

First Nations Fisheries Council Fall 2009 Assembly Proceedings

Hosted by Chehalis Indian Band

DAY 2: October 29, 2009 (First Nations and DFO)



FIRST NATIONS
FISHERIES COUNCIL

Co-chairs: Grand Chief Doug Kelly and Chief Allan Claxon

Opening statements by Grand Chief Doug Kelly
Welcome by Chief Willie Charlie, Chehalis band
Welcome and opening prayer by the Chehalis Youth Council

Welcome and opening statements by Chief Willie Charlie, Chehalis Band

Chief Charlie discussed the 5000 year history of the Chehalis people in managing the fish resource. Last year Chehalis worked with DFO to monitor the fishery. It was revealed that some community members were fishing illegally and jeopardizing the fish stocks that were returning to spawn. It was explained to these individuals that the aboriginal right to fish is a communal right, not an individual right. The same behavior continued this year, and the Chehalis council made the difficult decision of banishing these members from the community, because they take their responsibility of being stewards of this great resource very seriously. Fishing is an integral part of who we are as First Nations people. In recent years, there have been very few fish to catch. We need to work together to protect the salmon for future generations. Chief Charlie was involved in an altercation on the Harrison River with some recreational fishermen. The situation became violent, and Chief Charlie was injured while asserting his aboriginal right to fish.

Welcome and opening statements by Grand Chief Doug Kelly, Fisheries Council Co-chair

Yesterday's discussion focused on reconciliation, and the aboriginal right to fish. First Nations discussed what the fishery means to us. With the right to fish comes the responsibility to protect stocks and their habitat. First Nations see the importance of coming together to protect the fish. We need to listen to the message from our elders to protect the land and the water, and to harvest the fish responsibly. Aboriginal traditional knowledge should be incorporated into the management regime. In order to protect the aboriginal right to fish and the responsibility to protect the fisheries resource, change is needed. The Fisheries Council has implemented 4 working groups that will help First Nations to protect their fishing needs: Aquaculture, Co-management, Salmon shares, and FSC access.

David Balfour, Deputy DFO Minister, Aquaculture Management

Thanked Chief Charlie for welcoming us to Chehalis territory, and for sharing his story about the connection his people have with the salmon resource. Congratulated newly appointed members of the Fisheries Council, and thanked members of the interim council for the good work that has been achieved to date. The report from yesterday's meeting provided by Grand Chief Doug Kelly highlighted the importance of building relationships between First Nations communities. Need to also build relationships between First Nations and DFO, so we can work together to secure the resource and ensure sustainable use. DFO is interested in hearing First Nations' strategies and views on protecting the fish. An ongoing relationship is vital for maintaining the sustainable use of fish in Canada. The complexity can be overwhelming at times, but DFO is looking forward to this new regime in fish management. We will see progress if we work together.

Susan Farlinger, DFO Pacific Regional Director

Thanked the Chehalis community for hosting the assembly and acknowledged the leadership they have shown in relationship building, fisheries enforcement and management.

Sue is happy to support this meeting. DFO has worked with the interim fisheries council, and Sue felt privileged to be part of that team. Like with all relationships, there are ups and downs, but DFO and First Nations will be working together for a long time.

Perspectives are changing, and the relationship is changing as we move ahead. The interim Fisheries Council has been very patient in making sure that DFO's relationship to the council has occurred at the appropriate level.

Rather than rushing to a goal, the council has worked slowly and patiently to make progress.

DFO is primarily here at the assembly to listen. Many levels of DFO are present today.

The topics we will be discussing during this assembly are difficult, but progress is slowly happening. We need to have the patience and collective good will to move forward and realize our intentions. Sue looks forward to DFO's long and productive relationship with the council.

Chief Allan Claxton, Fisheries Council Co-chair

Lots of good work was done during the session yesterday.

Thanked DFO for their participation in the assembly. There are many witnesses to our words about our commitment to protecting our fisheries. Fish is of vital importance for First Nations and everyone who shares this great land. Asked that DFO take this message to the national level.

Looking forward to implementing the new Fisheries Council.

DFO is prepared to sign off on the new Commitment to Action, but the preference is that the newly appointed council undertake that work.

