

Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 2457	Subject: Enactment of the Listuguj Lobster Law	Originated by:
The Council of the Listuguj Mi'gmaq Government		District Gespe'gewa'gi
Date of duly convened meeting	D M Y 1 7 0 6 1 9	Province Gepeg

WHEREAS the Listuguj Mi'gmaq First Nation is a Mi'gmaq community indigenous to Gespe'gewa'gi with a sacred, inherent responsibility for the stewardship of the land, waters, and living things of Gespe'gewa'gi;

WHEREAS the Mi'gmaq of Gespe'gewa'gi, including the Listuguj Mi'gmaq First Nation, have inherent, aboriginal, and treaty rights with respect to fisheries;

WHEREAS the inherent, aboriginal, and treaty rights of the Mi'gmaq are communal in nature and exercised by Mi'gmaq individuals on the authority of the local Mi'gmaq community to which they belong;

WHEREAS the Listuguj Mi'gmaq First Nation has always governed its relationship with our fisheries through Mi'gmaq laws, and we continue to do so today;

WHEREAS, in 2017, the Listuguj Mi'gmaq Government began a process of community engagement regarding our lobster fishery, leading to the development of the *Interim Lobster Fishing (Harvesting) Plan* (April 2017), which clearly indicated the need for the Listuguj Mi'gmaq First Nation to assume more control over the governance and management of our lobster fishery;

WHEREAS, throughout the winter of 2019, the Listuguj Mi'gmaq Government conducted a second round of community engagement regarding our lobster fishery, this time to receive input and feedback regarding the codification of our law governing our lobster fishery;

.../2

Moved: Chad Gedeon
 Seconded: Calvin Barnaby
 Abstain: -
 Opposed: -
 Status: Passed Defeated Tabled

Quorum 7

_____ Councillor Lloyd Alcon	 Chief Darcy Gray	_____ Councillor Dolly Barnaby
 Councillor Chad Gedeon	 Councillor Calvin Barnaby	_____ Councillor George Martin
 Councillor Scott Martin	 Councillor Gordon Isaac Jr.	 Councillor Sky Metallic
_____ Councillor Wendell Metallic	 Councillor Gary Metallic Sr.	 Councillor Marsha Vicaire
	 Councillor Sheila Swasson	

Mi'gmaq Nation

Listuguj Mi'gmaq Government Order-In-Council



Chronological no.: 2457	Subject: Enactment of the Listuguj Lobster Law	Originated by:
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WHEREAS throughout the community engagement process, 97% of participants agreed that the Listuguj Mi'gmaq First Nation should create our own culturally relevant lobster fishing plan and exercise the right to develop, manage, enforce, and govern our lobster fishery;

WHEREAS on April 23, 2019, a community vote was held in which over 90% of participants expressed support for the *Listuguj Mi'gmaq First Nation Law on the Lobster Fishery and Lobster Fishing*;

NOW THEREFORE THE LISTUGUJ MI'GMAQ GOVERNMENT MAKES THE FOLLOWING ORDER-IN-COUNCIL:

- 1) *Listuguj Mi'gmaq First Nation Law on the Lobster Fishery and Lobster Fishing* ("*Listuguj Lobster Law*"), a copy of which is attached hereto, is enacted and has immediate force and effect; and,
- 2) All officials, representatives, employees, and agents of the Listuguj Mi'gmaq Government are directed to undertake the necessary steps to implement the *Listuguj Lobster Law* in a timely fashion.

