

Commission of Inquiry into the Decline of
Sockeye Salmon in the Fraser River



Commission d'enquête sur le déclin des
populations de saumon rouge du fleuve Fraser

Public Hearings

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Bruce Cohen

Commissaire

Held at:

Room 801
Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

Wednesday, February 23, 2011

Tenue à :

Salle 801
Cour fédérale
701, rue West Georgia
Vancouver (C.-B.)

le mercredi 23 février 2011

APPEARANCES / COMPARUTIONS

Brock Martland Kathy L. Grant	Associate Commission Counsel Junior Commission Counsel
Tim Timberg Geneva Grande-McNeill	Government of Canada ("CAN")
Boris Tyzuk, Q.C.	Province of British Columbia ("BCPROV")
No appearance	Pacific Salmon Commission ("PSC")
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
No appearance	B.C. Salmon Farmers Association ("BCSFA")
No appearance	Seafood Producers Association of B.C. ("SPABC")
No appearance	Aquaculture Coalition: Alexandra Morton; Raincoast Research Society; Pacific Coast Wild Salmon Society ("AQUA")
Judah Harrison	Conservation Coalition: Coastal Alliance for Aquaculture Reform Fraser Riverkeeper Society; Georgia Strait Alliance; Raincoast Conservation Foundation; Watershed Watch Salmon Society; Mr. Otto Langer; David Suzuki Foundation ("CONSERV")
Don Rosenbloom	Area D Salmon Gillnet Association; Area B Harvest Committee (Seine) ("GILLFSC")

APPEARANCES / COMPARUTIONS, cont'd.

Phil Eidsvik	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Christopher Harvey, Q.C.	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
No appearance	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwlitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Brenda Gaertner Crystal Reeves	First Nations Coalition; First Nations Fisheries Council; Aboriginal Caucus of the Fraser River; Aboriginal Fisheries Secretariat; Fraser Valley Aboriginal Fisheries Society; Northern Shuswap Tribal Council; Chehalis Indian Band; Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council; Upper Fraser Fisheries Conservation Alliance; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout); Adams Lake Indian Band; Carrier Sekani Tribal Council; Council of Haida Nation ("FNC")
No appearance	Métis Nation British Columbia ("MNBC")

APPEARANCES / COMPARUTIONS, cont'd.

Nicole Schabus	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid, Aboriginal Aquaculture Association ("LJHAH")
No appearance	Musgamagw Tsawataineuk Tribal Council ("MTTC")
Lisa Fong	Heiltsuk Tribal Council ("HTC")

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Jeff Grout
In chief by Mr. Martland

1 Vancouver, B.C. /Vancouver
2 (C.-B.)
3 February 23, 2011/le 23
4 février 2011
5

6 THE REGISTRAR: Order. The hearing is now resumed.

7 MR. MARTLAND: Mr. Commissioner, today and tomorrow we
8 have Jeff Grout. He's testified before. If he
9 could please be affirmed. I take it that's the
10 practice when he's reappearing.

11 THE REGISTRAR: We just take his oath to be still in
12 effect.

13 MR. MARTLAND: Thank you.
14

15 JEFF GROUT, recalled.
16

17 EXAMINATION IN CHIEF BY MR. MARTLAND:
18

19 Q Mr. Grout, I will take some time - I'm aiming to
20 conclude in good time today to permit your counsel
21 time for their examination, as well - I'm going to
22 begin just by covering briefly your background. I
23 appreciate that you have testified previously in
24 this inquiry, so I'll try and do this in a summary
25 way. Exhibit number 316, and on our exhibit list
26 for commercial hearings number 19, is Mr. Grout's
27 c.v., it's already an exhibit.

28 I'll just confirm briefly, you have a B.Sc.
29 in Biology from the University of British
30 Columbia, an M.Sc. from the School of Resource and
31 Environmental Management at Simon Fraser
32 University. You completed your fisheries-focused
33 graduate work under the supervision of Dr. Randall
34 Peterman, and started work as a Biologist with the
35 Department in 1998; is that correct?

36 A Yes. Just one clarification. It was not an M.Sc.
37 degree, it was a Masters of Natural Resource
38 Management from SFU.

39 Q Thank you. In 2001 you moved to the position of
40 Resource Management Biologist in the Lower
41 Mainland office, working on sockeye and pink
42 salmon, and then began your current role as a
43 Regional Resource Manager Salmon in June of 2007.

44 A That's correct.

45 Q I understand, and if you could confirm, please,
46 that in your current position you have, amongst
47 other responsibilities, responsibility for

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JEFF GROUT

In chief by Mr. Martland

1 chairing the Salmon IHPC, or Integrated Harvest
2 Planning Committee.

3 A Yes, I have done that over the last year.

4 Q You attend consultations with First Nations, the
5 Sport Fishing Advisory Board, or SFAB, and the
6 Commercial Salmon Advisory Board, or CSAB?

7 A Yes.

8 Q You attend meetings of the Allocation
9 Implementation Committee, or AIC.

10 A That's correct.

11 Q You chair the DFO's internal Salmon Working Group?

12 A Yes.

13 Q And you are involved in drafting conditions of
14 licence and managing the commercial intrasectoral
15 allocation process, as well as addressing issues
16 of intersectoral allocation?

17 A Yes.

18 Q Thank you. I'll begin as a first topic on the
19 matter of salmon allocation, and why don't I, to
20 use Mr. Rosenbloom's language from yesterday, try
21 to start at the 30,000 feet level of view. We
22 have the Policy and Practice Report that's been
23 filed, but for this question, if you could begin
24 by explaining when we talk about allocation of
25 salmon in the fisheries context, what does that
26 refer to? What is allocation?

27 A At the highest level, allocation refers to how the
28 resource is shared between conservation
29 objectives, and then also harvest by various
30 participants. So there are elements of
31 conservation and that would be fish that are going
32 to the spawning grounds and then harvest by First
33 Nations, recreational, and commercial harvesters.

34 Q And one of the points I'd like to take is that you
35 pointed out in our Policy and Practice Report and,
36 Mr. Lunn, it's PPR6 at paragraph 60. And Ms.
37 Grant may be able to help me on finding the page
38 number. I don't know if we need the document
39 necessarily to ask this. But the definition of
40 allocation in this report refers to the number --

41 MR. LUNN: Page...?

42 MR. MARTLAND: Twenty-two.

43 Q This definition in our Policy and Practice Report
44 refers to allocation in terms of the number of
45 fish. And you pointed out that indeed allocation
46 can also refer to a percentage share of the
47 allowable catch.

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1 A That's correct. And the reason I pointed out that
2 change is for Fraser sockeye in particular, but
3 also other salmon, the total allowable catch can
4 fluctuate throughout a season. So in some of our
5 licences we'll specify a percentage share, which
6 would then change the number of fish that are
7 allowed to be harvested during the season,
8 depending on what the level of the TAC might be.

9 Q And in practical terms, when we hear the words
10 "intersectoral" or "intrasectoral" allocation,
11 what do those refer to?

12 A Inter refers to the arrangements describing how
13 harvest will be allocated between First Nations,
14 recreational and commercial harvesters.
15 Intrasectoral refers to how harvest might be
16 shared within a sector, so for example within the
17 commercial sector between the eight commercial
18 salmon fleets.

19 Q Within the Department of Fisheries and Oceans, who
20 has responsibility for salmon allocation?

21 A Salmon allocation is guided by the Allocation
22 Policy, and it's the responsibility of our
23 managers, staff, myself and others, to implement
24 the Allocation Policy as best we can in the
25 decisions we're making.

26 Q What is the role of the Salmon Team in allocation?

27 A Well, the Salmon Team includes a group at Regional
28 Headquarters, including the Salmon Team lead,
29 myself, a salmon officer, and the recreational
30 coordinator. And so we have a number of different
31 roles.

32 I'm directly involved in helping devise
33 fishing plans that are consistent with the
34 allocation priorities laid out in the Allocation
35 Policy. So that's intersectoral allocation across
36 the First Nations, recreational and commercial
37 harvesters in those plans as they're laid out in
38 the IFMP. I'm also directly involved in the
39 Allocation Implementation Committee, which is
40 focused on implementing the Allocation Policy as
41 it pertains to sharing harvest between the
42 recreational and commercial sector. And then also
43 in the commercial intrasectoral allocations, I'm
44 involved in the meetings that set up the
45 allocation sharing arrangements for the commercial
46 salmon fleets.

47 Q And there's both a Salmon Team and a Salmon

1 Working Group. Could you please help me
2 understand the difference between the two and the
3 involvement of the Salmon Working Group in
4 allocation.

5 A The Salmon Working Group's a broader group. It
6 only includes departmental staff. It includes
7 members of the Salmon Team. There's
8 representatives from our Regulations unit,
9 Licensing unit, Salmon Enhancement Program, and
10 the director of our Science group, Salmon and
11 Freshwater Ecosystems, or the head. We also have
12 area chiefs of Resource Management, Stock
13 Assessment and Conservation and Protection at the
14 meetings, Communications representatives from
15 Resource Management Operations in Ottawa, and
16 maybe a couple of others that I've missed. But we
17 have a terms of reference that lays out the
18 membership of that group. I'm not sure whether
19 that's been entered as evidence previously or not.

20 Q Okay. And in terms of the Salmon Working Group's
21 work on allocation versus the Salmon Team, could
22 you help us get an understanding of its
23 involvement?

24 A The Salmon Working Group is primarily dealing with
25 allocation at a more overview level. So if
26 there's specific issues that came up in developing
27 the IFMP, then we'd have discussions at the Salmon
28 Working Group, given that we've got
29 representatives from all of our areas and various
30 different branches and groups in the Department.

31 Q Now, one of the documents which I don't plan to go
32 to in any great detail, but number 23 on our list
33 is already an exhibit. It's the Allocation Policy
34 itself. It's Exhibit 264. I don't need to refer
35 you to it specifically. Instead, what I'd like to
36 in a fairly quick way if I might, is to try and
37 make sure we have an understanding of the
38 background, the immediate history leading up to
39 the Allocation Policy in 1999. There's a summary
40 of that background in the Policy and Practice
41 Report that's still on the screen.

42 At a general level, is the summary that's set
43 out in terms of the history leading up to the
44 Allocation Policy, the summary in the PPR, is that
45 accurate, to your estimation?

46 A I don't recall making any specific comments or
47 concerns about that part of the Policy and

5
JEFF GROUT
In chief by Mr. Martland

1 Practice Report.

2 Q Thank you.

3 A So I think that's accurate.

4 Q All right. And there's reference, and I'll do
5 this very quickly, number 20 on our list, Mr.
6 Lunn, is the May Report, in short form, "Altering
7 Course".

8 If I could just confirm, Mr. Grout, that this
9 is the May Report, this is one of the central
10 reports that led up to the Allocation Policy in
11 1999?

12 A That's correct.

13 MR. MARTLAND: If that could be the next exhibit,
14 please.

15 THE REGISTRAR: That will be Exhibit 455.

16
17 EXHIBIT 455: Altering Course: Report to
18 Minister DFO on Intersectoral Allocations of
19 Salmon in B.C., May Report, December 1996
20

21 MR. MARTLAND:

22 Q The next one is number 21. This in shorthand is
23 the Toy Report, again you recognize that as being
24 Mr. Toy's report?

25 A Yes, that's correct.

26 MR. MARTLAND: If that could be the next exhibit,
27 please, Mr. Registrar.

28 THE REGISTRAR: Exhibit 456.

29
30 EXHIBIT 456: Recommendations for Policy
31 Changes Implementing Several Recommendations
32 of the May Report, Toy Report, March 16, 1998
33

34 MR. MARTLAND:

35 Q And finally, to be complete, the Kelleher Report,
36 number 22 on our list of documents. Do you
37 recognize that as Stephen Kelleher, Q.C.'s report
38 from 1998?

39 A Yes, it is.

40 MR. MARTLAND: If that could be the next exhibit,
41 please.

42 THE REGISTRAR: Exhibit 457.

43
44 EXHIBIT 457: Report to Minister DFO re
45 Commercial Salmon Allocation, Kelleher
46 Report, April 30, 1998
47

1 MR. MARTLAND:

2 Q I'm going to step back and just ask another
3 question about the Policy and Practice Report. As
4 we move through things, I'll do my best to take
5 you to some more specific points, and I'll ask a
6 general question at the end if you have further
7 comments about the Policy and Practice Report. I
8 take it, though, you have a general comment about
9 the Policy and Practice Report that, based on your
10 review of it, I'd invite you to make that point
11 and to offer your comments at a general level
12 about this document and the accuracy of the
13 information set out.

14 A Yes. The general comment I made about this Policy
15 and Practice Report is overall I thought it was a
16 well done report. I did note, though, that it did
17 not go into any detail into the First Nations role
18 in the commercial fishery and the various
19 different opportunities that are provided through
20 various programs. And I understand that that's
21 perhaps being covered at a different part in the
22 hearing, but I think it's an important point to
23 point out.

24 The Department's been working to integrate
25 First Nations into the commercial fishery,
26 providing additional access through a number of
27 programs, including Pacific Fisheries Reform, and
28 the Pacific Integrated Commercial Fisheries
29 Initiative, and others. So I thought that was one
30 of the main points that I understand as being
31 touched on elsewhere, but I think the two are
32 connected. So that was the key point I made.

33 Q Thank you. Why don't I start with the Allocation
34 Policy, but I'll do that through the Policy and
35 Practice Report that's on the screen. Mr. Lunn,
36 page 29 of my printed version, I hope it's the
37 same as everyone's, paragraph 78.

38 Mr. Grout, what this sets out, replicates, is
39 the language of the Allocation Policy in setting
40 out seven overarching principles for salmon
41 allocation. I'd like to, with that on the screen
42 in front of us and we can all read it, but if you
43 could walk us through the governing principles for
44 salmon allocation, please.