Dr. David Close - "Tamaalwit": The Sacred Law

Dr. Close gave a presentation about the cultural and spiritual significance of traditional foods. The need for First Nations to protect the salmon is inherent in their creation story, which says that salmon first came forward to protect the humans. Humans and salmon have a reciprocal relationship.

Lack of salmon puts more pressure on deer, elk, and other animals.

Patterns in nature signal the arrival of different food sources. First Nations traditionally knew when to harvest certain foods based on cues from the land.

It is important to honor our traditional food sources, and honor the promise we made to protect them. Feast celebrations are held to honor the different foods. The animals and the fish are our teachers on how to survive.

We can achieve continued use of our traditional foods by exercising our aboriginal rights, and continuing to celebrate the arrival of these foods. Traditional knowledge, wisdom from the elders, western science, ecosystem restoration, and conservation will pave the way.

The health of the people depends on the health of the ecosystems and education.

Legal Panel: Hugh MacAulay and Brenda Gaertner**Hugh MacAulay, Department of Justice**

Thanked Chehalis for hosting the assembly, and thanked the Fisheries Council for the invitation to participate.

There is a case in court right now involving the Nuu-chah-nulth First Nations. Many people will be waiting for the Ahousaht case decision, which will be released on Tuesday.

The courts have played an important role in shaping fisheries in B.C. Sparrow continues to provide a framework for case law. The courts continue to play a role.

Litigation is adversarial by design. Most of Hugh's work involved relationship building. Litigation can take a toll on relationships. Often court cases can take many years. The courts sometimes provide general guidance, but more

often, legal decisions apply to a particular First Nation and not to First Nations as a whole. Litigation should be used as a last resort.

The courts do have an important role, but Hugh encourages First Nations and the government to work out their issues through negotiation, not litigation.

Brenda Gaertner, Mandell Pinder

Brenda expressed that she felt honoured to have been invited to speak, and that she wished to honour the elders she has worked with.

Section 35 of the Canadian constitution discusses the aboriginal right to the fishery. Through the constitution, First Nations can identify government actions as unlawful, and hold the government accountable for meeting their FSC needs. There are also several legal decisions that could be helpful to First Nations in asserting their rights (Sparrow, Gladstone, etc.).

DFO has an obligation to consult with First Nations when rights are infringed upon. Many of the programs that DFO currently has in place have the potential to infringe on these rights.

In these times of scarcity, it is important to understand the law around priority access. Sparrow establishes that First Nations have priority over other sectors, and that FSC requirements must be met first, before fisheries are allocated to other sectors. If conservation concerns require a reduction in the number of fish to be caught, FSC needs should be met before any fish go to recreational fisheries, commercial fisheries, etc.; however, DFO talks about sharing the brunt of conservation. If it is clear at the beginning of the season that FSC needs will not be met, no recreational or commercial fisheries should be allowed. If there are enough fish to go around, First Nations might not necessarily fish *before* recreational and commercial fisheries, but DFO needs to ensure that FSC needs will be met before any fishing is open for other sectors. First Nations are encouraged to continue to take this position, as there is strong argument against “sharing the brunt of conservation” in law and policy.

While the constitution establishes aboriginal rights, the government is able to infringe on these rights when it is justified. Normally DFO relies on conservation as legislative objective when infringing. The second component of justification is that the government acted in a manner that is consistent with the honour of the crown. In law, the standard of the honour of the crown is to consult First Nations in the event that their rights could be infringed upon, and demonstrate that their actions have minimized the infringement as much as possible.

DFO has a duty to consult First Nations on fisheries programs, such as PICFI. DFO must consult not only during the implementation stage, but during the program development stage as well. There is a lack of clarity (perhaps deliberately) around whether these sorts of programs are an accommodation of rights and title. The lack of clarity could be a form of risk management by DFO; it could be considered accommodation, but it depends on how the program unfolds. This uncertainty makes First Nations feel reluctant to participate in such programs, and gets in the way of building trust. More clarity is needed around what impacts these programs might have on title and rights. This flows from the law on consultation and accommodation.