**LISTUGUJ MI'GMAQ FIRST NATION
LAW ON THE LOBSTER FISHERY AND LOBSTER FISHING**

LAW NO. 2019-01

[Short title: "*Listuguj Lobster Law*"]

**Date enacted: June 17, 2019
Coming into force: June 17, 2019**

PREAMBLE

- WHEREAS** Gisiteget vested the Gespe'gewaq Mi'gmaq with sacred responsibilities for stewardship of the land, waters, and all living things within Gespe'gewa'gi, the seventh district of Mi'gma'gi;
- WHEREAS** we are duty bound to protect, conserve, and respect all things that Mother Earth supports within our territory;
- WHEREAS** we have agreed to co-exist with other peoples as recorded in the wampum;
- WHEREAS** our agreements with the French and British Crowns are also recorded in treaties;
- WHEREAS** the Mi'gmaq of Gespe'gewa'gi have existing aboriginal title, aboriginal rights, and treaty rights with respect to our lands, waters, and resources, and these rights have never been surrendered or extinguished;
- WHEREAS** Mi'gmaq aboriginal title, aboriginal rights, and treaty rights are communal in nature and exercised by Mi'gmaq individuals on the authority of the local Mi'gmaq community to which they belong;
- WHEREAS** we intend to promote a harmonious relationship with all our relations;
- WHEREAS** the Listuguj Mi'gmaq and the traditional leadership of Gespe'gewa'gi have been consulted throughout the development of this Law and have indicated their full support for it;
- WHEREAS** the Listuguj Mi'gmaq Government has consulted with other governments involved as well as with interested user groups on the governance and management of fish resources in Gespe'gewa'gi;
- WHEREAS** the present Listuguj Mi'gmaq First Nation Law on the Lobster Fishery and Lobster Fishing is enacted pursuant to Mi'gmaq custom and in the exercise of the inherent jurisdiction of Listuguj Mi'gmaq First Nation and without prejudice to the inherent, aboriginal, or treaty rights of the Listuguj Mi'gmaq First Nation;
- NOW THEREFORE**, the Council of the Listuguj Mi'gmaq Government pursuant to Mi'gmaq custom and in the exercise of their inherent jurisdiction hereby enacts as follows:

PART I SHORT TITLE

1. This Law may be cited as “the Listuguj Lobster Law”.

PART II DEFINITIONS AND INTERPRETATION

2. In this Law:

“Council” means the Council of the Listuguj Mi’gmaq Government;

“Listuguj Mi’gmaq” means a person who is a direct descendent of the Mi’gmaq, normally resides within the traditional territory of Gespe’gewa’gi, and whose immediate family remains affiliated with Listuguj;

“Lobster Fishing Plan” means the Lobster Fishing Plan set out in Schedule A as amended from time to time;

“Listuguj Lobster Oversight Board” means the board established by Council pursuant to Part IV of this Law;

“Mi’gmaq Rangers” means the Listuguj Aboriginal Ranger Service as established by the Listuguj Mi’gmaq First Nation’s *Mi’gmaq Ranger Law* (1995) as duly amended from time to time;

“Natural Resources Directorate” means the directorate of the Listuguj Mi’gmaq Government responsible for administering the affairs of the Listuguj Mi’gmaq Government in relation to natural resources, including lobster.

3. In this Law, unless otherwise expressly provided for or unless otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular.
4. This Law will be interpreted in a manner consistent with Mi’gmaq custom and oral tradition.
5. The Schedules form an integral part of this Law.

PART III GUIDING PRINCIPLES

6. This Law will be interpreted and implemented in accordance with the following guiding principles:
 - a. *Ango’tmu’q*: “Taking care of something in a careful manner.” *Ango’tmu’q* also suggests “acknowledgement” and “responsibility” when using the resources of the territory, *e.g.*, “I take care of it.” As Mi’gmaq, we acknowledge our territory, our lands, waters, and all life forms that have sustained our nation for generations;

- b. *Apajignmuen*: “Sharing” and “giving back” to one’s community, thereby strengthening relations. Mi’gmaq customary practices, ceremonies, and feasts, as well as information sessions and meetings, are ways of giving back. *Apajignmuen* also implies having gratitude, being aware, and being grateful for what has been given to you;
- c. *Gepmite’tmnej*: “Respect.” In caring for the lobster, we need to respect that everybody brings knowledge and has a role to play in fishery management. We need to recognize and incorporate both Indigenous and scientific knowledge into decision-making processes; and
- d. *Welte’tmeg*: “We agree in thought.” This is a form of consensus-building to reach a shared agreement. Elders emphasize that, as Mi’gmaq, we need to work together to come to an agreement about how best to take care of the lobster. We can achieve *welte’tmeg* through building awareness, education, sharing, and exchange of views. *Welte’tmeg* requires that we be open to other views, experiences, and possibilities.