45 A Okay. These seven principles lay out for Pacific
46 salmon how the Department intends to allocate the
47 resource.

1 Conservation is the top priority in managing
2 the resource, and as it says there, conservation
3 won't be compromised in terms of achieving salmon
4 allocation targets.

5 After conservation needs are met, First
6 Nations food, social and ceremonial requirements,
7 and treaty obligations are first in priority.

8 The next point restates the common property
9 nature of the resource, managed by the government
10 on behalf of all Canadians, for both present and
11 future needs. Makes the key point that it does
12 not imply open access, nor does it imply equal
13 access. Minister has the discretion in allocating
14 the resource.

15 The next point on recreational allocation
16 recognizes the priority for recreational fisheries
17 after conservation and First Nations needs are
18 met, from principles 1 and 2, to provide
19 recreational priority for directed fisheries on
20 chinook and coho salmon. And then the second
21 piece that relates to Fraser sockeye in particular
22 is:

23
24 Predictable and stable opportunities for
25 sockeye, pink and chum salmon.
26

27 And the policy lays out in further detail what
28 that entails in terms of specific sharing
29 arrangements.

30 Moving then on to commercial salmon
31 allocation, after conservation, priority access
32 for First Nations, the commercial sector has an
33 allocation of 95 percent of the combined
34 commercial/recreational harvest of sockeye, pink
35 and chum, recognizing the historical reliance on
36 those species. There can also be commercial
37 harvest of chinook and coho when abundance
38 permits.

39 And the sixth point is around selective
40 fishing, and encouraging the move to selective
41 fishing, setting aside a proportion of the
42 commercial TAC in some of the early years to
43 explore some alternative gears, harvest
44 technologies. And then over time commercial
45 allocations favouring those that can demonstrate
46 their ability to fish selectively.

47 And then finally in point (7), refers

1 specifically to commercial intrasectoral
2 allocation among the commercial fleets, and these
3 allocations are established on a coast-wide basis
4 by gear. So by gear, they're referring to seine,
5 gillnet and troll, and the catch of all the
6 species will be expressed on a sockeye equivalents
7 basis. And this is recognizing the point that
8 each of the eight commercial salmon fleets are
9 harvesting a different mix of the five species of
10 Pacific salmon. And sockeye equivalents are used
11 to essentially create a common currency for
12 valuing how much harvests are across fleets,
13 especially when they're harvesting different
14 species. So, for example, how do you compare a
15 gillnet fleet that's harvesting sockeye to one
16 that's a troll fleet, for example, that might be
17 harvesting more chinook. So that's where
18 equivalents is used, and I think we're going to
19 get into that in more detail.

20 And then finally, the gear allocations also
21 outlines what you might do when licenses are
22 retired from the commercial salmon fishery and
23 lays out an example.

24 Q And let me pick up on the question of
25 intrasectoral allocation work that's done within
26 the commercial, within the different gear types.
27 Could you please describe the process the
28 Department uses in doing that on a year-by-year
29 basis.

30 A Sorry, could you repeat the first part of your
31 question?

32 Q Sure. Let's focus on the question of within the
33 commercial sector, how is allocation done on a
34 given year?

35 A For the commercial salmon fleets, the eight
36 commercial salmon fleets, we use an annual
37 allocation process to establish harvest shares.
38 At the highest level, we're working towards
39 establishing a coast-wide sharing arrangement, and
40 it's to achieve a 40 percent share to the seine
41 fleets, and we have two seine fleets, one in the
42 north and one in the south.

43 In the gillnets, we're trying to achieve a 38
44 percent share of the coast-wide harvest, and
45 there's one gillnet fleet in the north and two in
46 the south.

47 And finally on the troll side, we have a 22

1 percent coast-wide share that's for the three
2 troll fleets, one in the north and two troll
3 fleets in the south.

4 Q And on those percentages you've just provided, I
5 take it, and I don't have it at my fingertips, but
6 there's been some change in the percentages, vis-
7 à-vis what's set out in the Allocation Policy.
8 What does that reflect?

9 A The changes in the shares are a bit different than
10 when the policy was written in 1999, reflecting
11 some additional licence buyback activity that had
12 occurred, and a final application of the
13 methodology to adjust the coast-wide licence
14 shares.

15 Q And when you give those percentages, is that
16 referring to all salmon, it's not by species?

17 A That's correct. That's across all salmon species
18 using a sockeye equivalents basis to calculate
19 where we're at relative to those fleet shares.

20 Q And you've given us some understanding of the
21 sockeye equivalents mode of currency effectively.
22 If you could put that -- if you could help us
23 understand, if you give any further explanation
24 and also a sense of the relative value of
25 different species and how sockeye equivalents may
26 work.

27 A Okay. A suggestion here might be to look at an
28 exhibit which is in the 2009/'10 IFMP. In that
29 IFMP we put in an appendix each year.

30 Q And I'll just pause for a moment and we'll try and
31 do that. Number 25, Mr. Lunn, on the list is
32 Exhibit 317. That should be the '09/2010 IFMP.

33 And for our purposes, Mr. Grout, if there's a
34 page on that, or a part of that, if you're able to
35 look on your printed copy in the smallest font on
36 the very bottom under the CAN number at the end,
37 there will be, I expect, a page number, and if you
38 have that version.

39 A 165.

40 Q That's Appendix 4?

41 A I believe so. Yes, there it is.

42 Q Right.

43 A So this is a complicated topic to walk through,
44 and I think this table might help explain what
45 we're trying to do.

46 So at the highest level, we're trying to
47 achieve these coast-wide sharing arrangements

1 between the seine, gillnet and troll fleets to
2 achieve the 40/38/22 percent shares. To do that
3 we have to keep in mind that there's eight
4 commercial salmon fleets. They're fishing in 21
5 production areas, one of which includes Fraser
6 sockeye, but other ones include other species and
7 fisheries around the coast. So examples would be
8 Skeena and Nass sockeye in the north, for example,
9 we have some chinook fisheries, so there's 21
10 different production areas. And then we're
11 looking at what combination of fleet shares in
12 each of those fisheries will bring us back to our
13 overall coast-wide sharing arrangement. In
14 addition to that, we're trying to take into
15 account projected harvests for the coming year and
16 what the value of those different harvests are
17 going to be.

18 So getting back to your question about the
19 different species of salmon. Chinook salmon are
20 typically the most valuable. It ranges from year
21 to year, but they're the largest in terms of
22 overall body weight and they tend to fetch a
23 higher price per pound. And typically when you
24 convert a chinook to sockeye equivalents, you'll
25 be in the range of three to five sockeye are
26 equivalent to one chinook. So the way to think
27 about that is a troll fisherman harvesting one
28 chinook is equivalent to say a gillnetter
29 harvesting five sockeye, for example, just using a
30 hypothetical. At the other end of the spectrum we
31 have pink salmon, which are the smallest and least
32 valuable of the species typically. And the
33 reverse arrangement would hold true there.
34 Typically you'd have somewhere in the range of ten
35 pink salmon are equivalent to one sockeye salmon.

36 So what the framework is trying to do is take
37 all these variables into account. And when we
38 meet with the Commercial Salmon Advisory Board,
39 what we're trying to do is in Appendix 4, Mr.
40 Lunn, if you go to the next page, there's a matrix
41 here which describes each of the 21 -- you had a
42 laser pointer last time I was here.

43 Q I know you've been here more than most counsel and
44 you know about technology I don't.

45 A So this matrix is an outcome of the allocation
46 process, and I think it might be helpful to start
47 there, just to explain where we're trying to get

1 to. In this matrix we have each of the production
2 areas described, and it's broken out by north
3 coast and south coast. So in the north coast, or
4 this reflects our area licensing for our salmon
5 fleets, as well. So in the north coast we have
6 the fleets up there, which is the northern seine
7 fleet, Area A, the northern gillnet, which is Area
8 C, and then the northern troll, which is Area F.
9 So in each of these northern fisheries, and for
10 example, Areas 1, 3 to 5, 101 to 105, there's
11 primarily Skeena and Nass sockeye. We've got a
12 potential harvest, and then you can see the
13 sharing arrangements for each of the salmon fleets
14 targeting that particular stock. So what we're
15 trying to do is fill out this matrix to give us as
16 close as we can at the start of the season a
17 40/38/22 sharing across the fleets.

18 So if we look at page 167, I can just show
19 you for Fraser River sockeye. You can see in the
20 south we've got two sockeye production areas, area
21 23 is Somass sockeye. Fraser River sockeye is
22 shown here. So in this year we had a potential
23 harvest of two million identified, and then it
24 shows the sharing arrangements across the fleets.

25 You'll note in the south we have five fleets
26 targeting on Fraser River sockeye potentially;
27 includes the Area B seine fleet, we have two
28 gillnet fleets, Area D and Area E, and then two
29 troll fleets, Area G and H. So the outcome of the
30 allocation process is to try and populate this
31 matrix.

32 Q Mm-hmm. And why don't you carry on to tell us how
33 you go about doing that.

34 A Okay.

35 Q And I don't know if it's helpful to put this in
36 the context of what I understand to be the
37 meetings that are to take place in April.

38 A Okay. So to maybe walk through that, it might be
39 helpful to have the exhibit with the documents
40 related to that allocation meeting.

41 Q All right. And I think that should be number 26
42 on our list of exhibits. Is that what you were
43 referring to?

44 A Yes.

45 Q And if you could please briefly identify what this
46 document is.

47 A So this document is intended to summarize the

12
JEFF GROUT
In chief by Mr. Martland

1 outcome of the Commercial Salmon Advisory Board
2 meeting with the Department to negotiate the
3 allocation sharing arrangements for the 2009
4 season.

5 MR. MARTLAND: All right. If this could be the next
6 exhibit, please, Mr. Registrar.

7 THE REGISTRAR: Number 458.

8 MR. MARTLAND: Thank you.

9

10 EXHIBIT 458: Summary of Final 2009
11 Allocation Charts and Tables from the
12 CSAB/DFO Allocation Meeting, April 15, 2009
13

14 MR. MARTLAND:

15 Q Carry on.

16 A Okay. So what this document provides is -- maybe
17 just to describe the meeting. So the meeting has
18 the representatives from the Commercial Salmon
19 Advisory Board, which includes two representatives
20 from each of the Area Harvest Committees, so each
21 of the eight commercial salmon fleets. We have
22 two representatives from the processors, two from
23 the union. The terms of reference identifies two
24 members from the Native Brotherhood, which have
25 not been attending, and an *ex officio* position for
26 the Province.

27 Q And I'll just pause to ask, it's that I don't want
28 to forget later on. The Native Brotherhood has
29 dropped out of the CSAB process?

30 A That's correct.

31 Q I don't have it at my fingertips. I think the
32 Policy and Practice Report describes them as being
33 part of it, but that's no longer the case. When
34 did that change?

35 A They're part of the terms of reference for the
36 Commercial Salmon Advisory Board. I can't recall
37 the -- or I haven't been able to determine the --
38 gone back to check what the specific year was that
39 they stopped participating. I can't recall them
40 being at any meetings that I've been at, which
41 started in 2008, '09 and '10, so I haven't seen
42 them at those meetings.

43 Q Do you have any understanding of why they're not
44 part of the CSAB process?

45 A I'm not specifically sure about all the specific
46 reasons they might have had for no longer
47 participating.

February 23, 2011

1 Q Okay. Sorry, I interrupted you with that side
2 note, so please carry on.

3 A Okay. So those are the participants for the
4 Commercial Salmon Advisory Board. The Department
5 also has from the region, myself and the salmon
6 officer usually attend, and then we also have the
7 key fleet managers from each of the areas are
8 usually in attendance at the meeting, as well, to
9 provide their experience and expertise as far as
10 these meetings go.

11 So what the document here provides in the
12 text is some of the key issues around the
13 allocation meeting, and some of the changes that
14 were made in the allocation charts. What the
15 Department has been doing in recent years is
16 coming into the meeting with a filled-out coast-
17 wide matrix of shares based on the previous year
18 as a starting point.

19 Q And that's based on the previous year's actual
20 post-season numbers; is that the starting point?

21 A We come in with the matrix filled out similar to
22 what we just looked at in Appendix 4 of the IFMP,
23 as a starting point for the percentage shares that
24 each of the fleets had negotiated the year
25 previous.

26 Q Oh, I'm sorry. So you start -- the starting point
27 is whatever the result of the negotiations was one
28 year before.

29 A That's right.

30 Q Thank you.

31 A And it's a relatively arbitrary choice. We've had
32 suggestions to zero the whole table out and start
33 from scratch, as well as other suggestions for
34 individuals or a subgroup to try and make
35 adjustments prior to the meeting. We've actually
36 found, though, that it's most effective to just
37 start where we left off the previous year. In
38 practice, there's some key spots where the
39 negotiations tend to occur, and one of those is
40 Fraser sockeye.

41 Q Mm-hmm.

42 A What we do then in the meeting is try and
43 determine how close we can get to our 40/38/22
44 percent shares. And to do that we look at harvest
45 from the previous year, and the value of those
46 harvests to establish what the sockeye equivalents
47 should be. And we've had an external consultant,

1 Gord Gislason, provide a value report from the
2 harvest from the previous year, which gives us the
3 landed values of the previous year's harvest.
4 That's used to determine the sockeye equivalents
5 for the coming year, which can be used to value
6 harvest.

7 The next step is to have our managers
8 determine what the potential harvests are going to
9 be in each of the production areas. Last year in
10 particular we went and also did some explicit
11 sensitivity analysis prior to the meeting and
12 showed what the different outcomes might be in
13 terms of the coast-wide sharing for different
14 scenarios or different harvest levels that might
15 occur. Typically we'll also do that in the
16 meeting, as well. We'll go into the meeting with
17 the spreadsheet that's got all the models
18 included. And if representatives at the meeting
19 ask to say, well, what if we did this, what if we
20 changed this share to "X", or this one to "Y", we
21 can actually explore the outcomes from that
22 immediately right at the meeting, so that we can
23 try and conclude the negotiations in a day.

