hides, and gathering sweet grass and berries.



Blair (Joef) Bernard

Preferring to snare salmon over other fishing techniques, Joef also enjoys fishing for other species and hunting.



Winston Bernard

Winston Bernard from Wagnatcook enjoys hunting, fishing and spearing eels.



Allister Stevens

This Eskasoni resident harvests apamu, post-spawning salmon (also called slinks) from the Margaree River.



Barry Bernard Sr.

A fisher of the rivers and lakes, Barry Sr. from Eskasoni enjoys lobster fishing in the Bras d'Or Lakes and salmon fishing in the Margaree River.



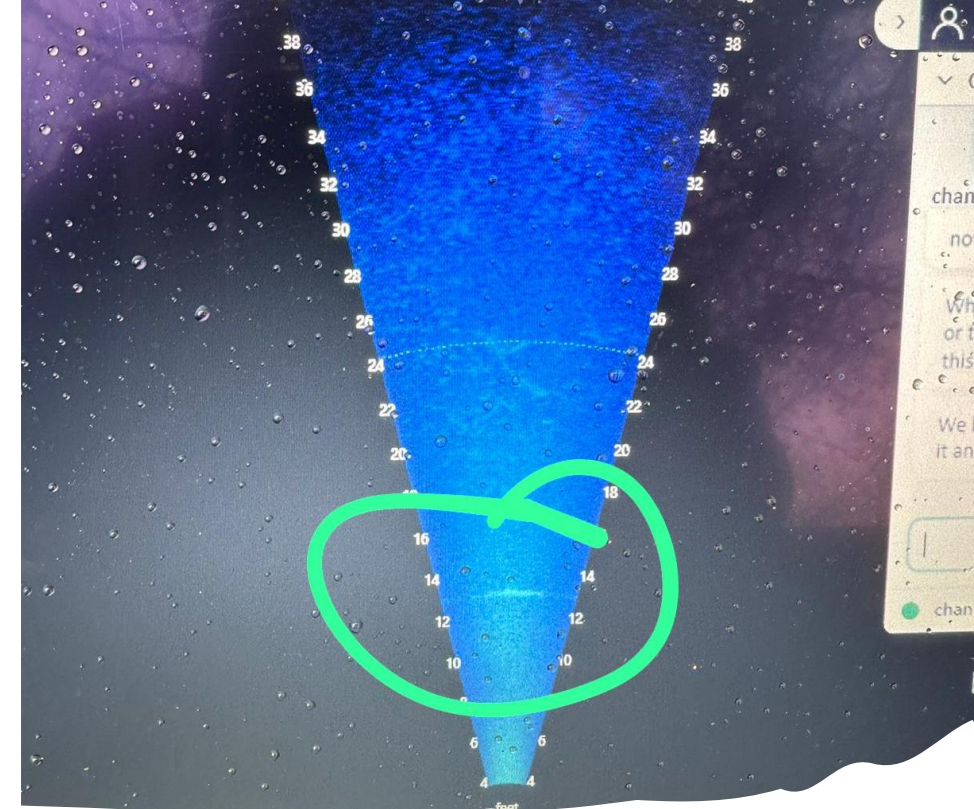
Clifford Paul

UINR's Moose Management Coordinator from Membertou also enjoys fishing for trout.



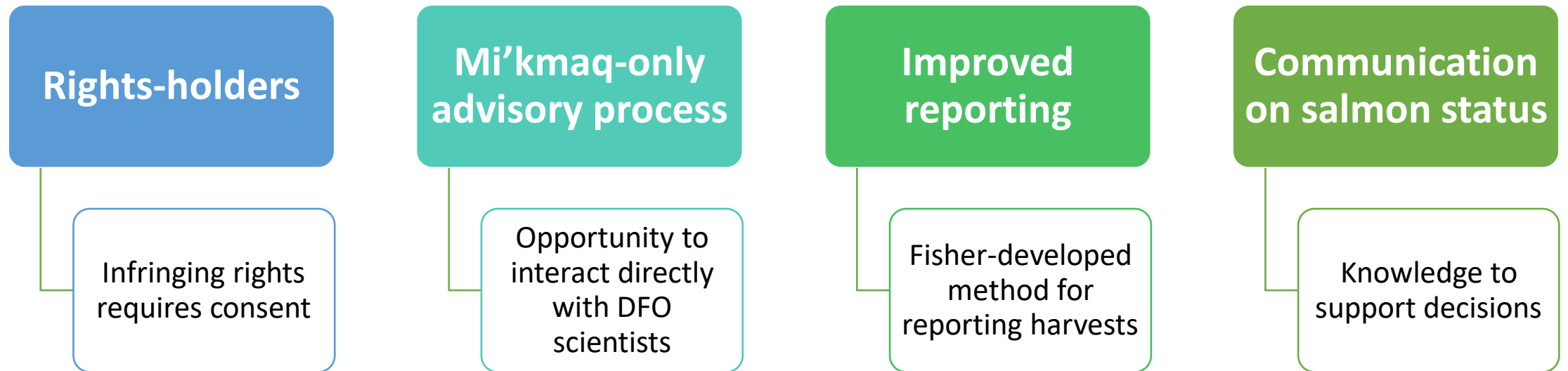
Keith Christmas

UINR Guardian Program Liaison Coordinator and avid fisher, Keith enjoys angling for salmon and trout in the Margaree.



Research Partners

Self-governors



Conclusion

- Space for Indigenous participation
- Demonstrated improvements to local salmon management and conservation
- Developed relationships