Fisheries management is the backbone of aboriginal title and rights to their fisheries, and First Nations have the right to have fisheries managed in such a way that access will be protected for future generations. First Nations are encouraged to rely on the constitution and existing case law to protect their fisheries.

First Nations are encouraged not to deal with all issues at the community level; the appropriate level will depend on the issue and the mandates provided to representatives. When leaders carry clear mandates they can be more effective at negotiation tables.

Discussion:

The PICFI program has been unfolding very slowly, and First Nations have not seen any benefits so far in terms of access to fish. Individual nations are at a disadvantage, as DFO has indicated that applications from aggregates will be favored. This approach doesn't work for some communities. It is unclear whether it's legal to distribute access priority by number of nations, or whether this overrides the duty to consult and accommodate individual nations. It appears that there could be a longstanding class action in terms of allocations and FSC needs not being met by First Nations in the past 15-20 years.

PICFI should be considered as a “potential accommodation”. First Nations engaged in treaty negotiations should be very clear about whether benefits from PICFI will be considered as interim treaty measures.

Panel Discussion: Ken Malloway, Kim Charlie, Dave Moore, William Gladstone Sr., Chief Allan Claxton**Ken Malloway, Lower Fraser Fisheries:**

The Lower Fraser has about 20 fisheries guardians working for lower Fraser fisheries authorities. Concern has been expressed about First Nations monitoring their own fisheries, but Chehalis proved that First Nations are capable of enforcing regulations to protect their fisheries, and capable of managing their own fisheries.

First Nations used to read signs from nature that told them when to go fishing. There were certain times of year when fishing was off limits in order to protect the spawning salmon. Fisheries are a huge part of what we do and who we are as First Nations.

The lower Fraser has negotiated agreements for economic access in the past, but no long-term agreement was ever established. A new agreement is negotiated every year. This year's agreement included sale of sockeye, but the run collapsed and almost none was caught. It has become clear that First Nations can no longer rely on the sockeye fishery to make a living.

First Nations fisheries are closely monitored in the lower Fraser, while commercial and recreational fisheries are lacking adequate monitoring programs.

Many lower Fraser First Nations are employed by the very brief fishery in the lower Fraser. Economic development in the fishery leads to other economic opportunities in First Nations communities.

Kim Charlie and Dave Moore, Chehalis Fisheries:

Chehalis oral history tells us that their community has a rich history of stewardship, with 5 species of salmon passing through Chehalis territory. Fisheries are focused on the Harrison, Chehalis, and Fraser rivers, and span 9 months of the year. Their vision is a prosperous, healthy and sustainable fishery. More than a million pounds of commercial fishery products and caviar are produced annually.

Band governance provides a basis for co-management and focus for the stewardship vision. The Sts'ailes Development Corporation provides administration for community benefits. Employment and conservation are underpinnings of community stewardship (50-80 season staff are employed by Chehalis fisheries).

Chehalis aims to balance FSC and economic interests, and focus on enhancement while conserving stocks.

Competing interests include commercial license quota, recreational fisheries in the area, and sharing with other First Nations.

Moving beyond the mixed stock fishery allows for strategic management of resources (moving fisheries to avoid weak stocks and target strong ones; developing assessment tools that rely on local and reliable measures of in-season abundance).

A new angler trail helps to protect sensitive band lands and manage access issues with recreational fishers.

The emerging fisheries "co-op" is a contract between fishermen and communities. More local processing and value results in more local fishermen and increased salmon production.

A school of fisheries has been developed to educate community members about technologies, quality, traceability, local branding and sales, EI strategies for fishers, business planning, boat operations and safety, and certification. Investment in governance, stewardship and local fishers results in sustainability of fisheries and fishing communities.

The Chehalis economic fishery supports aboriginal rights, including the right to benefit economically and socially from the fishery.

Discussion:

Commercial access for First Nations is a higher priority than non-tribal commercial and recreational fisheries. It is up to First Nations to push for more access for our people, and to ensure our future in fishing.

DFO's mandate should be expanded to deal with compensation for past and current infringements of the aboriginal commercial right.