24 Q So I take it you actually, it must be that you
25 have a projection screen or something so that the
26 numbers are changed in the spreadsheet, you sort
27 of run that scenario to see where that would leave
28 things; is that right?

29 A Yes. We provide the committee members with an
30 initial package of tables, which look similar to
31 what's starting at page 5 here in the exhibit.
32 Providing a summary of - and I can maybe quickly
33 walk through these - but this table provides the
34 allocation from the previous years, in terms of in
35 the top left what was projected at the start of
36 the year, and then what the actual allocation was
37 at the end of the season, just so folks can see
38 where things wound up.

39 You can see there's sometimes changes from
40 what we were projecting. You see the seine fleet
41 here in 2008 had 31 percent projected. Post-
42 season it was only an 18 percent share.

43 And then we also show across the fleets what
44 the number of sockeye equivalents were on a per
45 licence basis across each of the eight commercial
46 salmon fleets, taking into account the number of
47 licences in each of those fleets. So you can see

- 1 the outcomes in terms of sockeye equivalents per
2 licence. So A and B are our two seine fleets,
3 north and south, C, D and E are the gillnet
4 fleets, F, G and H are the troll fleets.
- 5 Q And again because we're not dealing with sockeye,
6 per se, but the sockeye equivalent currency, so to
7 speak, does that explain in part why under the G
8 their number is high, but that's a high value,
9 using that currency catching chinook, as that
10 fleet primarily does, I take it, reflects that
11 being higher; is that right?
- 12 A Right. That's a good point to make. So the troll
13 fleets F and G area primarily harvesting chinook
14 salmon from the offshore chinook aggregate. I've
15 got an acronym in my head, AABMA fishery,
16 Aggregate Abundance Based Management Areas that
17 are outlined in the Pacific Salmon Treaty. The
18 chinook, as I pointed out earlier, typically tend
19 to be higher value species. So you can see F and
20 G have higher sockeye equivalents per licence
21 relative to that. Area H is different. It
22 primarily fishes in the Johnstone Strait area, and
23 I could show the map, if it's useful. But they're
24 primarily deriving their harvest from Fraser River
25 sockeye. They don't have access to chinook
26 salmon, except as a small amount of bycatch.
- 27 The net fleets, the seine fleets are
28 primarily fishing on sockeye, pink and chum, and
29 the gillnets are more sockeye and chum focused in
30 recent years. So you can see in this particular
31 year, D and E in particular have very low sockeye
32 equivalents per licence, reflecting low harvest of
33 Fraser sockeye in this year.
- 34 Q In an everyday sense one looks in the newspaper, I
35 suppose, for a currency table to understand an
36 exchange rate. How is the currency, how is
37 valuation done, or the currency set on sockeye
38 equivalents?
- 39 A There is a table, I'm just checking to make sure
40 it's included here.
- 41 Q It may be a question you can answer without. I
42 don't know.
- 43 A Well, there is an established methodology for
44 setting the currency for sockeye equivalents. The
45 table summarizing those calculations is on page
46 15.
- 47 Q Thank you.

- 1 A So as maybe just quickly to go over this. What we
2 do to determine sockeye equivalents is it's
3 relying on a landed value of the harvest from the
4 previous season. So for the 2009 planning we're
5 looking at the sockeye equivalents from the 2008
6 season. It relies on the landed value of the
7 catch, and the landed price per kilogram or pound,
8 and the average weights of those species. And
9 then going on to the next page, that is converted
10 on page 16, then it's converted into sockeye
11 equivalents, looking at the relative value of each
12 species compared to sockeye on a coast-wide basis.
- 13 Q Do you have a consultant or someone who does that
14 analysis on an annual basis?
- 15 A Gord Gislason has been doing the economic portion
16 of the calculations, providing the landed value
17 and pricing for the various species and gear
18 types. That information is input into the table.
19 The actual calculations of the sockeye equivalents
20 is done by the Department.
- 21 Q Okay. Is it the case, then, that one looks
22 backwards for valuation but forwards for the
23 question of the projected harvest for that year?
- 24 A That's right. So you can see on the last page of
25 the table in the bottom left corner in bold, you
26 can see the what's called the weighted sockeye
27 equivalents for each species.
- 28 So you can see in the north the sockeye
29 equivalents for chinook is approaching nine,
30 reflecting the larger bodied chinook that are
31 typically being harvested in the north. It's
32 about five in the south. So five sockeye are
33 equivalent to one chinook, or almost nine sockeye
34 equivalent to one chinook. Conversely you see for
35 the pink salmon, as I pointed out earlier, values
36 of .1 and .11 reflecting you need roughly 10 pink
37 salmon to be equivalent to a sockeye.
- 38 So the outcome of the exercise here is the
39 sockeye equivalents, which are then used to do the
40 forward projections for the coming year. The
41 forward projections take into account the expected
42 or projected catches for the 2009 season.
- 43 Q And if you could explain how all of that work
44 makes its way into, I take it, into the IFMP for
45 the year?
- 46 A That's right. So the outcome of the meeting is to
47 try and come up with a filled-in matrix of shares

1 for each of the eight commercial fleets across the
2 21 production areas, and we in recent years have
3 been able to get agreement on those shares at the
4 allocation meeting. That matrix is then put into
5 the second draft of the IFMP for further
6 discussion.

7 Q And to give us the flavour of the session, I take
8 it they're usually done in April, these meetings,
9 is the question, if you could just give me a bit
10 of an understanding, please, is it a matter of the
11 different fleets and gear types and areas, for
12 that matter, amongst themselves cooperatively
13 exchanging or trying to come to something that's
14 in the agreed-upon model? Is it a question of the
15 department making decisions or requiring people to
16 go with a certain set of final numbers?

17 A In the last three years we've been able to -- "we"
18 being the Department and the CSAB, have negotiated
19 numbers that are in the matrix in the IFMP that
20 are consistent with what we agreed on at the
21 allocation meeting. So the Department has not
22 made decisions to change those numbers in the IFMP
23 to different numbers than those that were agreed
24 on at the allocation meeting.

25 I think it's important to characterize it as
26 a negotiation that goes on at those meetings. I
27 don't think I would characterize all the fleets as
28 always being happy with the outcome, but it is a
29 negotiated process there.

30 Q What would happen if there's an inability, if
31 you're not able to reach some negotiated
32 agreement?

33 A I think we would utilize the same process we use
34 for other elements in the IFMP where we have
35 differences of view. We can consult on the
36 different options that have been put forward, take
37 into account the feedback, but ultimately the
38 Department would be in a position to have to make
39 a decision, and for the IFMP process, it involves
40 putting together briefing material that ultimately
41 goes to the Minister for approval with
42 recommendations on the approach. But as I've
43 pointed out, we have not done that in the last
44 three years anyway.

45 Q Mr. Lunn, I'd like to go to number 24 on the list,
46 and I'll lead to this extent. I understand that
47 this has a generic title, "Commercial Salmon

1 Allocation". I understand Bert Ionson, from whom
2 you assumed your current position, your
3 predecessor, prepared this when he was effectively
4 stepping, passing the baton to you, is that right?

5 A Yes, so in June of 2007 I stepped into Mr.
6 Ionson's job, which is my current position. As
7 you can see from the earlier description I was
8 giving of this process, it's quite complicated to
9 work through. And as part of the transition Mr.
10 Ionson put together this document to explain some
11 of the history of the process, some of the issues,
12 and then a bit of a methodology summary of how
13 somebody new into the position, or somebody that
14 hasn't done this before would go about putting
15 together the allocation process. So it's both to
16 flag the issues and some of the origin, and
17 there's also a bit of a recipe book on the
18 calculations in the Appendix 1 that somebody in
19 the Department could follow through step-by-step
20 to put together the allocation tables.

21 MR. MARTLAND: If this could be the next exhibit,
22 please.

23 THE REGISTRAR: Exhibit 459.

24
25 EXHIBIT 459: Bert Ionson, Commercial Salmon
26 Allocation, Draft October 12, 2007
27

28 MR. MARTLAND:

29 Q And while it's still there, does this remain an
30 accurate description of the process?

31 A It's intended to provide a broad overview of
32 what's done. The appendix, I believe, is accurate
33 in terms of the steps. There may be some changes
34 as far as names of individuals and who is doing
35 specific things from year to year. That part is
36 accurate. The paper did refer to a couple of
37 errors that were identified that have since been
38 corrected, as well, and those are discussed in
39 this paper, as well.

40 Q With respect to - this isn't focusing on this
41 document - how important is industry agreement to
42 the allocation process, the agreement of the
43 commercial sector?

44 A Well, this process is what derives the allocations
45 for the commercial species when they return during
46 the season. So if I can use Fraser sockeye as an
47 example, it's very important for managers to have

1 clearly defined shares of what they're managing
2 those fleets to during the season. If you didn't
3 have that, there would be arguments in-season
4 about whose share should be what. So it's very
5 important for managers in terms of allocating the
6 commercial portion of the harvest to have a
7 clearly laid out agreement on how that should work
8 ahead of time. So that's what the process here is
9 intended to do, provide clear, harvest sharing
10 arrangements for the coming season.

11 Q There have been some concerns about the allocation
12 framework. And I suppose they pull in different
13 directions: on the one hand that it should become
14 that this, the allocation ground rules, if you
15 will, should be permanent, versus on the other end
16 of the spectrum, that they should be invented anew
17 every year.

18 A I think it's probably accurate to characterize the
19 process as having a lot of frustration when we do
20 this on an annual basis. One of the key
21 frustrations is the inability to balance the
22 coast-wide shares to the 40/38/22 percent target.
23 Another relates to the uncertainty around having
24 to adjust these shares each and every year, and
25 potential impacts it could have on the various
26 different fleets. Fraser sockeye, in particular,
27 tends to be a focus of negotiation.

28 When the framework was put together, I think
29 there was an intention to try and use Fraser
30 sockeye, particularly in the southern areas, to
31 try and help with balancing the coast-wide shares.
32 And in recent years we've had real trouble doing
33 that, because we haven't had much of a harvest
34 projected for Fraser sockeye. So there's just not
35 enough fish there to try and balance out the
36 coast-wide sharing on a sockeye equivalents basis.

37 The other issue around that is the troll
38 harvest of chinook in Area F and G in the north
39 and in the south, are not accessible to the other
40 fleets under the Salmon Treaty, and those chinook
41 harvests are (a) valuable, and (b) you can't move
42 them. So it's difficult when the troll fleet is
43 over on its 22 percent share, to bring them back
44 down.

45 Q Mm-hmm.

46 A And in each of the last five years, we've been
47 unable to balance the troll fleet to the 22

- 1 percent. I think we came close to the 22 in one,
2 but we've been over in those other five years.
3 That has led to specific discussions at the
4 meeting around whether the Area H troll fleet,
5 which primarily is relying on Fraser sockeye, but
6 also to a lesser extent on pink and chum for its
7 share, to quite heated discussions in the
8 allocation meetings about how much sockeye share
9 that troll fleet should have, if any.
- 10 Q Mm-hmm.
- 11 A So we've had proposals that, well, let's bring the
12 overall coast-wide troll share as close as we can
13 to 22 percent by zeroing out the Area H share.
14 And there's been a reluctance to do that amongst
15 some of the net fleets.
- 16 Q Mm-hmm.
- 17 A The gillnets have proposed that. The seine fleet
18 has been more reluctant to have a fleet that's
19 zeroed out at the start of the season with no
20 share of any species. So that's been one of the
21 key negotiation points in recent years.
- 22 Q And I am not asking you to comment on other
23 people's thinking, but is the reluctance to zero
24 out a particular fleet simply that it leaves one
25 group, one area out of work, tied to the dock?
- 26 A Essentially that would be the outcome. If you had
27 a matrix where Area H had a zero percent share of
28 either sockeye, pink or chum, it essentially means
29 at the start of the season they would not be
30 fishing for those species because they didn't have
31 a share identified.
- 32 Q Given some of the challenges you've just alerted
33 us to, do you have suggestions on changes or
34 improvements to overcome those sorts of
35 difficulties?
- 36 A Well, maybe I can point to a couple of things. I
37 mean, the Department realizes there are some
38 issues around the framework that we need to go and
39 try and look at. One of the elements of the
40 recently renegotiated Pacific Salmon Treaty was
41 some funding for a buyback in the troll licence
42 areas. One of the implications of that will be
43 potential effects on the allocation among the
44 commercial fleets. So as part of the program, and
45 this is the 30 million dollar U.S. program, the
46 majority of that, roughly 29 million is for a
47 troll licence directed buyback. There is roughly

