



FIRST NATIONS
FISHERIES COUNCIL

**Governance and Co-Management
November 3, 2010**

Governance

- What is governance?
- What are the different visions of authority which form a foundation for governance?
- Where do First Nations see themselves involved in the spectrum of engagement for fisheries?
- What are some of the governance approaches that First Nations may want to consider as a part of evolving co-management?

Governance

- **Governance** is the process of making decisions and the authority to make and implement decisions.
- **Fisheries Co-management** is a mechanism through which Title and Rights can be reconciled with current federal governance structures, processes and decisions.
- Effective fisheries governance would need to address the authority, process, and outcomes of decision-making.

Governance

Should...

- Be predictable
- Be Structured
- Be based on agreements
- Be linked to appropriate capacity
- Improve outcomes

Shouldn't...

- Be based on individual relationships
- Create confusion
- Create expectations that can't be met
- Require more resources/ capacity than are available

Authority

- **First Nations assert title and rights over fish, watersheds, and marine areas in British Columbia, including rights to be engaged in management of their lands, waters, and resources.**
- **The Minister of Fisheries and Oceans and DFO have been delegated authorities by Canadian law related to the management of fish and fish habitat.**
- **Whether or not DFO accepts that title and rights exist, when they become aware that title and rights are asserted they have an obligation to consult and accommodate First Nations.**
- **If we need to assess the strength of authority of First Nations over fish, watersheds, or marine areas we can develop a joint “strength of claim” analysis.**

← Traditional Spectrum of Engagement →

| <i>Informing</i> | <i>Information Exchange</i> | <i>Advisory</i> | <i>Partnership / Shared Mgmt</i> | <i>Devolution</i> |
|--|--|---|---|---|
| DFO informs First Nations and stakeholders of decisions First Nations provide no input into decision making process | DFO informs First Nations and stakeholders what management actions it intends to take First Nations may provide comment, but government makes the final decisions | DFO seeks comment or input on management issues, options or policies from First Nations and stakeholders. Government makes the final decisions | Joint commitment to identify issues and processes for resource management activities and decisions Shared decision-making by DFO and First Nations | Government delegates the authority for resource management to First Nations and/or stakeholders |

Spectrum of Engagement

- Most First Nations assert that their title and rights oblige them to be active managers of their lands, waters, and resources.
- On the spectrum of engagement this means at a minimum partnership/ shared decision-making.
- Communities have different priorities, and limited capacities, therefore will express their objectives in different ways.

FIRST NATIONS

GOVERNMENT

| Geographic Scale | Strength of Authority | Government Organizations | Strength of Authority |
|-------------------------------|-----------------------|------------------------------|-----------------------|
| | HIGH | | LOW |
| Local (Nation Level) | | Field Officer | |
| Regional / Aggregate Level | | Field Officers/Managers | |
| B.C. Wide Level | | Area Chief/ Area Director | |
| | | RDG/Regional Director | |
| | | ADM/DM/Minister | |

Strength of Authority

- First Nations' authority flows from their title and rights.
- It is connected to who they are as Nations and communities, and their traditional culture, practices and way of life, linked to a modern context.
- First Nations direct authority is linked to their title, which is grounded in their own territory.
- In the modern context, First Nations acknowledge that they need to work collaboratively among themselves and with federal and provincial governments on an aggregate, B.C.-wide, and national level to effectively protect title and rights.

Governance Approaches

- First Nations in B.C. have coined the term “Tiers” in order to identify governance structures which engage different parties.
- **Tier 1:** First Nation to First Nations relationships, structures, and processes.
- **Tier 2:** Bi-lateral relationships with federal or provincial governments that respect and accommodate First Nations Title to traditional territories and Rights to fisheries and aquatic resources
- **Tier 3:** Multi-stakeholder engagement and processes.

Governance Requirements

- First Nations' rights and title are protected through the Canadian constitution, and therefore Tier 1 and Tier 2 processes are a priority for First Nations.
- Effective governance needs create engagement and processes that can effectively address title and rights, or the acknowledged assertion of title and rights.
- First Nations need to play a lead role in articulating how they will work together with DFO to bridge the gap between the varying strengths of authority.

Discussion Question

What are the key challenges and opportunities that we face in developing governance approaches for fisheries and aquatic resource co-management?