Panel Discussion: Kaarina McGivney, Violet Hill, Dr. Michelle Corfield, Audrey Mayes

Dr. Michelle Corfield, First Nations Fisheries Council:

Expressed gratitude for the Fisheries Council staff, and to all First Nations representatives who have participated in Council initiatives, such as the regional organizations bi-weekly conference calls. The input from these calls guides the Council's work.

The mandate of the Fisheries Council is to work with and on behalf of B.C. First Nations to protect and reconcile First Nations rights and title as they relate to fisheries and the health and protection of aquatic resources (priority access for FSC and economic purposes; build and maintain capacity; facilitate collaborative management discussions; etc.).

Proper rights holders are at the community or nation scale; this is where consultation and accommodation needs to happen. Communities need to take the lead in voicing their position about their title and rights to government. In the absence of a coordinated way to deal with First Nations' concerns, they may not be dealt with effectively. First Nations' voices together are much stronger than many single voices.

B.C.-wide initiatives need to be grounded in wide support from around B.C. keeping in mind the diversity of perspectives of B.C. First Nations.

Need to work collaboratively to build a system that recognizes the proper rights holders while helping to move forward issues on a broad basis.

Violet Hill, Native Brotherhood:

The Native Brotherhood began by providing loans and mortgages for boats for First Nations commercial fishermen. The role of the organization changed last year; rather than seizing property from those who are unable to repay debts, the Native Brotherhood purchased licenses, which were put toward a license bank (gillnet salmon licenses, herring, halibut, shrimp, etc.).

The organization has been attempting to access PICFI funds to expand the license bank. After some negotiating they were allowed to submit an expression of interest.

The license bank allows fishermen to pool their licenses and quota in order to increase access to resources. This improves the economy and viability of securing access by allowing fishing for lower cost.

Currently, they can only buy back licenses from those fishermen who have outstanding loans with them. The PICFI buy-back program is paying very low prices, but the Native Brotherhood aims to offer fair prices to First Nations.

Kaarina McGivney, DFO:

Congratulated the Council on progress made to date, and expressed that DFO looks forward to working with the new Council.

DFO is responsible for developing and implementing policies and programs for oceans and fresh water – healthy and productive aquatic ecosystems, safe and accessible waterways, sustainable fisheries, etc.

Objectives regarding aboriginal fisheries: maintain honour of the crown; provide access for FSC purposes; provide commercial access for economic benefits; provide role in fisheries management; strengthen relationships with First Nations.

Aboriginal fisheries considerations: Conservation is the first priority for everyone. FSC has first priority in management decisions after conservation. FSC fisheries should occur in areas historically fished by First Nations, and specific circumstances should be considered when implementing fisheries policy. Working toward a collaborative management relationship and proper consultation process.

DFO manages a wide range of fisheries with differing biological considerations, varying degrees of access, etc.

Many First Nations are relying on the same fish as they pass through various territories. Different types of fisheries occur in different areas. There has been a high level of uncertainty and low abundance in recent years; need to come together and discuss how to manage these stocks, how to share, etc.

DFO's approach to aboriginal fisheries relies on a number of programs and processes that provide access and funds to First Nations (PICFI, AAROM, etc.). DFO is involved in a group with the Fisheries Council to look at issues of access and how challenges can be addressed. DFO looks forward to collaborating with First Nations on these processes.

Audrey Mayes, National AFN Fisheries Committee:

The National Fisheries Committee represents 600+ communities in Canada, and functions through resolutions from

the Chiefs. The committee's operations are guided by the AFN National Fisheries Strategy (4 pillars: rights, access, capacity and accountability). They are trying to understand the day to day experiences of First Nations by travelling to communities.

The committee has 2 portfolio executive members, and is transitioning to a new leadership regime. Other components include a national policy analysis group and a technical committee with representation from across the country, and a series of working groups (habitat, SARA, ATK, science, aquatic animal health, etc.).

A new portal is up and running. Trying to identify technicians and leadership who will have access to that.

Key areas of work: access and allocation; aquaculture; legislative policy review; fisheries act renewal; SARA; traditional knowledge; traditional food and diet; oceans act implementation; major projects on management, habitat, science, climate change; sustainable management development framework; invasive species; eco-labelling; certification and marketing; national freshwater strategy; conservation and protection; guardianship program; enforcement; aquatic animal health; etc.