- 1 a million dollars identified for modernizing the
2 commercial allocation framework. So that's
3 something we will be looking at in the future.
- 4 Q I think Chris Ashton in evidence yesterday made
5 passing reference to some funding towards
6 allocation reform. I don't know whether you can
7 speak to that (indiscernible - overlapping
8 speakers).
- 9 A I wasn't here yesterday and I didn't hear what he
10 said.
- 11 Q Well, why don't I ask - that's really a premise to
12 the question - is there other funding beyond what
13 you've just identified towards modernizing or
14 reforming allocation?
- 15 A No, well, the only funding I'm aware of is the
16 amount that's identified as part of the Pacific
17 Salmon Treaty Mitigation Package.
- 18 Q Are there challenges arising from the use of the
19 sockeye equivalents currency?
- 20 A Yes. That's another issue that's been raised as
21 part of the allocation framework. There have been
22 challenges around, well, one of the key concerns
23 that has come up is when you're using sockeye
24 equivalents, if you have a fleet that's added
25 value to their harvest, in a sense this framework
26 would attribute more equivalents. So as an
27 example, if the troll fleets have argued at some
28 of these meetings that their sockeye equivalents
29 of chinook has been increasing because they've
30 been able to add value to their harvest.
- 31 Q Mm-hmm.
- 32 A And if that is in fact the case, they're
33 essentially being penalized for that, as they
34 would assert they're being penalized for adding
35 value to their harvest.
- 36 Q And adding value as an example might be changing
37 the methodology or freezing immediately on board,
38 or something that brings the price up of that
39 fish, is that...?
- 40 A There might be any number of ways to increase the
41 value of your harvest, but it could include those
42 points you've mentioned.
- 43 Q And so there's, I take it from that, perhaps, that
44 there could be a disincentive to add value.
- 45 A That's been one of the arguments in relation to
46 the use of sockeye equivalents.
- 47 Q Those are some, and knowing that other

- 1 participants will have other issues to identify, I
2 won't try and be exhaustive on this.
- 3 A I might, if I could --
- 4 Q Yes.
- 5 A -- I might make one other point. We've also heard
6 at the meetings that we should be looking at
7 essentially negotiating and then freezing the
8 shares in the framework for some period of time,
9 ranging from permanently to a longer period than
10 one year, which would really negate the need to
11 use sockeye equivalents on an annual basis when
12 doing the framework. If the shares were frozen
13 for a longer period of time, you wouldn't have to
14 do this annual process of looking at the value for
15 revising the shares. So that's another one of the
16 key points that's been raised at these meetings,
17 as well.
- 18 Q On the other side of the ledger, are there merits
19 or advantages to operating under the Allocation
20 Policy in the existing process that you see?
21 What's good about allocation as it's currently
22 done?
- 23 A Well, I think as I mentioned earlier, it's
24 important to have clarity around what the shares
25 are for the various commercial fleets leading into
26 the salmon season. If your question's focused to
27 the commercial allocation side of things, I think
28 that's one of the major benefits, in terms of the
29 Department. It's important to have that clarity
30 around what the shares of the fleets are going to
31 be.
- 32 Q With the background to the Allocation Policy in
33 1999, is it the case that the Allocation Policy
34 has set at least some of the ground rules and some
35 of the basic rules on allocation, and is there
36 some merit to continuing with the players on the
37 field may argue, but at least they're all playing
38 by the same rule book. Can you comment on that
39 sort of a proposition?
- 40 A Maybe you could clarify, then. Is your question
41 specific to the commercial fleets, or is it
42 specific to the framework (indiscernible -
43 overlapping speakers).
- 44 Q No, that's helpful, because we've been speaking
45 mainly within the commercial fleets. So let me
46 step back and ask, when we pulled up the seven
47 principles from the Allocation Policy,

1 conservation, First Nations, moving through the
2 list with the priority on chinook and coho for the
3 recreational sector, et cetera. If I can use the
4 shorthand of referring to those as operating
5 principles or ground rules, is there in your view
6 merit in maintaining those ground rules?

7 A I think from the Department's perspective the
8 Allocation Policy principles continue to be the
9 key drivers for the way we manage fisheries. I'd
10 make a distinction that the policy doesn't lay out
11 for each specific year what the specific rules
12 might need to be. We're applying those principles
13 in the fairest way we can in using open and
14 transparent ways to describe what we're doing on
15 an annual basis. Appendix 4 from IFMP would be a
16 specific example then of how we're applying the
17 principles in any given season.

18 Q In your view, should the Allocation Policy be
19 replaced or updated, or should it be left as it
20 is?

21 A I think the principles as they've been laid out in
22 the policy continue to be effective. There are
23 areas where we need to more work around how
24 they're operationalized. We've had a fair bit of
25 discussion around the commercial allocation
26 framework and how that's operationalized. We've
27 also had ongoing discussions with the Allocation
28 Implementation Committee, which is a group that
29 includes recreational and commercial advisors that
30 works out how the Allocation Policy is describing
31 the sharing for Fraser sockeye, but also pink and
32 chum, or not just Fraser sockeye, but sockeye,
33 pink and chum between those two fleets. And so
34 there continue to be issues around how the
35 principles are operationalized that we're working
36 through. But I think as a policy document, the
37 principles continue to apply.

38 Q There's reference in the Allocation Policy itself
39 to establishing and it recommends the
40 establishment of an Allocation Board. I take it
41 that didn't take place and it hasn't taken place.

42 A No, it has not.

43 Q Do you see merit in that? Do you think it would
44 be useful to have an Allocation Board?

45 A Not having been involved in all of the discussions
46 that led up to -- that occurred during the earlier
47 work in developing the Allocation Policy and the

1 Allocation Policy itself, I haven't formed a firm
2 opinion on whether that sort of board might be
3 helpful or not.

4 Q This is a relatively narrow question. On
5 commercial salmon allocation, am I right to say
6 there's no longer any use of a process that was
7 known as "catch up/make up", and I take it that
8 refers to looking backwards on how things played
9 out the year previous.

10 A Yeah, catch up/make up would really get at the
11 issue of on a coast-wide sharing basis your
12 objective was 40/38/22, and some or all of the
13 fleets did not achieve their objectives or either
14 under or over, whether you should look at
15 provisions to try and balance that, taking into
16 the account the past, in a subsequent year. There
17 have not been those provisions in place in the
18 commercial allocation framework.

19 Q Do you think that should be considered, or is that
20 unachievable or unrealistic to use a catch up/make
21 up approach?

22 A I don't have a lot of experience with all of the
23 issues around that. I think it would be extremely
24 complicated to try and do it. Looking at a
25 framework where the shares were fixed for a longer
26 period of time might be one of the ways that that
27 could be worked around. But there's all sorts of
28 issues around how you might try and do that in the
29 future, especially given uncertain returns on the
30 various salmon, whether fleets had opportunity to
31 harvest their shares or not, and what drove
32 whether a share was harvested or not. There's all
33 sorts of issues that make calculation of catch up
34 and make up a daunting prospect to try and do it.

35 Q I focused on the commercial, the question of
36 commercial intrasectoral allocation, I think, in
37 most of my questions. Let me switch to a
38 different topic. How is allocation handled for
39 the recreational sector?

40 A Okay. The primary species of interest for the
41 recreational fishery are chinook and coho, and
42 reflected in the Allocation Policy then is
43 priority for those populations after conservation
44 and priority for food, social and ceremonial
45 fisheries, relative to the commercial fisheries.
46 As it relates to Fraser sockeye, the policy is
47 looking to provide stable opportunities for

1 sockeye, pink, and chum fisheries. And in the
2 policy itself it outlines a five percent cap on
3 that share on a coast-wide basis over a period
4 from 1999 to 2005. And what I mean by five
5 percent, we would look at all of the sockeye
6 harvest, by the recreational and commercial
7 harvesters, and the five percent refers to the
8 total recreational harvest divided by the combined
9 recreational and commercial harvest. So what
10 we're looking at is over that '99 to 2005 time
11 period, having it be an average of five percent or
12 less.

13 Q And we're now in 2011, and could you give us a
14 sense of how has that five or six-year period and
15 formulation continued to be used, even though
16 we're well past 2005?

17 A Well, that's one of the areas where the policy
18 didn't give specific direction on how you might
19 calculate that, moving forward. And we have
20 recently started meeting again with the Allocation
21 Implementation Committee, and it's largely around
22 imbalances in the sockeye harvest that have
23 triggered those discussions.

24 In some individual years we've seen,
25 especially recently where there hasn't been a lot
26 of commercial harvest in the net fleets of
27 sockeye, either in the Skeena or Nass or in the
28 Fraser, but we have had some recreational harvest
29 of, for example, Somass sockeye, or sockeye in
30 other areas, which has led to the recreational
31 harvest being over on some individual years the
32 five percent amount. So that's been a cause for a
33 concern from some of the commercial
34 representatives.

35 We've also been looking at, moving forward,
36 the recreational advisors at those meetings have
37 indicated they're committed to keeping their
38 fishery within that five percent cap on average,
39 and we're looking at the most appropriate ways to
40 do the averaging on a forward-looking basis. So
41 at the most recent meeting we had in January, we
42 started looking at the implications of some of the
43 options you might use to do that.

44 Q I have one last allocation question, I think,
45 which is this, and this in fact stems from a
46 public submission that was made to the Commission.
47 Within allocation is there attention in the

1 allocation process you've been describing, in
2 particular for the commercial sector, is there
3 attention paid to the socioeconomic impact on
4 particular fleets or operators?

5 A Well, I'll maybe start by saying socioeconomic can
6 cover a broad suite of indicators, and they would
7 vary, depending on who you talked to. So in terms
8 of which indicators they're referring to, it's
9 tough to know specifically. Different people
10 would be more focused on socio, so what's the
11 total employment in the fishery, who's being
12 employed. Some are focused more on economic,
13 profitability of individual vessels, revenues,
14 there's different measures you might use.

15 In terms of the allocation framework for the
16 commercial salmon fleets, we're looking at landed
17 values primarily as the metric for developing the
18 sharing arrangements. So what's the landed value
19 of the harvest from the previous year. What's the
20 projected harvest for the coming year. And we're
21 using essentially catch as a proxy with those
22 landed values and sockeye equivalents to
23 essentially attribute the value to the various
24 different fleets.

25 MR. MARTLAND: Let me move into the next topic. Mr.
26 Commissioner, I'm mindful that we would typically
27 take a break at a quarter past, and I don't know
28 if the court's preference is to have me start into
29 the next topic or break now.

30 THE COMMISSIONER: No, I think we should take a break.
31 But before we do that, Mr. Martland, I wonder if I
32 could just impose upon the witness. I know he
33 covered this during the harvest management sector.
34 But I wonder if you could just remind me, at
35 least, and perhaps some of the others in the room,
36 of the timing sequence here.

37 We talked about the development of the
38 forecast and TAC and all of those elements that go
39 into the fisheries plan, but if you could just
40 remind me now of the timing and sequence of how
41 this is unfolding pre-season. Because I gather
42 all of the evidence you've given to this point is
43 about pre-season steps that are taken with respect
44 to allocation. But where are you in terms of the
45 timing. This is taking place between January and
46 April, I presume.

47 A Yes, that's correct. This framework relies on

1 harvest information from the previous year, so
2 catches, which are typically finalized after the
3 fisheries, once managers have had time to review
4 them and finalize their estimates. Typically,
5 January/February is when we see those around the
6 completion of the post-season reports.

7 The economic analysis I believe we typically
8 get in March. So that's one of the constraints on
9 having the meeting in April. So we typically
10 don't get this framework filled out and into the
11 first draft of the IFMP for that reason.

12 The outcome of the April meeting and the
13 filled-in matrix would then go into the second
14 draft of the IFMP, which would go to the IHPC for
15 review in May.

16 THE COMMISSIONER: So just to remind me again, in terms
17 of the IHPC, would they have seen the first draft
18 by this time of the IFMP and would they have met
19 without having the matrix that you've been talking
20 about?

21 A Yes, that's correct.

22 THE COMMISSIONER: I see.

23 MR. MARTLAND:

24 Q And just to complete on that point, or to try and
25 add to it, I'm jumping ahead, Mr. Lunn, to
26 Canada's list of documents number 7, but it's I
27 think a one-page description or outline of the
28 sequence of events, so to speak. Maybe I can just
29 confirm if that's an accurate way to put it.

30 A Yes.

31 Q What is that document?

32 A This is a high overview synopsis of typically when
33 some of our main planning meetings occur,
34 including some of the Department's internal
35 meetings, as well as some of the key advisory
36 meetings with our regional bodies.

37 MR. MARTLAND: I wonder if that might be the next
38 exhibit, please.

39 THE REGISTRAR: Exhibit 460.

40 MR. MARTLAND: Thank you.

41
42 EXHIBIT 460: Annual Salmon Process, DFO
43

44 MR. MARTLAND: Thank you, Mr. Commissioner.

45 THE COMMISSIONER: Mr. Grout, just looking at this
46 document that's on the screen, I note in April
47 the:

1 CSAB meeting: pre-season planning review of
2 IFMP's and commercial allocations
3

4 Is that the first meeting that deals with the
5 allocation formula?

6 A Yes, it is. We typically have a one-day session
7 to deal with the primary focus of the meeting is
8 usually on allocations. We usually don't spend a
9 lot of time on some of those other issues. But if
10 we have key topics, we can go over it at that
11 meeting. We also would have met with the CSAB
12 separately in the north and the south as part of
13 the post-season reviews, usually, either in
14 December or January.

15 THE COMMISSIONER: Thank you. Perhaps this is a good
16 place to take the break, then.

17 THE REGISTRAR: The hearing will now recess for 15
18 minutes.
19

20 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
21 (PROCEEDINGS RECONVENED)
22

23 THE REGISTRAR: Order. The hearing is now resumed
24

25 EXAMINATION IN CHIEF BY MR. MARTLAND, continuing:
26

27 Q Mr. Grout, I'm turning to the topic of share-based
28 management, or ITQ, individual transferable
29 quotas, and I take it that the term "SBM," or
30 share-based management is the broader category,
31 ITQs is an example of that, or a subset?

32 A Yes. ITQs are one example of how you might manage
33 to a share, but there are others.

34 Q And we've had some evidence on this. We also have
35 a description in the Policy and Practice Report so
36 I won't ask you at this stage to introduce the
37 whole concept, as I did with allocation this
38 morning.

39 What I'd like to do instead is to focus
40 initially on your involvement and knowledge of
41 some of the demonstration projects that have
42 occurred for the Pacific Fleet and that you're
43 aware of. So why don't I start with that. If you
44 could please describe generally and if it's -- and
45 secondly, specifically for Fraser River Sockeye,
46 those demonstration projects on ITQs.

