

First Nations Fisheries Council

Briefing Note

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FIRST NATIONS
FISHERIES COUNCIL

First Nation Summit Chiefs in Assembly Briefing 2011-11-30: Cohen Commission

Background:

On November 5, 2009, the Governor in Council set out the Terms of Reference for the Cohen Commission, formally named the Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River. The Honourable Bruce Cohen, a justice of the Supreme Court of British Columbia, was appointed to oversee the Inquiry.

The main evidentiary hearings of the Cohen Inquiry began on October 25, 2010 and closed on September 28, 2011, with over 125 days of evidence, 173 witnesses and 1,993 filed exhibits. Final written submissions, including Replies, were filed by the Participants in October and November, 2011. Final oral submissions were made from November 4 to November 10, 2011. The Commissioner intends to re-open the evidentiary hearings in December for two days, and will be completing his final report by June 30, 2012. **For a more detailed review of the evidence we refer you to the FNC's Final and Reply Submissions filed with the Commission. All of transcripts, exhibits and written submissions are available on the Commission's website at www.cohencommission.ca.**

Causes of the poor return in 2009 and the longer term decline in Fraser River Sockeye Salmon (FRSS):

During the Inquiry, the Commissioner heard a large amount of evidence from experts (First Nations, scientists, and managers) both from within DFO and from other agencies, on the current state of FRSS, the causes of the poor return of FRSS in 2009 and the causes for the longer term decline. From the FNC perspective, the evidence heard at the Inquiry supports the following:

- It is reasonable to conclude that the cause of the poor 2009 returns was most likely cumulative or multiple stressors in the marine environment, including overlapping stressors of marine conditions during smolt out-migration (poor food supply in the Strait of Georgia, harmful algae blooms and severe water runoff into Queen Charlotte Sound/Strait), and climate change, predation and contaminants (river, estuary and mouth);
- Shifts in oceanic conditions and cumulative or multiple stressors in the marine and fresh water environments are contributing to the longer term decline. FRSS are being exposed to continued and multiple cumulative impacts all along their migratory route;
- Most fisheries scientists and managers view climate change as a potentially serious factor driving current and future sustainability of FRSS. One of the consequences of climate change is increasing variability and the potential synergistic effects on predation, contaminants, harmful algae blooms, ocean conditions and disease affecting FRSS. Given the steadily increasing enroute mortality and pre spawn mortality, the cumulative impacts of disease, contaminants and climate change must be considered serious; and

- Understanding the contributing factors of decline in FRSS is challenging because of numerous data gaps and limitations. Gaps exist not only in baseline data (limited time series and spatial coverage for many factors), but also in fundamental scientific understandings of various conditions and their relation to salmon populations. In particular, the precise role of contaminants, fish farms and competition for food in the open ocean has not yet been properly assessed or researched by science.

Next Steps:

The Inquiry is currently scheduled to re-open the evidentiary hearings on December 15-16, 2011 to address the recent reports of the Infectious Salmon Anemia (“ISA”) virus in wild salmon stocks.

The Commissioner must produce his final report by June 30, 2012, which will provide recommendations for how DFO, and participants, can work together to conserve and manage FRSS. The FNFC will be hosting a meeting in January 2012 to discuss in more depth the Cohen Inquiry and more importantly the steps which could be taken by First Nations, including for example:

Co-Management

- DFO should meaningfully engage in discussions and negotiations with First Nations along the migratory route of FRSS to clarify the Tier 1 and 2 agreements necessary for co-management. DFO should confirm this commitment to meaningfully negotiate government-to-government co-management with First Nations in a Letter of Understanding, which sets reasonable goals and time frames. It is our understanding that the Roadmap process is proceeding towards this goal.
- DFO should immediately increase First Nations representation on the Fraser River Panel (“FRP”) of the PSC to 50 percent of the Canadian caucus. First Nations representatives should be appointed to the FRP using Tier 1 processes.

Wild Salmon Policy

- First Nations, DFO and others should work together to identify and collect essential baseline information and develop an inventory of habitat values for FRSS under the WSP, including ecosystem values for monitoring the status of freshwater and marine environments.
- First Nations should pursue with DFO the development of the Integrated Planning Structure under Strategy 4 of the WSP for FRSS.

Fisheries in Transitions

- As a priority, First Nations should continue to press DFO to renew funding for PICFI, which will otherwise sunset in March 2012, in order to continue efforts made to date and to ensure a prosperous transition from mixed stock to known stock fisheries.

Stock Assessment

- First Nations must insist that DFO maintain and improve its in-season assessments of run size, composition, health fish, and spawning escapement information including: test fisheries, the Mission Hydro acoustic facility, the Qualark Program, and genomics and telemetry research at a CU level.

Aquaculture

- It is recommended that First Nations, the FNFC, the First Nation Summit and the UBCIC write to confirm that DFO must continue to grant one-year extension of the licences rolled over by DFO in December 2010, until the consultation is completed and accommodations have been reached to address potential impacts. In light of the evidence and need for studies, multi year extensions for finfish aquaculture should not be granted by DFO and should not be sought by Industry. Given that

DFO must now be considering how to proceed with these licences, we recommend letters be sent to DFO emphasizing the necessity for only short term extensions until the necessary consultation and accommodations have been reached.

- In collaboration with First Nations, DFO must undertake a substantive review of the adequacy and application of existing siting criteria for finfish aquaculture farms using current scientific knowledge and TEK. This review should be conducted as part of the consultative process that respects First Nations' unique constitutional rights and perspectives.
- First Nations must continue to insist that DFO share all disease related information promptly and substantially. There are recent incidents that cause concern. In addition, genomics research into the Mortality Related Signature ("MRS") and parvovirus, including on wild fish and farmed fish, should be continued. DFO, First Nations and Industry (together with interested stakeholders) should develop agreement on the nature, timing and costs for completing the necessary research to fully understand and assess the risks to FRSS associated with finfish aquaculture. Industry should pay for such consultations and studies. We suggest that FNFC be mandated to initiate discussions with DFO and Industry to establish such a protocol.
- The FNFC, the First Nation Summit and the UBCIC should press DFO to adopt the six principles articulated in the First Nation Summit's and the UBCIC's Resolutions, as well as the themes outlined in the *First Nations Views on a Proposed Federal Aquaculture Regulation for British Columbia* and actively address them within their plans for the management of aquaculture in BC.
- First Nations must continue to require DFO to meaningfully consult with First Nations on all proposed aquaculture regulations, policies, and licence conditions. Industry should pay for such consultations.

There are many specific recommendations that the First Nation Coalition provided to the Commissioner in our final written submissions, which you may want to review for prioritizing next steps. These recommendations can be found online at: <http://www.cohencommission.ca/en/FinalSubmissions.php>.

For more information, please visit the Cohen Commission website – www.cohencommission.ca or contact the First Nations Fisheries Council at – 778-279-2900 or info@FNFisheriesCouncil.ca