Aboriginal rights are being violated across the board. First Nations want more participation in decision making processes, development of programs, etc.

The National Fisheries Committee met in Nanaimo this year; the theme was taking back our First Nations fisheries (setting up our own businesses, working with our own people, aboriginal treaty rights, etc.).

Any plans must involve First Nations youth. Trying to develop a comprehensive national strategy to support and be used by First Nations at the community level.

This year is the tenth anniversary of the Marshall decision. Atlantic Chiefs have provided support for the case filed by Donald Marshall Jr. to cover legal costs. Appreciation was expressed for First Nations who fight in court on behalf of First Nations.

Climate change panel: Dr. Craig Orr and Mark Saunders

Mark Saunders:

Experts have said we're at the tipping point, but it's not too late to make change to benefit the environment.

Climate change is large scale, and impacts marine and terrestrial species and environments. Climate change will result in increased marine temperatures, increased frequency and intensity of el nino events, ecosystem reorganization, decreased ocean venting, decreased oxygen in upwelling deep waters, increasing ocean acidification, risk of major species changes in food webs, etc.

There has been significant warming in north and interior freshwater areas, with snowpack decreases and continued glacial recession.

Climate change will affect all salmon life history stages and species. Need to predict what will change in ecosystem zones and try to adapt to these changes in how we manage fish.

Management impacts include increased uncertainty, more difficulty with accurate forecasting, etc.

Recommended next steps: increased conservation buffers to increase chances of meeting conservation goals; broader implementation of ecosystem-based management as per WSP; regional analysis of vulnerability and adaptation options for sustainable fish and habitat management.

Dr. Craig Orr – Groundwater and First Nations access:

Decreasing water flows and thermal stress are impacting fish stocks. Stream temperatures are reaching lethally high levels, but groundwater cools and oxygenates the water. It also increases flow, adds to base flow, keeps river systems from freezing over in winter, and helps eggs to survive. Overall it helps river systems to maintain their resilience.

Secwepemc is doing a study of the dependence of juvenile coho on groundwater in the Nicola River. There is evidence that thermal stress is increasing their dependence on groundwater.

Groundwater can be extracted from river systems without a license. Population pressure in many areas throughout the province is resulting in more water use.

Living Watersmart is a program to protect groundwater and set in-stream water flow thresholds. The water stewardship branch has experienced funding cuts and is not moving forward.

A document has been produced that looks at how aboriginal rights could be used to protect not only salmon, but groundwater. Watershed Watch worked with First Nations to produce the document. The first step to protecting

the fish is to protect the water. The Fisheries Council is encouraged to look at how they can help to protect water.

Discussion:

Wild Salmon Policy is a good piece of legislation that should help to address climate change in fisheries management. Habitat monitoring and ecosystem values are especially important strategies. A benchmarks paper should be coming out in the next couple of weeks, as well as a paper on salmon health indicators. Expecting a series of meetings on ecosystem monitoring in the next 6 months.

First Nations could play an important role in getting all levels of government to the table to discuss water governance.

DAY 3: October 30, 2009 (First Nations and DFO)**Co-chairs: Grand Chief Doug Kelly and Chief Allan Claxon**

Welcome and opening prayer by Chief Willie Charlie and Chehalis Elders.

Welcome and opening comments by Grand Chief Doug Kelly.

**Fraser River Early timed chinook challenges and opportunities panel:
Tracy Sampson, Jeff Grout, Howie Wright, Mike Staley****Jeff Grout, DFO:**

Need to take a step back and look at all Fraser chinook runs. There are conservation challenges, but also opportunities. We need to work hard to develop the proper tools to sustain them.

Most chinook stocks are at a depressed level of abundance. DFO has been focusing on management activities to reduce harvest for a number of years, particularly on early timed and spring-summer chinook.

Since 2004, returns have been lower than the number of spawners on the grounds in the brood year; they have declined even with no fishing. There is similar declining survival for Chilko sockeye. Unfavorable ocean conditions have broad implications on chinook and sockeye with stream type life history.

Harvest reductions were implemented in 2008 to protect early timed chinook; need to determine whether the decrease is sufficient.