PART IV LISTUGUJ LOBSTER OVERSIGHT BOARD

- 7. The Council will establish a Listuguj Lobster Oversight Board by Order-in-Council.
- 8. The Listuguj Lobster Oversight Board will be composed of six members, who will be appointed by Council. Council will endeavor to appoint members to the Listuguj Lobster Oversight Board who represent the Listuguj Mi’gmaq First Nation’s broad interest in the lobster fishery. Members of the Listuguj Lobster Oversight Board may include:
 - a. members of Council;
 - b. fishers;
 - c. Elders;
 - d. women;
 - e. youth; and/or
 - f. other community members with an interest in fisheries.
- 9. The responsibilities of the Listuguj Lobster Oversight Board will be to:
 - a. monitor and oversee the implementation of this Law;
 - b. advise the Natural Resources Directorate in the preparation of the yearly draft Lobster Fishing Plan;
 - c. advise Council as to the outcome of community consultations on the yearly draft Lobster Fishing Plan;

- d. advise Council as to any Order-in-Council to be adopted under this Law;
 - e. review violations of any provision of this Law recorded by Mi'gmaq Rangers and advise Council as to appropriate resolutions thereof in keeping with Mi'gmaq custom and any applicable law of the Listuguj Mi'gmaq First Nation;
 - f. advise Council as to any amendment of this Law; and
 - g. undertake any other task as may be directed by Council by Order-in-Council from time to time.
10. Council may, by Order-in-Council, adopt terms of reference for the Listuguj Lobster Oversight Board consistent with this Law.

PART V ANNUAL LOBSTER FISHING PLAN

11. During the month of July of each year, the Natural Resources Directorate will prepare a draft Lobster Fishing Plan to govern lobster fisheries management and fishing activity for the current year. The draft Lobster Fishing Plan may include the following components:
- a. protocols, policies, measures, and procedures;
 - b. access to the resource, including increasing access;
 - c. size of the annual catch and maximum allowable fishing effort;
 - d. distribution under the food, social, and ceremonial fishery;
 - e. licensing;
 - f. conservation and sustainability of the resource;
 - g. monitoring and overseeing implementation;
 - h. compliance and enforcement, drawing on the Mi'gmaq Rangers' services;
 - i. Mi'gmaq scientific research;
 - j. education and training;
 - k. economic development, including increasing the value of lobster;
 - l. intergovernmental relations;
 - m. an implementation plan;
 - n. reporting;
 - o. evaluation; and/or