47 A Okay. In terms of demonstration fisheries, just a

- 1 bit of a background context for these is around
2 Pacific fisheries reform. And looking at some of
3 the different changes that we could make to the
4 fishery consistent with some of the vision and
5 principles of the Pacific fisheries reform. And
6 in terms of implementing some of these projects,
7 we were looking at specific ways that we might do
8 that consistent with some of the -- it might be
9 helpful, actually, to go over some of the
10 principles around Pacific fisheries reform and
11 then get into why we were undertaking some of
12 these projects, just as context.
- 13 Q That's helpful. Yes.
- 14 A I'm looking at -- I mean, one piece I could refer
15 you to is in the -- you've got a Tab 27.
- 16 Q And that will reflect number 27 on our exhibit
17 list. And it is Exhibit 269. It's already in
18 evidence in the Commission. Go ahead.
- 19 A So this was a discussion paper the Department
20 released in 2005, after the Pearse McRae Treaties
21 and Transition and the First Nations panel or
22 place at the table reports. Maybe if I could
23 refer you to page 27 in that document, there's
24 some of the principles around fisheries reform
25 that we're taking into account when we are looking
26 at some of these demonstrations. We are looking
27 to improve the conservation performance of the
28 fisheries, consistent with the Wild Salmon Policy.
29 We're looking to maintain the consistent legal
30 framework for doing that and, in particular,
31 commercial participants, including in the
32 commercial fleets and First Nations fish under the
33 similar priority or same priority of access and
34 similar rules.
- 35 We're looking to maintain the priority for
36 First Nations access for food, social and
37 ceremonial fisheries, but also to increase their
38 economic access.
- 39 We do have a number of demonstration
40 fisheries related to First Nations, as well, which
41 I understand you don't want me to specifically
42 talk about, or do you?
- 43 Q Well, I'm not trying to prevent you from talking
44 about anything that's relevant. The focus will be
45 on the commercial --
- 46 A Okay.
- 47 Q -- specific ITQ demonstrations, though, of my

1 questions.

2 A Well, maybe I can come back to that one, but as
3 part of that, we're looking at providing increased
4 economic access to First Nations and the PICFI
5 program, Pacific Integrated Commercial Fisheries
6 Initiatives is one of the ways that we're looking
7 at that. As part of the fisheries reform, we're
8 looking at ways to fairly transfer fishing
9 opportunity. And this, again, refers to voluntary
10 licence retirement using the willing seller,
11 willing buyer process to provide shares associated
12 with those licenses to First Nations. And PICFI
13 provides a fair source of funding for doing some
14 of that work. And we're looking to provide stable
15 resource access and allocation to provide
16 certainty, and this is between intersectoral, or
17 intersectorally between the groups and also for
18 commercial harvesters, themselves. We're
19 referring to the allocation policy as it pertains
20 to Chinook and Coho salmon being maintained, in
21 particular, the recreational priority for those
22 species after conservation of First Nations
23 access.

24 We're trying to provide certainty of harvest
25 shares to commercial participants to provide for
26 improved planning of their businesses. We're
27 looking at improving the responsibility and
28 accountability so a greater role for harvesters in
29 the decision making, as well as the planning for
30 various different fisheries. And then finally,
31 for commercial fisheries, we're looking at the
32 commercial fleets being able to self-adjust,
33 become more self-reliant, have the capacity to
34 assume shares of the cost of management and also
35 has catch monitoring and independent validation
36 being implemented.

37 So in terms of my role here as the regional
38 resource manager for salmon, what we've been doing
39 is putting out calls for proposals to the area
40 harvest committees that are -- we have one area
41 harvest committee for each of the commercial
42 salmon fleets. And we're looking for proposals
43 from them consistent with the vision and
44 principles laid out in Pacific fisheries reform
45 for things they might want to explore doing.

46 When we get those proposals back, and
47 typically we'll send these request letters out in

1 January or February, leading into the development
2 of the IFMP, we'll then have a response back from
3 the Area Harvest Committees on whether they're
4 interested or whether they're not interested in
5 proceeding with those.

6 We then have a one to two-page concept of
7 what those demonstrations are going to be that are
8 included in the Integrated Fisheries Management
9 Plan draft that's released in March. And then in
10 the interim, our area managers will be working
11 with those fleets, as well, around the development
12 of the projects. We also have a similar process
13 with letters that have gone out to First Nations
14 to also develop demonstration projects in inland
15 areas. Wording similar around the vision and the
16 principles we're trying to achieve.

17 In recent years, we've also been lining up
18 the demonstration projects with the Pacific
19 Integrated Commercial Fisheries Initiative and
20 groups that have submitted business plans for
21 developing that. So we're trying to do the
22 demonstrations with the groups that are likely to
23 have business plans set up through the PICFI
24 program.

25 Q And I'll come back to the ITQ demonstration
26 question I had, but let me just pause to ask you,
27 what are the First Nation demonstration projects
28 you're referring to?

29 A We've tried a number of projects in inland areas,
30 but what we're looking at doing is taking licences
31 that the Department has purchased from individual
32 licence holders in the commercial fleet. These
33 are licences that have not been reissued and are
34 held in the Department's inventory. And we have
35 two primary programs that have been accessing or
36 purchasing licences, the Allocation Transfer
37 Program, the ATP program, and also the Pacific
38 Integrated Commercial Fisheries Initiative which
39 started in 2007. So we're purchasing licences
40 from commercial fleets. We're using the shares
41 associated with those licences of salmon to
42 provide to demonstration projects in the inland
43 areas of the Fraser. So we've had projects in the
44 Thompson area, parts of the mainstem and the
45 Fraser, the Siska, in the Lower Fraser, in the
46 Harrison River, with Chehalis and Skowlitz.
47 Chilko and Quesnel have been other locations where

1 these projects have been located in the Fraser
2 watershed.

3 Q Returning to the ITQ demonstrations, could you
4 describe what has gone on, whether for salmon on
5 the coast, and more specifically, Fraser River
6 Sockeye?

7 A We've had statements of interest and concepts from
8 a number of our fleets for developing
9 demonstration projects. Some of those are for
10 Fraser Sockeye, but we've also had projects for
11 Chum, as well. I should point out that not all of
12 these are individual, transferable quota, although
13 a number of them are. We have had pooling
14 arrangements proposed, as well, where groups of
15 vessels would identify themselves. For example,
16 an Area E proposal that we've had for the last
17 couple of years, in 2009 and 2010, for Chinook in
18 the Fraser River has involved a pooling
19 arrangement where five licence holders could get
20 together with one vessel fishing the share, and
21 the share would be based on how many pools were
22 put together.

23 We've had an ITQ, individual transferable
24 quota project for Fraser Sockeye developed by the
25 Area B and H fleets. Area D was also involved in
26 some of the early discussions of that, but they
27 didn't proceed in the final project. So we've had
28 -- Area B and H worked on a program where they can
29 transfer shares of Fraser Sockeye, ITQs between
30 vessels in their own fleet, but also from -- so
31 from Area H to Area H, or Area B to Area B so a
32 troll fleet in the same fleet, or between the
33 fleets.

34 Q Mm-hmm?

35 A We've also had ITQ-style management in place in
36 the northern troll fishery, which is Area F.
37 We've also tried an ITQ style of arrangement in
38 the Area A, which is the northern seine fishery in
39 Area 4, which is targeting Skeena Sockeye. So
40 we've had a number of projects. We've also had a
41 project for Johnstone Strait Chum by Area B and H
42 in different years.

43 Q And focussing on Fraser River Sockeye, in an
44 overview way, what's been the experience on those
45 projects? I understand there may have been some
46 years where they couldn't test because there
47 wasn't --

1 A Planning in earnest on the Fraser Sockeye ITQ
2 arrangement was undertaken in 2008 and it involved
3 discussions between Area B, D and H and they put
4 together a concept of what that fishery would look
5 like. I believe it's -- there is a summary
6 document that explains the discussions there.

7 Q And I may come to that in just a moment.

8 A Okay. So Area B, D and H, in 2008. They did --
9 the Harvest Committee's asked us to ask the
10 individual licence holders through a survey what
11 the level of interest would be in that project and
12 so the Department did that with majority support
13 for proceeding in Area B and H, but not in Area D.
14 So in 2008, we planned an ITQ-style project. We
15 actually had a very small fishery in 2008 for the
16 Area B and H fleets. It was two or three days,
17 depending on the fleets in terms of the opening.

18 In 2009, we planned again, but did not
19 proceed given a lack of commercial Sockeye TAC,
20 and then in 2010, the project proceeded in a
21 substantial way.

22 Q It's always risky for me to guess what a witness
23 is thinking of when he or she mentions a document,
24 but I'll do that anyways. Number 41 on our
25 exhibit list is the Davlin Pacific Southern Salmon
26 Integration Project Scoping Report from April of
27 2008. So I'm as likely to get it as wrong as
28 right, but was that what you were referring to?

29 A Yes, that's correct.

30 MR. MARTLAND: If that could be marked as the next
31 exhibit, please.

32 THE REGISTRAR: Exhibit 461.

33

34 EXHIBIT 461: Southern Salmon Integration
35 Project Scoping Report

36

37 MR. MARTLAND:

38 Q And just to help us understand about the process
39 for running these demonstration -- I'll use the
40 shorthand of ITQ demonstrations, appreciating
41 they're not all ITQ, but for the purpose of my
42 questions.

43 MR. MARTLAND: If I could please have the witness shown
44 number 30 on the list?

45 Q And I take it this is, it's coming up on the
46 screen, a licence that -- an example of a letter
47 sent out to licence holders describing the

34
JEFF GROUT
In chief by Mr. Martland

1 demonstration, an SBM demonstration fishery
2 project where there's strong support for it, this
3 is a letter, an example of a letter that would go
4 out to licence holders?

5 A That's correct. This letter, in particular, was
6 the letter I referred to earlier to area harvest
7 committees that would have -- one moment. Oh,
8 sorry, this is a letter that went to licence
9 holders looking for feedback on their interest in
10 participating in share-based management projects.

11 MR. MARTLAND: If this could be the next exhibit,
12 please?

13 THE REGISTRAR: Exhibit 462.

14
15 EXHIBIT 462: Sample Letter to License
16 Holders re Commercial Salmon Demonstration
17 Fisheries Background, 2008
18

19 MR. MARTLAND:

20 Q Number 31 on the list of exhibits is a memorandum
21 to the deputy minister dated Christmas Eve 2008.
22 This relates to plans for 2009 and, amongst other
23 things, talks about the premise of working with
24 area harvest committees where there is strong
25 support for a demonstration?

26 A That's correct.

27 MR. MARTLAND: If this could be the next exhibit,
28 please?

29 THE REGISTRAR: Exhibit 463.

30
31 EXHIBIT 463: Memo for the Deputy Minister
32 (Info Only) - 2009 Commercial Salmon Demo
33 Fishery Planning, Dec 24 2008
34

35 MR. MARTLAND:

36 Q Now, Mr. Grout, when we met with you, you provided
37 to us a ballot summary.

38 MR. MARTLAND: And if number 42 from the list of
39 exhibits could please be shown?

40 Q And there may be something else we should move to
41 after this in terms of a summary of results from
42 surveys, as you've alluded to, but could you
43 describe, please, what this is?

44 A You've shown me a couple documents here. Maybe
45 just a bit of context for the Commissioner in
46 terms of what the Department was doing here. We
47 work with the elected representatives on the area

1 harvest committees in developing the demonstration
2 projects as the elected representatives. In terms
3 of getting views of individual licence holders,
4 the primary way that the harvest committees do
5 that is through the Department, which controls the
6 information -- contact information for each of
7 these licence holders.

8 So when an area harvest committee, or the
9 Department wants to gauge the level of support
10 among licence holders, we do that by mailing
11 something out to all the licence eligibility
12 holders.

13 In terms of the exhibit that's on the screen
14 now, this is the results of a survey that were --
15 backing up, the Davlin Pacific exhibit that
16 summarized the Area B, D and H project for 2008,
17 in developing that concept, the harvest committees
18 for those fleets, the representatives asked the
19 Department to survey their fleets for their
20 interest in participating. So this was in the
21 spring of 2008.

22 Q What we --

23 MR. MARTLAND: I'm sorry, Mr. Lunn, that's number 41 on
24 the list. It was just made an exhibit. Thank
25 you.

26 A Yes. Okay. So 41 was the concept developed. The
27 survey results that are in the spreadsheet that
28 were just on the screen were a survey of licence
29 holders asking about their interest in proceeding
30 in the concept as outlined in that previous
31 exhibit at 41.

32 MR. MARTLAND:

33 Q And I may be moving too fast, but why don't I ask
34 you to describe the approach of working with
35 willing fleets and how the Department looks to --

36 THE COMMISSIONER: Mr. Martland, could I just ask you,
37 what was Exhibit 463, if I could just see that
38 again.

39 THE REGISTER: It's a memorandum for the deputy
40 minister, 2009, Commercial Salmon Demonstration
41 Fishery Planning. It's item number 31 on the
42 list.