Early timed chinook are a complicated species to manage. The data is yielded from coded wire tags (CWT), but many stocks don't have CWT in place. Indicator stocks are used to collect information for these stocks.

Expecting to have a period in March and May for reduced fishing effort on weaker early timed populations entering the Fraser River.

A key challenge is the approach used to implement allocation priority. There is limited information available on chinook, which means we must develop new approaches and methods to estimate exploitation rates in FSC, recreational and commercial fisheries. Low sockeye runs have increased the pressure on chinook stocks.

Opportunities for DFO and First Nations to work collaboratively on chinook issues are provided by the Fraser Watershed Joint Technical Forum, and discussions on Wild Salmon Policy implementation. First Nations want to participate in developing priorities, work plans, and strategies for sustaining Fraser chinook.

Work to improve our understanding of monitoring and catch reporting across all fisheries is ongoing. DFO is in the process of producing a document that will outline broad principles for catch monitoring for all fisheries.

Mike Staley, FRAFS:

Early timed chinook are on a severe decline. The bulk of the early timed chinook harvest is taken by First Nations for FSC, but there are fish being taken recreational and commercial fisheries. The challenge is how to reduce the overall harvest while still respecting FSC access.

Mike expressed his surprise at DFO's interpretation of priority access. A forum is needed where legal and policy people can discuss approaches to respecting priority. First Nations and DFO have differing interpretations of

priority access; need to discuss this in a collaborative forum.

DFO's approach to addressing harvest concerns and priority is to adjust fisheries allocation to put the brunt of conservation on recreational and commercial sectors. Work is needed to determine whether this approach arrives at an acceptable distribution. Data is sparse, and analytic techniques are not as reliable as Mike thinks they need to be.

Outstanding policy questions: How significant does the difference in allocation need to be between First Nations and other sectors in order to properly recognize priority? How certain do we need to be about the data?

Tracy Sampson, Nicola Tribal Association:

Historically, the Coldwater River was full of chinook. First Nations in that area did not have to fish in the Fraser until they wanted salmon for drying. However, the people have not been able to benefit from these stocks for decades, and they must travel long distances to obtain a winter supply. This is a blatant infringement to our right to access fish for sustenance. The lack of fish has serious health impacts on our communities. Our children can't learn the traditional fishing methods if there are no chinook to harvest.

Co-management and collaboration are 2 words that DFO uses, but we need to determine what these words mean to First Nations.

DFO has been asked to change the size restrictions for retention of chinook for recreational fisheries, because the size regulations target Coldwater chinook. Recreational fisheries continue in the Nicola region despite severe declines in chinook stocks.

Salmon impact the entire ecosystem, not only humans; animals and plants are suffering as well.

Howie Wright, Okanagan Nation Alliance/First Nations Fisheries Council:

During the 2008 management season the Okanagan and northern groups submitted a technical memo, which looked at various timing groups. 6 recommendations were put forward to DFO, but these recommendations were not put into place.

DFO stated that they will use the 2008 report to guide the 2010 fishing year; however, the evaluation of 2008 management actions has been inconclusive. In the mixed stock fishery, need to look at what constitutes infringement, and how much information is needed before management actions are considered successful. The answers to these questions have implications for rights and infringement.

Need to move toward developing joint documents, and seeking agreements between DFO and First Nations on the available information. We are moving toward that goal. First Nations need to articulate alternative management actions for non-FSC fisheries, and identify data gaps where more information is needed.

CWT information is one of the only common data tools to show in-river and ocean fisheries information that is agreed to on an international scale. This provides a common language for communicating about these fisheries.

Need to implement improved information measures for recreational fisheries.

Discussion:

The goal in 2008 was to reduce early timed chinook exploitation by 50%. The management actions put in place by DFO resulted in a 35% reduction; this was not enough to protect early timed chinook.

Unfavorable ocean conditions are taking a toll on chinook. Historical information is not enough, so it's more difficult to forecast. DFO wants to work with First Nations to come to an agreement on management actions, data collection, etc.

Need more DNA sampling to determine what fish are being caught. First Nations want DFO to share with us the data that our fisheries provide.

Need to have a legal workshop to discuss the legal interpretation of priority access.