- p. any other measures deemed necessary to ensure that the Listuguj lobster fishery complies with this Law and reflects Mi'gmaq custom and this Law's guiding principles.
12. The draft Lobster Fishing Plan will be published on the webpage of the Natural Resources Directorate during the month of August.
 13. The Listuguj Lobster Oversight Board will call and hold at least two community meetings in order to consult the membership of the Listuguj Mi'gmaq First Nation regarding the draft Lobster Fishing Plan.
 14. The Listuguj Lobster Oversight Board will advise Council as to the outcome of the consultations on the draft Lobster Fishing Plan.
 15. When the Council is satisfied that the membership of the Listuguj Mi'gmaq First Nation has been fully consulted and supports the Lobster Fishing Plan, Council may, by Order-in-Council, adopt the Lobster Fishing Plan for the current year and replace or amend Schedules A and B of this Law to incorporate the Lobster Fishing Plan for the current year.
 16. After adopting the Lobster Fishing Plan for the current year, the Council will ensure that the adopted Lobster Fishing Plan is published on the webpage of the Natural Resources Directorate and is communicated prior to the first day of fishing to the membership of the Listuguj Mi'gmaq First Nation and to such interested governments and user groups as the Council considers appropriate.
 17. Where Council fails to adopt a Lobster Fishing Plan for a given year, the Lobster Fishing Plan for the previous year will be deemed to apply. If, over the course of a given year, Council adopts a new Lobster Fishing Plan, the new Lobster Fishing Plan will take effect as set out in the Order-in-Council by which it is adopted.
 18. Following the lobster fishing season each year, the Natural Resources Directorate will prepare a report on that year's lobster fishery. The report will be published on the webpage of the Natural Resources Directorate and will inform the preparation of the draft Lobster Fishing Plan for the subsequent year.

PART VI TERRITORIAL APPLICATION

19. This Law applies in Chaleur Bay and throughout Gespe'gewa'gi.
20. The territorial application of the Lobster Fishing Plan will be specified in the Lobster Fishing Plan.

PART VII MANAGEMENT REGIME

21. The Listuguj Mi'gmaq Government will be solely responsible for the implementation of the Lobster Fishing Plan as provided in this Law.

22. The Listuguj Mi'gmaq Government may enter into co-management arrangements with adjacent governments in the interest of conservation and management of fisheries resources.
23. The Listuguj Mi'gmaq Government will exercise its responsibility in respect of the Lobster Fishing Plan through the Natural Resources Directorate.
24. The Natural Resources Directorate will have responsibility to monitor the fishing activities of the Listuguj Mi'gmaq community.
25. Only those individuals designated in writing by the Natural Resources Directorate in keeping with the Lobster Fishing Plan may fish lobster pursuant to this Law.
26. In the fulfilment of its mandate, the Natural Resources Directorate may:
 - a. conduct stock assessments;
 - b. engage in scientific activities for the purpose of establishing effort or harvesting limits;
 - c. identify special protection zones;
 - d. conduct restoration and enhancement activities as required;
 - e. examine alternative harvesting techniques;
 - f. develop commercial components to the Listuguj Mi'gmaq lobster fishery; and
 - g. undertake any other activity to implement this Law as instructed by Council via Order-in-Council.
27. The Natural Resources Directorate may employ the necessary personnel to coordinate scientific activities and to coordinate initiatives with agencies outside of the Listuguj Mi'gmaq Government conducting similar activities.
28. The personnel of the Natural Resources Directorate must include aboriginal persons at the professional level.

PART VIII COMPLIANCE

29. The Mi'gmaq Rangers will be responsible for ensuring compliance with this Law.
30. The Mi'gmaq Rangers may, within the territory of application of this Law:
 - a. conduct monitoring activities;
 - b. conduct patrols, surveillance, investigations; and
 - c. develop and promote fish and wildlife education programs.

31. The rules respecting the monitoring of fishing activities are set out in Schedule C to this Law.
32. On the advice of the Listuguj Lobster Oversight Board, Council may develop rules concerning monitoring and other measures that the Mi'gmaq Rangers will apply in situations of non-compliance with any provision of this Law. Schedule C may be amended to incorporate those rules following the process set out in Part XIII of this Law.
33. The Listuguj Lobster Oversight Board may review violations of any provision of this Law recorded by Mi'gmaq Rangers and advise as to appropriate resolutions thereof in keeping with Mi'gmaq custom and any applicable law of the Listuguj Mi'gmaq First Nation. For greater certainty, Council has final decision-making authority regarding appropriate resolutions of violations of any provision of this Law.
34. No person or agency other than a duly appointed Mi'gmaq Ranger shall interfere with or molest the Listuguj Mi'gmaq in fishing lobster or conducting lobster fishing related activities, including landing, storage, transport, use, and disposal of lobster by sale or otherwise.