43 A Maybe if it's helpful, I could indicate that there
44 were two surveys that were done in this instance
45 and the documents that I've put up are referring
46 separately to the two surveys. So the document at
47 41, which was, I think, the Southern Salmon

1 Integration Project and Scoping Report --
2 MR. MARTLAND:
3 Q Yes?
4 A -- that was put together in April of 2008. Then
5 we did a survey at that time of only the Area B, D
6 and H fleets, the results of which are shown at
7 42.
8 Q Okay. So those two fit together. All right. And
9 that's the spreadsheet printout that we were
10 looking at a moment ago?
11 A Right. The briefing note, which was at --
12 Q And perhaps I can interrupt, just because I don't
13 want to move on without --
14 A Just maybe do the briefing note after it. At
15 least if we go sequentially, the briefing note
16 would come after.
17 Q Okay. So I've gone out of step and I think I'm
18 behaving like a derby fisherman and rushing a
19 little bit. I wonder --
20 THE COMMISSIONER: I wonder if I could just slow you
21 down just for a moment because I'm a little bit
22 lost in where we're going.
23 MR. MARTLAND: Yes, Mr. Commissioner, certainly.
24 THE COMMISSIONER: If you'll just bear with me just for
25 a moment, if you go back to the PPR, paragraph 78,
26 which you've already addressed, that refers to a
27 document called an Allocation Policy for Pacific
28 Salmon and New Direction. And that's referred to
29 in paragraph 78 of the PPR. And you've addressed
30 that, Mr. Grout, I believe, just a little bit
31 earlier today --
32 A The allocation policy.
33 THE COMMISSIONER: -- when you talked about the seven
34 over-arching principles. And I think your answer
35 to Mr. Martland was that those remain the
36 principles?
37 A Yes.
38 THE COMMISSIONER: Okay. And then Mr. Martland took
39 you to a document, at least it's Tab 29 in the
40 binder, but it's the Pacific Fisheries Reform
41 document, and it's dated September 2005. And he
42 only, I think, took you to the appendix,
43 Appendix 1, but that's a rather detailed document
44 discussing, according to the table of contents, in
45 any event, the key elements of reform and the
46 evolution of licensing, and so on and so forth.
47 And now you're talking about documents in 2008.

1 I'm just trying to understand, we're now in 2011,
2 how we got from whatever the date was, 1999, the
3 new direction --

4 A The Allocation Policy.

5 THE COMMISSIONER: The Allocation Policy for Pacific
6 Salmon and New Direction, and then we're in 2005
7 with a document, and here we are in 2011. But in
8 2008, something is happening. How do I understand
9 how all these things fit together in terms of what
10 the DFO is doing in terms of the management of the
11 fishery? How is this evolving in terms of a
12 sequential sort of treatment of moving into this
13 area?

14 A That's a good question. There's a series or
15 progression of moving forward in terms of
16 reforming or looking at potential reforms to the
17 fishery. So we start with the Allocation Policy
18 in 1999, which remains in effect. We have a
19 number of issues, though, and around the reform of
20 the fishery that have been identified, and the
21 paper talks about some of the background. So this
22 is the paper at Tab 27 talks about a number of the
23 changing conditions around the fishery. And it
24 summarizes some of the points that came from the
25 Pearse/McRae Report and also the First Nations
26 report in the previous years.

27 From there, the Department has been working
28 to explore some of the ways that some of the
29 elements that are laid out in the discussion paper
30 around Pacific fisheries reform might be
31 implemented in some of our fisheries.

32 And it's been a -- from 2005 to present,
33 we've looked at demonstration fisheries,
34 potentially, as a way to explore how we might
35 implement elements of what's discussed in that
36 Pacific Fisheries Reform paper.

37 And depending on the year, we've had
38 different proposals made for different species in
39 different areas, and 2008 fits into this part of
40 the puzzle as a year when we were looking at a
41 proposal from three fleets in the south, Area B, D
42 and H at a potential demonstration of how they
43 might manage their shares for Fraser Sockeye,
44 consistent with some of the directions we were
45 trying to take with reforming the fishery.

46 THE COMMISSIONER: And I'll just ask one more question.
47 Do I understand, then, that from 2005 to present

1 -- because earlier, I think you used the term that
2 the principles in the earlier document were
3 driving the management of the Allocation Policy,
4 but do I understand that from 2005 to present,
5 what you're now looking at drivers would be the
6 principles or the objectives that are set out in
7 this 2005 document?

8 A I think maybe the -- I mean, both use the word,
9 "principles." The Allocation Policy, itself, and
10 the principles therein are the over-arching
11 framework within which we're managing salmon. The
12 principles outlined in this paper are outlining
13 the ways we're trying to implement the vision
14 outlined under Pacific fisheries reform,
15 consistent with the principles we already have in
16 the Allocation Policy.

17 THE COMMISSIONER: I see.

18 MR. MARTLAND:

19 Q I wonder if I could have you -- well, I'd like to
20 go back to that memorandum, to the Deputy
21 Minister. I keep forgetting to write down the
22 exhibit number once it's in, but number 31 on our
23 list. Thank you. And let me just read from it
24 and try and frame the question. The first point
25 under the summary:

26
27 This note outlines the management approach
28 planned for continued expansion of share-
29 based demonstration projects with commercial
30 salmon fleets for 2009.

31
32 The next bullet goes on to refer to:

33
34 Survey packages being mailed out to all
35 commercial salmon licence holders in each
36 commercial salmon fleet to gauge support for
37 proceeding with share-based demonstration
38 fisheries in 2009 for their fleet.

39
40 And it says:

41
42 Results from the surveys will be used to
43 inform development of demonstration fisheries
44 for those fleets for 2009.

45
46 This would seem to suggest, in light of the
47 Commissioner's question to you, that there's a

1 progression and increased effort over time on the
2 part of the Department to work up and develop this
3 trial use of SBM models. Is that a fair way to
4 put it?

5 A Yes. In terms of this note, for the first time,
6 we surveyed all the licence holders at the same
7 time and we asked specific questions that were
8 developed for each of the eight commercial fleets
9 around their willingness to have their Area
10 Harvest Committee work with the Department to
11 development a share-based management regime, and
12 then we identified by each of the commercial
13 areas, A to H, the specific species that they
14 would primarily be focussed on to see whether
15 there was a difference of opinion among the fleet
16 depending on the species, as well.

17 Q Mm-hmm. And when I asked you a question about
18 willing fleets, the third bullet on this document
19 talks about different levels, really. First:

20
21 Where there is a strong majority support for
22 proceeding --

23
24 That's within a fleet; is that right?

25 A That's correct, among the licence holders.

26 Q
27 ... the Department will work with the AAHC to
28 develop demonstration fisheries that will
29 proceed on a full fleet basis using existing
30 commercial licences. As a second category,
31 where there is slim majority in support of
32 proceeding, the demonstration project may be
33 considered on the merits of individual
34 project proposals. Otherwise, i.e., without
35 support from the fleet, all vessels will
36 participate in a competitive derby fishery as
37 in past years.

38
39 A Right. And this is really getting at the need for
40 having support among the licence holders to
41 proceed with something and also from the area
42 harvest committees, as well, which are the
43 representatives the Department has to work with in
44 developing these sorts of projects. We recognize
45 that support might be split in the fleet around
46 how to proceed. So really we'd be looking to see
47 if we could work out a project that made sense to

1 the Area Harvest Committee, which is a group
2 that's accountable to their licence holders
3 through an election process that occurs every two
4 years.

5 Q Why is the full fleet basis important? Why is
6 that done?

7 A In 2005 and in some of those earlier years, we had
8 used scientific licences to -- well, maybe backing
9 up here, a bit of context. So the commercial
10 fishery is closed unless it's otherwise open by
11 variation order. In the usual competitive fishery
12 that we've had for salmon, when the fisheries
13 open, individual licence holders would -- are
14 unrestricted in the number of fish they can catch
15 so they would go out and catch as many fish as
16 they could when the fisheries open. So the
17 commercial licence is one tool we have in managing
18 the fishery.

19 When you want to -- in the early years, we
20 entertained the notion of splitting an individual
21 fleet up. And I'll use Area F as an example.
22 It's the northern troll fleet. It fishes for
23 Chinook in the northern area. It has an annual
24 TAC that's set. Some of the fleet wanted to
25 proceed with an ITQ demonstration. Others wanted
26 to remain as part of the derby fishery. So what
27 the Department did was split the TAC between those
28 two groups. For those that wanted to fish in the
29 derby fishery, they could do so using their
30 existing commercial licences. For the other
31 group, to manage them, we used scientific licences
32 to manage the fleet that wanted to do the ITQ
33 demonstration. And in those licences, we provided
34 for specific shares of the harvest, as well as
35 other conditions related to the demonstration.

36 In 2008, and partly related to the **Larocque**
37 review, we deemed it was inappropriate to be using
38 scientific licences to manage the commercial
39 fishery. So in 2008, we made a change in
40 direction that we would be proceeding on a full
41 fleet basis in 2009 for whatever we did. So
42 really, it required us to manage the whole area
43 together. So we did start using Area F as the
44 example again. We managed -- we began managing
45 that one on a full fleet basis.

46 Q In the course of zipping through some documents, I
47 didn't have marked as an exhibit the spreadsheet

41
JEFF GROUT
In chief by Mr. Martland

1 printout, number 42 from our list of exhibits, or
2 proposed exhibits. If I can ask that be the next
3 exhibit, please.

4 THE REGISTRAR: Exhibit 464.

5
6 EXHIBIT 464: Untitled Chart Showing Ballot
7 Summary [Excel] (undated)
8

9 MR. MARTLAND:

10 Q In a number of cases after ITQ demonstration
11 projects have been conducted, there have been
12 reviews that are prepared. What I'd like to do
13 with these next questions is simply identify three
14 of those reviews and confirm that, I think, they
15 still speak for themselves, and I don't plan to
16 ask you particular questions.

17 Number 37 on our list of documents is a
18 report from Gardner Pinfold, I think that's a
19 consulting firm, I think it indeed follows on the
20 heels of an email within this exhibit that's put
21 forward. So if we skip past the first page or two
22 with the introductory email, there's the Gardner
23 Pinfold report, October 2009, referring to a
24 review of five demonstration projects from the
25 2008 salmon season.

26 A That's correct.

27 MR. MARTLAND: If this could be the next exhibit,
28 please?

29 THE REGISTRAR: Exhibit 465.

30
31 EXHIBIT 465: Review of Five Demonstration
32 Projects from the 2008 Salmon Season, Oct
33 2009
34

35 MR. MARTLAND:

36 Q I'll do these in tandem, and then we should look
37 at them, I suppose, separately. Numbers 38 and 39
38 on our list of emails, 38, first of all, is an
39 email from Gordon Curry to you, Mr. Grout, and
40 others, as well, and it simply -- at least the
41 bottom of it is from Mr. Curry and is passing
42 along the report which I understand is at tab 39,
43 number 39 on our list of exhibits. In turn is a
44 report from Archipelago Marine Research,
45 discussing the 2003 Area H IQ demonstration
46 fishery project summary and evaluation?

47 A That's correct.

42
JEFF GROUT
In chief by Mr. Martland

1 MR. MARTLAND: Mr. Lunn, although these are separate on
2 our list of exhibits, if it's agreeable to have
3 these -- and Mr. Registrar, you can assist me, if
4 it's agreeable to have these marked jointly, I'd
5 suggest that makes some sense. The email number
6 38, along with this Archipelago report, number 39
7 from our list.

8 THE REGISTRAR: I could mark them 466A and B, or 466
9 and 466A.

10 MR. MARTLAND: And I don't know if that's consistent
11 with past practice, or if you prefer I do them as
12 separate exhibits. I don't have a strong --

13 THE REGISTRAR: I can do it as one, if you wish.

14 MR. MARTLAND: Mr. Commissioner, do you have a
15 preference, or do you --

16 THE COMMISSIONER: No, just if you can just tell me
17 again, what is it you want to mark? Is it the one
18 that's on the screen currently?

19 MR. MARTLAND: There's two documents and they'll come
20 up on the screen separately.

21 THE COMMISSIONER: Okay. May I suggest they be marked
22 separately?

23 MR. MARTLAND: Yes. And Ms. Grant makes a good point,
24 which is the email really just gives us the
25 context, which is that Mr. Grout had received this
26 so I think if we set that aside, that would leave
27 us setting aside number 38. 39 is the central
28 document. Number 39 is the Archipelago Report.
29 If that could please be the exhibit?

30 THE REGISTRAR: Number 39 you want as 466.

31 MR. MARTLAND: Thank you.

32 THE COMMISSIONER: And 465 was what?

33 THE REGISTRAR: Number 37, it's an email.

34 THE COMMISSIONER: So you don't want to mark that now,
35 Mr. Martland?

36 MR. MARTLAND: No, I'm sorry, I think we may be
37 speaking about two different things. Number 37,
38 attached to the email within that document is the
39 Gardner Pinfold Report so I think that's already
40 in as an exhibit. Then we skip 38. 39 from our
41 list of documents becomes Exhibit 466, the
42 Archipelago report.

43 THE REGISTRAR: Number 39, yes, 466.

44
45
46
47

EXHIBIT 466: 2003 Area H IQ Demonstration
Fishery-Project Summary and Evaluation, Nov
2003

1
2 MR. MARTLAND: Thank you. I hope there's no email with
3 the next one. I see there is so number 40 on the
4 list of documents -- if I just might have a
5 moment? Ms. Grant, as ever, has assisted me.
6 Number 40 on our list of exhibits has two separate
7 Ringtail numbers. The first document and the
8 first Ringtail number is an email, but the more
9 significant one is the report, itself. So for
10 number 40, my proposal would be the report that's
11 called the Area H Troll Sockeye Demonstration
12 Fishery in 2006, by Gislason & Associates, June
13 2007. If I could ask that document, on its own,
14 please, become Exhibit 467.

15 THE REGISTRAR: Yes, 467.

16
17 EXHIBIT 467: Area H Troll Sockeye
18 Demonstration Fishery in 2006-A Review, Jun
19 2007
20

21 MR. MARTLAND:

22 Q That was cumbersome, Mr. Grout, but those are all
23 different reports that have looked back on some of
24 these demonstration projects. Whether you wish to
25 refer to the reports, or not, my question is a bit
26 more broad. Would you describe the level of
27 success of these different demonstration projects?
28 A Well, I think the success of the various different
29 projects are probably year specific, depending on
30 the years, and different things have happened on
31 each of these in each of the different years.
32 What we've been able to demonstrate with the
33 projects is that we have been able to manage the
34 commercial fishery to a defined share of the
35 harvest, and we can do that using the existing
36 commercial licence conditions, is what we've used
37 in recent years for the full fleet projects. In
38 earlier years, we did it using the scientific
39 licences.