The WSP has a notwithstanding clause that says for economic reasons, WSP principles might not be implemented. This is a serious issue for conservation.

Need to improve data collection in recreational fisheries (mandatory head recovery, mandatory reporting for individual licenses, etc.).

If fishing pressure is going to increase on chinook due to low sockeye returns, we need more information about what fish are being targeted in what areas.

Panel - Russ Jones, Richard Hardy, Bob Chamberlin, Paul Pearson**Russ Jones & Paul Pearson:**

Three examples of Haida protected areas: Haida land use agreement, integrated marine use planning (PNCIMA), Gwaii Haanas marine area. Haida has been working on protecting these areas from logging impacts; 52% of the land area and 70% of the shoreline have been protected.

The strategic and use agreement was signed in December 2007 to reduce annual cut and increase protection of riparian areas. It is now being implemented. An agreement signed with the province expanded stream protection by 3-4 times (additional 60k hectares).

These agreements help to protect salmon streams and habitat. Co-management of marine conservancies and joint management plans will allow joint decision making about provincial tenures in protected areas. Endowment funding has been created for conservation and economic development.

Haida Gwaii is working with DFO and coastal First Nations on developing integrated marine use plans under the Oceans Act. An MOU on PNCIMA governance was signed by First Nations and DFO in December 2008. PNCIMA is just starting out, so it's hard to evaluate that process at this point. The goal is to protect ecosystems, marine protected areas, species at risk and First Nations fisheries access, as well as create opportunities for co-governance and address eco-sustainability.

The Gwaii Haanas initiative agreement was signed in 1999. An archipelago management board was set up to help manage, control and implement the work of the Haida Gwaii on creating the Gwaii Haanas parks. The agreement states that the parks will be run and controlled by the Haida people. A watchmen program has been developed to protect old village sites, speak to visitors about Haida culture and history, etc. Meetings are taking place with stakeholders to discuss turning the area into a national marine conservation area with Parks Canada. All input and feedback on this program is welcome.

Chief Bob Chamberlin:

The Kwicksutaineuk community opened their first band office in the last 5 years.

Salmon aquaculture is an issue in his community because it is surrounded by fish farms. A plan was put together to have fish absent from the farms during the times that juvenile fish are migrating out to sea. However, the goal of the industry is to make money, and they don't consider First Nations' concern about impacts to wild stocks. The solution of the fish farming companies was to move the farms to a different part of the territory, which would not resolve the problem. The community was disappointed that the government could not see the wisdom behind their proposal. They wanted to do the science and implement management tools to inform government participation, but that did not happen. A half-measure was introduced, which reduced production in some areas. The farms used slice, a neurotoxin that stops crustacean growth, in an attempt to control sea lice; however, this substance affects shellfish resources.

Returns were better than anticipated in areas where fish farms were relatively empty of fish while juveniles were migrating out to sea. The outward migratory routes of weaker stocks go through areas around the farms. Logically, it appears that absence of fish farms produces better run sizes.

DFO has been allowed to apply a narrow interpretation of Sparrow that allows the fish farm industry to continue despite the demise of wild stocks.

Studies of wild salmon populations from around the world have shown that sea lice kills fish. It is harmful to ignore this scientific evidence.

The community is not against fish farms or aquaculture; they are in favour of controlling the industry to minimize impacts to wild stocks.

Panel: Brenda McCorquodale, Marcel Shepert, Angela Bate, Cliff Atleo**Angela Bate:**

Co-management is an evolutionary process. There has been progress made but there is still a long way to go. First Nations need to mutually agree to a definition of co-management.

Fifteen to twenty years ago, we were much further from co-management. Consultation was limited and the government made all the decisions. Over the last decade, programs have been set up to work more

collaboratively. PICFI, for example, has targeted funding for co-management, capacity building, etc. The ultimate goal is to work together on fisheries management.

Challenges include lack of capacity for DFO and First Nations, the culture change of working toward a new way of doing business, and trust issues between First Nations and DFO. Open and transparent communication is the key to building an effective co-management framework.