PART IX RESOURCE ALLOCATION

35. Subject to the other sections in this Part, no quotas shall apply to lobster fishing by Listuguj Mi'gmaq for any given year.
36. Any limits on lobster fishing effort applicable to the Listuguj Mi'gmaq will be established by the Lobster Fishing Plan set out in Schedule A of this Law.
37. Limits on lobster fishing effort, fishing days, permissible fishing equipment, and areas to be fished to ensure the sustainability of the Listuguj lobster fishery are set out in Schedule A of this Law.
38. Where required for the purposes of conservation, Council may, at any time, alter the established limits on lobster fishing effort, fishing days, permissible fishing equipment, and areas to be fished and, by Order-in-Council, amend Schedule A to incorporate such changes.

PART X USE OF RESOURCE

39. The Lobster Fishing Plan will provide for how Listuguj Mi'gmaq may use or dispose of any lobster caught in compliance with this Law, whether for food, social, ceremonial, or commercial purposes.

PART XI SPECIAL PROTECTION AREAS

40. On advice of the Listuguj Lobster Oversight Board, Council may from time to time propose areas to be placed under special protection. Following the process set out in Part XIII of this Law, areas to be placed under special protection will be listed in Schedule D.

41. When areas are placed under special protection, public notice shall be provided through the website of the Natural Resources Directorate, local newspapers, or public meetings to ensure that Listuguj Mi'gmaq fishers are made aware of the designated areas.

PART XII COMING INTO FORCE & TRANSITION

42. This Law, or any section of this Law, will come into force on a date to be specified by Council via Order-in-Council.
43. Prior to the establishment of the Listuguj Lobster Oversight Board, Council may adopt a Lobster Fishing Plan by Order-in-Council without following the process set out in Part V.

PART XIII AMENDMENT

44. This Law and Schedules C and D may be amended using the process set out in this Part.
45. Council may at any time propose an amendment.
46. Where Council proposes an amendment, the Listuguj Lobster Oversight Board will call and hold at least two community meetings in order to consult the membership of the Listuguj Mi'gmaq First Nation regarding the proposed amendment.
47. The Listuguj Lobster Oversight Board will advise Council as to the outcome of the consultations on the proposed amendment.
48. When the Council is satisfied that the membership of the Listuguj Mi'gmaq First Nation has been fully consulted and supports the proposed amendment, Council may, by Order-in-Council, adopt the amendment.

SCHEDULE 'A'

Listuguj Lobster Fishing Plan

PART I EFFORT

1. Lobster fishing effort exerted under this Lobster Fishing Plan will not exceed 88,785 days-traps per calendar year.

PART II MAXIMUM AND MINIMUM SIZE

2. [To be determined as per licence]

PART III HARVESTING AREA

3. The Listuguj lobster fishery will be limited to the area of Chaleur Bay commonly known as lobster fishing area 21B, which depicted is Schedule B and is delimited by straight lines between the following points in the order listed:

48°12'36" N 65°54'10" W
48°01'47" N 65°54'10" W
48°03'16" N 66°19'21" W
48°05'04" N 66°21'30" W
48°05'57" N 66°20'48" W

PART IV AUTHORIZED LISTUGUJ MI'GMAQ LOBSTER FISHERS

4. The Natural Resources Directorate will issue a written certificate to each individual designated to fish lobster under this Lobster Fishing Plan.
5. Individuals must have the certificate issued to them by the Natural Resources Directorate with them at all times while fishing lobster under this Lobster Fishing Plan.