40 We've had, in these projects, improved
41 monitoring and accounting of the catch. In
42 implementing these demonstration projects, what
43 we're looking at doing is having the individual
44 vessels fixed to a defined share of the harvest.
45 And to have accountability with those numbers,
46 we've had independent monitoring in place with
47 mandatory dockside monitoring and offload

1 verification of the catches.

2 We've also, on the departmental side, been
3 learning a fair bit about the management
4 requirements to set one of these projects up and
5 support them. We've had to develop databases to
6 handle -- for the individual transferable quotas,
7 reallocations between licence holders and so
8 that's been an element that's been handled by the
9 Department.

10 As I mentioned, independent service providers
11 have been able to link into the database to verify
12 the catch numbers with the allocations held by the
13 licences so that we can do the reconciliation.

14 We've had, in these reports, advice provided
15 by the various different consultants around
16 various different elements of these fisheries. In
17 a number of cases, they've been implemented in
18 challenging conditions. For example, in 2008,
19 when we did the Area B and H ITQ project for the
20 first time, we had a very small commercial
21 allocation of Fraser Sockeye. We announced a TAC
22 of 100,000, and due to changing conditions, there
23 was no TAC the following week. So in that
24 particular case, we had -- Area B and H were out
25 participating in this project. I believe the
26 catch was in the range of 10 to 15,000. So they
27 harvested under the 100,000 TAC, which had it not
28 been a demonstration project, I would have
29 expected to have seen a higher harvest in that
30 case. So it has shown ability to control the
31 harvest when there's a small amount of TAC
32 available.

33 In 2010, we had a much different circumstance
34 with a building run of Fraser Sockeye that kept
35 increasing through the season so we were able to
36 learn quite a bit about how to control an ITQ-
37 style demonstration fishery as the fishery
38 proceeded by releasing the quota amounts in an
39 incremental fashion.

40 So we've been able to implement these
41 fisheries using the existing licensing tools that
42 the Department's got at its disposal.

43 Q Does the migratory nature of Fraser Sockeye, in
44 particular, in this need to have updated
45 information through the year once you're
46 assessing, as you assess the size of the return,
47 does that make it especially difficult to use an

1 SBM type of a management model, or is it neutral
2 vis-à-vis that versus a derby-style management?
3 A Well, I think the changing abundance and changes
4 to the total allowable commercial catch through
5 the season pose a challenge for all of our
6 commercial fishing fleets. At any given time,
7 we're managing based on the best information
8 available on what the commercial TAC is. In a
9 derby, or in one of our competitive derby
10 fisheries, we'd be looking at a target amount of
11 harvest that's available and the Department would
12 be trying to set the parameters for a fishery
13 opening, but once the fishery was open, the
14 vessels would be allowed to harvest unlimited
15 amounts of the fish consistent with their licence
16 conditions and the opening time that's provided.
17 So it's a relatively imprecise way of achieving a
18 catch target, and especially if there's a
19 relatively small TAC available.

20 On the ITQ side of things, there's better
21 precision in terms of management of the harvest
22 because the individual licences are fishing to a
23 predefined share of the TAC. Each licence
24 condition would specify a percentage share of the
25 commercial TAC. Once the commercial TAC is
26 announced, it's a simple calculation to determine
27 how many pieces of salmon could be harvested.
28 Once the licence holder had fished their
29 allocation, they have to stop fishing.

30 Q This may require some speculation, I suppose, but
31 could you comment, if I give you the hypothetical
32 of a coast-wide move to ITQs for the commercial
33 salmon fishery, could you comment on the effect of
34 that, or how that may look?

35 A In terms of moving to coast-wide arrangements or
36 ITQs as you suggested, it's something that is --
37 and you asked it as a hypothetical question. It's
38 something that you'd need to consider a whole
39 number of different facets if you were going to
40 consider something like that. We have 21
41 different production areas for salmon, as I
42 mentioned, with different gear types and each of
43 the different eight areas with access to each of
44 those.

45 For something like Fraser Sockeye, we can
46 identify a total allowable catch quantitatively
47 in-season. We have some of our Chinook fisheries

1 in the offshore ABM areas, particularly, in the
2 northern troll and in the west coast troll where
3 we can -- we have a quantitative number. For Pink
4 salmon, for the Fraser, we're having an estimate
5 of the run size, as well.

6 So for fisheries, where we have a TAC, that
7 approaches a minimal. There are a number of our
8 other fisheries which are effort-based fisheries
9 so we're controlling the amount of gear, fishing
10 time, and number -- and gear, fishing time and
11 other parameters, but when the fisheries open,
12 there's not a limit on the specific amount of
13 catch. And in some of those fisheries, we don't
14 actually assess a TAC in-season. So in those
15 sorts of situations, it would be challenging to
16 have a transferable quota put in place without
17 significant efforts made to assess the populations
18 there to do that. But in theory, I guess if your
19 question was theoretical, it's something that
20 would be possible to do, but there'd be a lot of
21 work required.

22 Q Under an SBM approach, what sort of effect does
23 that have? Does that change area licensing?

24 A We've been implementing our demonstration projects
25 with the current area licensing of the commercial
26 salmon fleet as is so we have not contemplated
27 changes to that.

28 Q And again, in the hypothetical, were there a move
29 towards ITQs, would area licensing be something
30 that you expect would continue?

31 A Well, I think --

32 Q Let me put it differently. Would area licensing
33 become irrelevant or unnecessary if you had a full
34 ITQ or SBM management model?

35 A Well, I think some context here on this one is
36 important. In terms of the way we have managed
37 commercial fisheries, we have been -- primarily,
38 in the past, been focussed on controls on the
39 inputs to fishing. So the number of vessels that
40 can show up at an opening, the gears they're
41 using, the amount of fishing time they have, and
42 the Department has really, in the past, focussed
43 on managing those inputs, but when the fisheries
44 open, the fishermen are competing to catch as many
45 fish as they can.

46 In some of these share-based management
47 approaches, we're coming at it the other way

1 around, saying, "What's the output we're trying to
2 control?" It's either the amount of catch, or in
3 some cases, the bycatch parameters, and we're
4 looking at setting up the fishery with an output,
5 which is a target amount of catch you want to
6 remove, with increased flexibility on the fleet
7 side of things in terms of how that might occur,
8 but licences set up to provide defined shares and
9 accountability for those shares.

10 In terms of area licensing, that was one of
11 the components that was used as part of fleet
12 restructuring to control efforts. So instead of,
13 for example, in the gillnet fleets, having the
14 entire coast-wide gillnet fleet show up at an
15 opening for Fraser Sockeye, the gillnet fleet in
16 the north, which is Area C, those 650 some odd
17 vessels are no longer able to come down to a
18 Fraser Sockeye opening. So area licensing was a
19 way to control the inputs to fishing, primarily,
20 the number of vessels that could come to an
21 opening.

22 If, looking down the road, you've got the
23 fishery structured so that you're controlling
24 catch and the output is a specific quantum of
25 catch, you can be less concerned then about the
26 number of licences that might show up to the
27 fishery. What would be required then is somebody
28 has a share to actually go and harvest those fish.
29 So potentially, down the road, you could look at
30 things like that, but I think we're a ways from
31 that, given that we --

32 Q Yes.

33 A -- are still just demonstrating in limited areas
34 at this point.

35 Q And along the same lines, would you, again,
36 hypothetically, be less concerned about vessel
37 length restrictions?

38 A Again, the vessel length in the salmon licences,
39 licences are vessel-based, associated with the
40 vessel for most of our A category licences. The
41 vessel length is really a proxy for one of the
42 inputs to fishing, which is how long can you stay
43 out on the water, how many fish can you catch and
44 hold during the fishery?

45 If that same vessel is no longer
46 participating in an opening using a -- in a
47 competitive opening, where it can catch unlimited

1 numbers of fish and, instead, has a defined share
2 of the harvest, the constraints on the vessel are
3 less important because you're not using that to
4 control the fishing effort any more. The control
5 on the fishing becomes the share that's prescribed
6 on the licence.

7 Q I have a document I'd like to take you to, please,
8 number 29 from our list of exhibits. It's a
9 PowerPoint, and it says on the first page, it
10 refers to an Ops Committee discussion, July 21 of
11 2009. Could you, first of all, confirm that that
12 is what it says it is, a presentation made to the
13 Ops Committee in 2009 on defined shares for salmon
14 management?

15 A Yes.

16 MR. MARTLAND: If that could be the next exhibit,
17 please?

18 THE REGISTRAR: Exhibit 470.

19
20
21 EXHIBIT 468: Defined Shares for Salmon Mgmt-
22 Building a Strategy, Ops Committee
23 Discussion, July 21, 2009
24

25 MR. MARTLAND:

26 Q And if I could, please, take you -- let me ask
27 first, what is the Ops Committee?

28 A It's a committee -- it's an internal departmental
29 committee that I'm not involved with usually. I
30 have been there on one or two occasions, not
31 related to this presentation, though, where they
32 are discussing, at the director level, with the
33 RDG, specific issues around -- specific
34 operational issues.

35 Q And if I could take you, please, to page 10 of
36 this document, and I think page 10 sets out Area
37 Harvest Committee views on SBM, this, I take it,
38 stems from surveys that were conducted in 2008?

39 A Yes, I did contribute information to this
40 presentation and the results shown here are the
41 results of a survey that the Salmon Team sent
42 around to individual licence holders to solicit
43 their views on share-based management and whether
44 they'd like to have their harvest committee work
45 with the Department on those.

46 What the table of results shows is each of
47 the different commercial licence areas from A to

- 1 H. The percent support for demonstrations varies,
2 depending on which questions we'd ask the fleet,
3 in terms of which species they were interested in.
4 So in some cases, fleets were more interested in
5 looking at a demonstration for some species than
6 others.
- 7 Q Mm-hmm?
- 8 A And then finally, in the final column, it just
9 shows you the percentage of the survey's return,
10 which is simply the number of surveys we received
11 back divided by the total number of licence
12 eligibility holders.
- 13 THE REGISTRAR: Excuse me, Mr. Martland, that document
14 marked as 470 should be 468.
- 15 MR. MARTLAND: I'm sorry, 468, is this the current
16 document?
- 17 THE REGISTRAR: No, the one before, we marked it as
18 470 --
- 19 MR. MARTLAND: Okay.
- 20 THE REGISTRAR: My writing is getting in the way.
- 21 MR. MARTLAND: No. I haven't made it easy for you, Mr.
22 Giles. So it should be 468?
- 23 THE REGISTRAR: The one previously marked as 470 should
24 be 468.
- 25 MR. MARTLAND: Thank you.
- 26 THE REGISTRAR: And the next one will be 469.
- 27 MR. MARTLAND: Thank you. You're pessimistically
28 assuming I have more documents. I do. I'd like
29 to go to number 32 on the exhibit list, please.
- 30 MR. LUNN: I have a series of documents under that tab
31 number.
- 32 MR. MARTLAND: Yes. Let me do this. I'd like to
33 consider over the lunch hour how we'll proceed on
34 some of these so I'm going to set aside the
35 documents and ask you a few last questions before
36 we break, Mr. Grout. The first one is this.
- 37 Q Is the Department committed to moving to an SBM
38 management approach for the salmon fishery?
- 39 A I think that's a vision that is outlined in the
40 Pacific Fisheries Reform and we're looking for
41 ways that we can move forward with identifying how
42 share-based management can work for salmon.
- 43 Q What stands in the way of a move to SBM?
- 44 A I think there are a number of complexities, and
45 we've touched on some of them, with how you can
46 implement share-based management in salmon and how
47 the framework should be designed. The intention

1 of demonstration fisheries is to explore some of
2 the ways you might try and implement it.

3 In other parts of the world, share-based
4 management fisheries have been done on species
5 where the total allowable catch can be fixed in
6 advance for the season and some of our salmon
7 fisheries are similar to that, but not exactly the
8 same, in our troll fisheries for Chinook in the
9 offshore areas.

10 In Fraser Sockeye specifically, we have a TAC
11 that changes throughout the season so that's an
12 added element that we need to consider. We're
13 also looking at how the shares can transfer
14 between different fleets and eventually,
15 potentially to First Nations and inland areas and
16 how the First Nation fisheries are part of that
17 framework.

18 Around ITQs, themselves, and we've used the
19 wording interchangeably, but there's a number of
20 different ways you could implement a share-based
21 management program. I mentioned pooling
22 arrangements before, where groups of vessels can
23 come together to access a share. There's
24 potentially a communal basis for doing that. For
25 example, First Nations that have a share may be
26 able to licence individual harvesters to fish that
27 share, for example, under a treaty arrangement.

28 We also have ITQs, themselves, and there's a
29 whole range of different ways that an ITQ can be
30 designed, including limited transferability, or
31 limits to how much transferability that can be in
32 place. Our northern troll Area F demonstration
33 fishery has looked at a couple of different rules
34 around that. They have had an interest in not
35 allowing full transferability in which a few or
36 single vessels can accumulate large amounts of
37 share. Their most recent rule has been looking at
38 limiting the share to 1,500 pieces of Chinook,
39 which would allow for some accumulation of other
40 shares, but then a requirement to fish that share
41 before you could go and acquire more. So there's
42 different ways you can set up these ITQ styles of
43 arrangements and different potential implications
44 of how you might do that. So demonstrations are
45 really intended to try and explore, in an
46 incremental way, how you might go about designing
47 these systems, given the complexity with just

1 saying, "Okay, here we go. Here's an ITQ that
2 fits coast-wide for everything."