The vision for the future is to work through various programs, with First Nations and other stakeholders, to build a coherent decision-making structure where all voices are heard. Everyone at the table should understand the rules of engagement, and respect one another. Adequate training and resources are needed. Training needs to be incorporated into the process of participating in the various groups and programs.

Marcel Shepert:

There are many different versions of co-management. Need to work together to determine what co-management means to DFO and First Nations. The Forum on Conservation and Harvest Planning for Fraser Salmon and the Fraser River and Approach Working Group (FRAWG) have been working to address co-management issues from the perspective of island and in-river First Nations.

Collaboration is important because there is a growing concern about fisheries management, environmental and political uncertainty, climate change, fluctuations in fish runs, etc. The complexity of salmon management is growing.

A government-to-government relationship is essential for good fisheries management. The development of the Intertribal Treaty Organization (ITO) process could lead to a new governance structure on the Fraser.

Understanding, trust and relationships are slowly developing.

The spectrum of co-management ranges from information exchange, to advice, to participatory decision making, to recommended decision making. The scope depends on the issue, and where we find ourselves on this scale.

A commitment to human and financial resources, sufficient incentives to participate, a clearly defined negotiation framework, a mandated First Nations structure (e.g. ITO), and a mutual understanding of our respective goals and aspirations are needed in order to move forward on co-management. DFO must also develop a transparent and engaged chain of authority to ensure that the right people are participating in these processes to make decisions and move forward on our goals.

DFO currently holds the ultimate decision-making authority in a way that builds continued distrust with First Nations. Taking aboriginal management agencies more seriously and using their technical capacity are ways of integrating those resources into the management structure.

Cliff Atleo:

Expressed support for the Fisheries Council, and recognized the need to work collaboratively to manage our resource.

First Nations have a long history of fisheries management based on sound principles. There is an untapped resource in the history of each nation. Before contact the fish were plentiful.

Our vision for the future of aquatic resource management is a real partnership founded on respect. Our teachings and values are the tools that will guide us in the development of joint management. First Nations want respect from the government, and to have their governance abilities recognized.

The government should be held accountable for past policies that have infringed on First Nations' rights.

Brenda McCorquodale:

Brenda has been the Executive Director of the Fisheries Council for a year and a half. First Nations have expressed differing ideas about the role of council, so they've been trying to strike a balance and make sure their actions are well supported at the community level.

Recognizing the scarcity of food and economic needs of First Nations, this is an important time to move forward on co-management. In order to protect rights and title, First Nations need to play an active role in the management process.

One of the main challenges of developing a co-management process is that the chain of authority for First Nations is opposite from DFO - i.e. for First Nations, the highest decision-making authority lies at the community level and decreases as groups become more broad, while the opposite is true for DFO (the highest authority lies with the

Minister and decreases as you get closer to the community level). Building a co-management structure will build bridges between the authority of First Nations and DFO at various levels.

First Nations need to think about co-management in terms of what we want to accomplish at the community level, and also in terms of how to deal with broader issues. The broader issues have been the main focus of the council. The council is working with DFO on a commitment to action, which was mandated at the Fisheries Council assembly last spring. A major component is co-management. The process is being developed to prevent province-wide issues from overshadowing issues at the community level. Funding has been provided from DFO to hire co-management coordinators to work with the council from the community level.

10 of 14 representatives for the new council have been appointed. They will help to develop an approach to co-management that works for the communities.

Discussion:

First Nations are still unclear about many aspects of the PICFI process. Better communication is needed. DFO was encouraged to visit communities to talk about PICFI.

Over the past couple of years, First Nations have been setting their differences aside and coming together in processes like the Fisheries Council and the Forum on Conservation and Harvest Planning. In the past there was fighting between the different areas, but new relationships have developed as First Nations come together to work on behalf of the fish.

First Nations and DFO need to discuss accommodation for the impacts to First Nations' lands and resources.

Council Appointments

Russ Jones (Haida Gwaii)

Bill Shepert (North Coast Interim)

John Henderson and alternate Chris Cook (North Island)

Allan Claxton (South Island)

Michelle Corfield (WCVI)

Ken Malloway and alternate Jim George (Fraser Valley)

Thomas Alexis (Upper Fraser)

Walter Joseph (Upper Skeena)

Remaining appointments are expected soon.