PART V AUTHORIZED FISHING GEAR

6. [To be determined as per licence]
7. When an individual designated to fish lobster under this Lobster Fishing Plan is fishing lobster, any buoy or floater attached to the fishing gear must be visibly identified with the identification number indicated on the certificate issued to them by the Natural Resources Directorate.
8. Tagging:
 - a. Individuals designated to fish lobster under this Lobster Fishing Plan must not fish with or have on board the fishing vessel any lobster trap unless a single valid tag with a unique identification number is securely attached to it such that the tag

is readily visible when the trap is not in the water or while preparing to load or unload the trap from the fishing vessel;

- b. All lobster traps must be tagged with valid tags issued by the Natural Resources Directorate, identified as “Gespe’gewa’gi Fisheries LFA 21B”, and numbered sequentially;
- c. A trap that is being used by an individual designated to fish lobster by the Natural Resources Directorate must not have more than one tag attached to it.

PART VI ADDITIONAL CONSERVATION MEASURES

- 9. The following definitions apply to this Part:
 - a. “V-notch” mean a triangular incision with straight sides, hairless, at least 6.35 mm deep and ending in a point.
 - b. “Mutilation” means any injury or anomaly whether natural or caused by a human on any part of a uropod with or without hair, including a complete or partially retrenchment of one or both uropods.
- 10. No individual designated to fish lobster under this Lobster Fishing Plan may be in possession of any female lobster identified by a “V-notch,” or with a mutilation, on each uropod situated on each side of the telson.
- 11. A marking (V-notching) must be done with the appropriate tool on each uropod which are immediately situated on each side of the telson.
- 12. No individual designated to fish lobster under this Lobster Fishing Plan may possess in the harvesting area any claw, tail, or meat that has been separated from the thorax or carapace of a lobster.

PART VII FISHING SEASON

- 13. [To be determined by the LMG in keeping with the licence conditions]

PART VIII DOCKSIDE MONITORING

- 14. All landings will be inspected by dockside monitors appointed by the Natural Resource Directorate for compliance with this Lobster Fishing Plan.

PART IX INCIDENTAL CATCHES

- 15. The possession or the retention of incidental catches is prohibited. Individuals designated to fish lobster under this Lobster Fishing Plan must immediately return any incidental catch:
 - a. to the place from which it was taken; and

- b. where it is alive, in a manner that causes it the least harm.

PART X CLOSURES

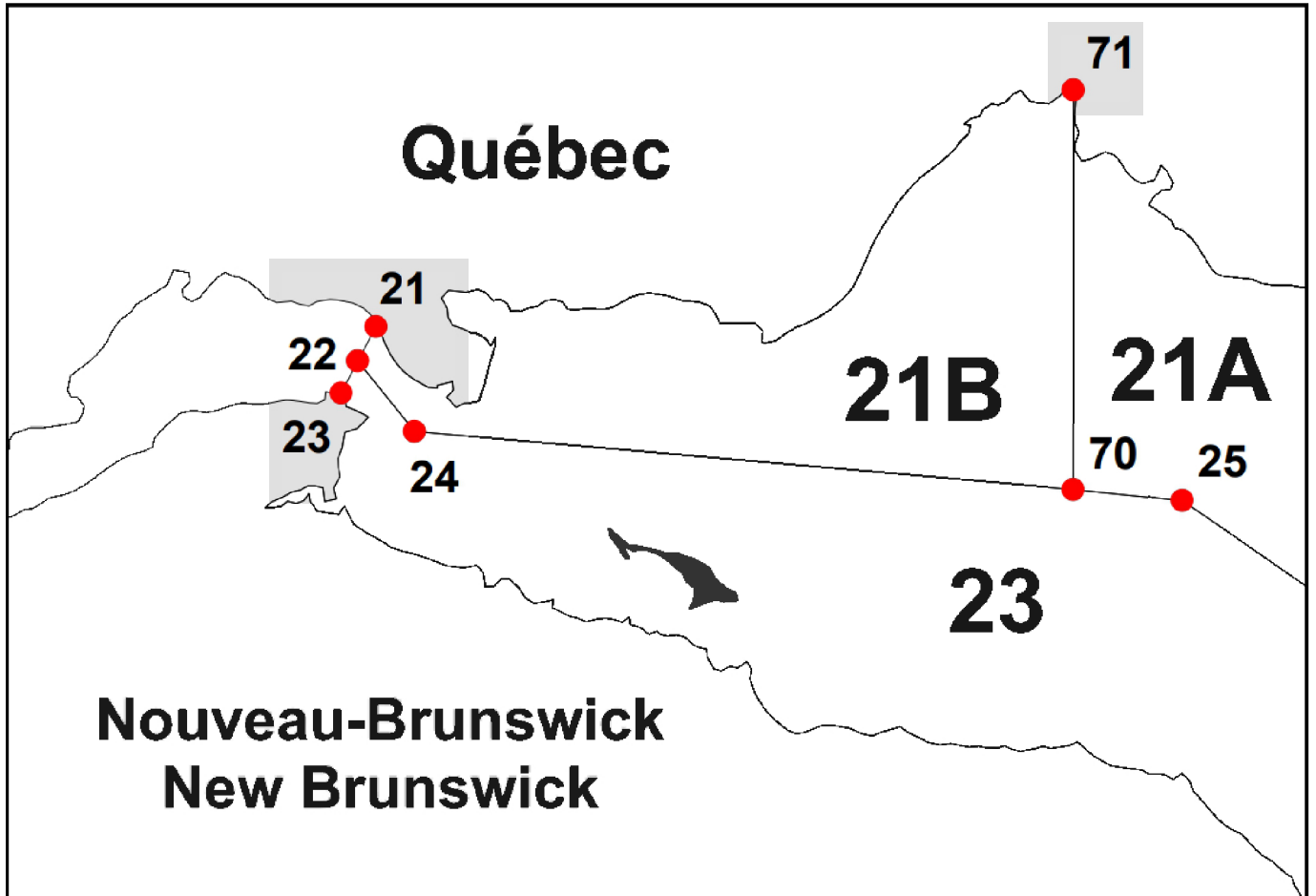
- 16. Individuals designated to fish lobster under this Lobster Fishing Plan must respect any area closure announced by the Natural Resources Directorate.

PART XI COMMUNITY CONTRIBUTION

- 17. [Any required community contribution to be determined by the LMG]

SCHEDULE 'B'

Map of Lobster Area 21B



Point	Latitude North / Nord	Longitude West / Ouest
	d m s	d m s
21	48 05 57	66 20 48
22	48 05 04	66 21 30
24	48 03 16	66 19 21
70	48 01 47	65 54 10
71	48 12 36	65 54 10

SCHEDULE 'C'

Rules on Monitoring Lobster Fishery

The monitoring and reporting of non-compliance shall be conducted by the Mi'gmaq Rangers as set out in Part VII of the Listuguj Lobster Law.

Unless otherwise instructed by Council, the Mi'gmaq Rangers will apply the following rules to ensure compliance with the Listuguj Lobster Law:

- a. if a lobster trap or other fishing device is used in a way that does not respect the Listuguj Lobster Law, a Mi'gmaq Ranger will be dispatched to investigate the situation to determine if, in fact, the Law is not being respected;
- b. if it is found that a lobster trap or other fishing device is being used to fish contrary to the Listuguj Lobster Law, a Mi'gmaq Ranger will attempt to ask the owner to remove the lobster trap or other fishing device;
- c. in the event an owner refuses to voluntarily remove the lobster trap or other fishing device, the Mi'gmaq Ranger may remove the lobster trap or other fishing device and this action will constitute a seizure;
- d. all seized equipment shall be returned to the owner in the following manner:
 - 1) **first incident:** returned after two days;
 - 2) **second incident:** returned after one week; and,
 - 3) **third incident:** returned on the closing date of the lobster fishing season.

SCHEDULE 'D'

1. There are no Special Protected Areas under this Law at this time.