3 Q Mm-hmm. And let me, out of that, ask you how
4 ready do you think the Department is, how much
5 work -- how far down the track are you, if this is
6 -- just assume for that question there's a
7 progression towards an SBM style of model.

8 A Well, I think currently, our approach has been to
9 work with willing fleets, and we've also been
10 working with First Nations on these
11 demonstrations. We've been relying to a certain
12 extent on the Pacific Integrated Commercial
13 Fisheries Initiative to help with some of the
14 obstacles around implementation for some of these
15 things. An example would be developing the
16 software for doing these quota reallocations for
17 some of the projects where we're doing that.
18 There's also considerations around how best to
19 design the catch-monitoring programs, and any
20 assistance with those. There's been work around
21 the assessment of the demonstration fisheries and
22 some of the reports that have been done, getting
23 views from harvest committee members, fishermen.

24 There's also important considerations from
25 others that are not directly involved in the
26 projects, themselves, including recreational First
27 Nation harvesters that have views on how share-
28 based management might affect their fisheries in
29 the future. An example there could be on the
30 recreational, or in the marine area, where you
31 have an ITQ-style fishery for Area B and H, we saw
32 in 2010 that the fisheries were open for longer
33 periods of time, but fewer vessels were going out.
34 And in the past, recreational harvesters have been
35 used to shored openings, or shore tour openings
36 where the commercial fleet is out and then they
37 disappear for a period of days and they, in their
38 words, get the water to themselves.

39 Likewise with First Nations in marine areas
40 where some of the groups are relying on commercial
41 vessels to help with FSC harvests. There's been
42 concerns if they're out fishing in quota style
43 arrangements for the entire week, it might provide
44 less time for getting out to fish for their band's
45 FSC needs.

46 So I'm only touching on some of the issues,
47 but there's a broad range of issues that

1 demonstrations allow us to explore in an
2 incremental way, make adjustments and adaptations
3 to the programs as we essentially learn by doing.
4 MR. MARTLAND: Mr. Commissioner, I note the time, we're
5 at 12:30. I'm well along through my list of
6 questions, but I will need some time in the
7 afternoon when we reconvene.

8 THE COMMISSIONER: I wonder if I could just ask the
9 witness, before we stand down for lunch, the
10 document at Tab 27 that you've referred to. It's
11 Exhibit 263, I believe, Mr. Martland. Can you
12 just tell me who authored this document?

13 A This document was put together by the Department
14 and our director of Pacific Fisheries Reform, at
15 the time, I believe, Ron Kadowaki, was responsible
16 for the lead on helping to put this together, but
17 there may have been others, as well, assisting.

18 THE COMMISSIONER: When you say "by the Department,"
19 are you talking about the Pacific Region?

20 A Yes, I believe this document was drafted in the
21 Pacific Region.

22 THE COMMISSIONER: Thank you. Yes, we'll take the
23 adjournment now.

24 MR. MARTLAND: Thank you.

25 THE REGISTRAR: The hearing is now adjourned until 2:00
26 p.m.

27

28 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

29 (PROCEEDINGS RECONVENED)

30

31 THE REGISTRAR: Order. The hearing is now resumed.

32 MR. MARTLAND: Mr. Commissioner and Mr. Grout, I have a
33 few document types of questions on this SBM topic,
34 if you will. I'd like to start, and I hope I've
35 queued this up with the assistance of Mr. Lunn in
36 advance, under Exhibit List Number 32, there are a
37 number of documents. I think the fourth document
38 in is a white paper. It's entitled "Discussion
39 Paper". The ringtail number is CAN154213. And
40 that's what we have on screen so, so far, so good.

41

42 EXAMINATION IN CHIEF BY MR. MARTLAND, continuing:

43

44 Q If I could just ask you, Mr. Grout, to indicate
45 what this document is, please?

46 A Well, as part of Pacific Fisheries Reform in
47 implanting the vision, we've undertaken a number

1 of demonstration fisheries. There's also been
2 work internally to try and incorporate some of the
3 information that we've learned and some of the key
4 issues into a subsequent discussion of the move
5 towards share based management. So the intention
6 of the white paper is to lay out some of that
7 discussion.

8 Q And is it in draft form, do you know?

9 A That's my understanding.

10 Q Do you know, has it been completed or has there
11 been further work, to your knowledge?

12 A I don't believe this was completed.

13 Q And do you know who prepared this, or was involved
14 in this document? It's not a memory test. If you
15 don't know, that's fine.

16 A I was trying to think if I could recall who might
17 have been involved with it. But if it doesn't say
18 in the paper, I can't recall specifically.

19 MR. MARTLAND: Okay. If I could ask that become the
20 next exhibit, please?

21 THE REGISTRAR: Be 469.

22

23 EXHIBIT 469: Discussion Paper Towards Share
24 Based Management of the B.C. Commercial
25 Salmon Fishery 2009 [DFO]

26

27

28 MR. MARTLAND:

29 Q The next document, Mr. Grout, is number 33 on the
30 list of exhibits, the "Strategic Plan for SBM
31 2009". This has a date on the top. It's marked
32 "draft March 23, 2009" and marked as "draft". We
33 can read it but could you just comment briefly on
34 that strategic plan? And perhaps I can help to
35 this extent. I understand that there was a
36 meeting that took place at about March 24 of 2009
37 at which some of these questions about the move
38 towards SBM were addressed in a meeting. I take
39 that to be an internal DFO meeting towards scoping
40 on developing a framework or strategy for
41 advancing with defined shares. I believe this is
42 a version that was put out right in the time of
43 that meeting. And I'll assist further, I hope.

44 A Well, I can say I wasn't the lead on drafting the
45 document so I'm trying to recall my involvement in
46 its preparation.

47 Q And I'll just express to you my understanding and

1 you can tell me if this helps you or not. I
2 understand that you were sent by email on March
3 21, 2009, by Ronald Kadowaki, and you amongst
4 other people, were sent this along with the
5 discussion paper I just showed you a moment ago.
6 So it was in the context of a meeting at that
7 point. That email, by the way, is at Tab 32 of
8 your materials, Mr. Grout, and part of the
9 collective group of documents that were Exhibit
10 List 32. But I'm not looking to put the email as
11 evidence unless we need to.

12 A Okay. In terms of the materials here, I'm looking
13 at the email here from Mr. Kadowaki, who is the
14 director of Pacific Fisheries Reform. I recall
15 the agenda for the meeting and participating in
16 that and it looks like the strategic plan for
17 share based management was one of the pieces
18 associated with that process, as well as the white
19 paper.

20 MR. MARTLAND: So the white paper has become an
21 exhibit. If I could please request that the
22 Strategic Plan, number 33 on the list, be marked
23 as an exhibit?

24 THE REGISTRAR: Exhibit Number 470.

25
26 EXHIBIT 470: Strategic Plan for Salmon Share
27 Based Management, Draft March 23, 2009 [DFO]
28

29 MR. MARTLAND: In fact, I'm going to move to a slightly
30 different point, which will have Mr. Lunn jumping
31 even faster than before. PPR-6 is the Commercial
32 Fishing PPR. In particular, page 66 of that
33 report, paragraph 176. That will come up on
34 screen in a moment.

35 Q And the question here, and again I'm going to
36 refer to something without asking Mr. Lunn to go
37 to it, Exhibit 14 is a familiar document that
38 reflects past reports and recommendations. And
39 just for the sake of the record, page 230 of
40 Exhibit 14, refers to something that's captured
41 here in the PPR, reference to the McRae and Pearse
42 process which led in paragraph 177 at the bottom
43 there, you'll see the first of the recommendations
44 in their 2004 report, which I take it to recommend
45 an immediate move to implementing fully
46 transferable quotas for the commercial fishery.
47 Could you comment on that recommendation and the

1 extent to which that has been fulfilled?

2 A Well we have not made an immediate move to
3 implement quotas across all of our fisheries. I
4 touched this morning on a number of the challenges
5 associated with doing that. We've instead taken
6 an approach to work with willing fleets and First
7 Nations to develop demonstration projects to
8 explore how some of these share based management
9 approaches might be adapted to salmon fisheries.

10 Q I have two further documents, which I'll look to
11 have identified as exhibits but without getting
12 into any depth. The first one I'll, in fact, go
13 to number 36 on the list of exhibits. This is, I
14 take it, a workshop summary of a DFO Internal
15 Workshop on Implementing Share Based Management in
16 the Pacific Salmon Fishery from 2008. And again,
17 without reviewing that, I take it that's a
18 description of some of the work in charting a path
19 forward towards SBM that the department has done?

20 A Yes, it's an internal meeting discussing a number
21 of the issues around at that at this workshop.

22 Q And you were in attendance at that meeting?

23 A Yes.

24 MR. MARTLAND: If that could be the next exhibit,
25 please?

26 THE REGISTRAR: Exhibit 471.

27

28 EXHIBIT 471: Workshop Summary - DFO Internal
29 Workshop on Implementing Share Base
30 Management in Pacific Salmon Fishery, March 4
31 - 5, 2008
32

33

MR. MARTLAND:

34 Q I think my last SBM question, if you will, is just
35 to make sure that we're thorough about this. I
36 don't know if we've spent much time on this today
37 but in the Policy and Practices Report, there's
38 reference to the SCORE report and the SCORE
39 process. And if I could ask that number 35 from
40 the list please be shown? This is simply to
41 ensure this is on record. Is this the SCORE
42 report?

43 A Yes, it is.

44 MR. MARTLAND: I'd ask that please become the next
45 exhibit.

46 THE REGISTRAR: Exhibit 472.

47

1 EXHIBIT 472: Salmon Management Reform -
2 SCORE Report (undated)
3

4 MR. MARTLAND:

5 Q I'm moving to my next topic, which is selective
6 fishing from your perspective. We have heard from
7 Mr. Curry and Dr. Hargreaves on this. I think
8 some of my questions will focus on implementation
9 from a salmon manager's point of view. You made
10 reference this morning to the Allocation Policy
11 permitting the use of TAC, or total allowable
12 catch, to encourage selective fishing. I won't
13 take you back to what we looked at this morning.
14 Is TAC being set aside for selective fishing
15 presently?

16 A Not currently. In the Allocation Policy, it
17 identified I believe a couple-year period for
18 doing that.

19 Q And the Allocation Policy also makes reference,
20 I'll paraphrase, to using allocation in a way that
21 promotes selective fishing. Is that right?

22 A I'm sorry. What are you paraphrasing now?

23 Q Is it right that the Allocation Policy talks about
24 using allocation to promote selective fishing?

25 A It might be helpful to refer to the principle
26 around selective fishing in the Allocation Policy.

27 Q And why don't I try to do that through our Policy
28 and Practices Report? I think I took you
29 previously to that section of the report that set
30 out the principles of allocation. I think it's
31 page 29 from memory. And if we could go to page
32 29 of the PPR, please? And it's the next page,
33 please. Thank you. This is the summary of it.
34 You'll see the second from the top point. I'll
35 read:

36
37 Over time, commercial allocations will favour
38 those that can demonstrate their ability to
39 fish selectively.
40

41 A And pardon me, sorry, what was the question?

42 Q So that was not a question, I appreciate, but
43 you'll agree with me that's what the Allocation
44 Policy sets out?

45 A Yes.

46 Q Has that occurred?

47 A In terms of working towards selective fishing, in

1 developing our framework for the commercial salmon
2 allocations, we haven't made an explicit move to
3 reduce or change allocations among the gears in
4 the various areas explicitly for selective fishing
5 purposes.

6 Q And why not?

7 A Well, we've focused primarily around setting the -
8 - from the department's perspective is on the
9 output we're trying to achieve. So we're working
10 with the fleets to access their shares of salmon
11 and when there's bycatch issues, for example, of
12 coho salmon during sockeye fisheries, we're
13 allowing the fleets and working with the fleets to
14 discuss ways they might catch sockeye while
15 managing consistent with our exploitation rate
16 objective for Interior Fraser coho, which is 3
17 percent in the south coast.

18 So rather than adjusting the allocations up
19 front, we're managing the fisheries consistent
20 with the Allocation Policy and as well as
21 selective fishing, being able to avoid those
22 populations and times and areas where they're
23 present. We do that, for example, with a window
24 closure in the Fraser River beginning in September
25 for non-selective gears and that could include
26 gillnet fisheries, for example, that have a higher
27 release mortality rate. For other gears that are
28 more selective and can release coho from the gear
29 alive even when they're encountered, we have
30 structured fishing opportunities. So we focus
31 more on the output we're trying to achieve, which
32 is the conservation objectives for the various
33 populations and provided flexibility for the
34 fleets to work with the department on structuring
35 fisheries that can do that.

36 Q Presently at the department, who has
37 responsibility for implementing the Selective
38 Fishing Policy?

39 A The Selective Fishing Policy, I would say, is not
40 one person that's going to be solely responsible
41 for doing that. Like the Allocation Policy, the
42 principles are guiding our operations in terms of
43 salmon management. So in developing the IFMP,
44 we've got an eye to those policies. And by "we",
45 I say the salmon team, but also the Fraser River
46 Integrated Management Team managers would also be
47 responsible in designing fisheries consistent with

1 our policies as well.

2 Q I have a particular question that arises out of
3 evidence we heard on Monday. In particular, there
4 were questions put to Dr. Hargreaves. I'll be
5 paraphrasing for these questions but I think
6 you'll have -- and I'm not going to ask you to
7 comment on Dr. Hargreaves' answers so much as on
8 the question or the issue arising from it. There
9 was a suggestion that Aboriginal fishers who fish
10 commercially in the tidal waters of the Fraser are
11 not required to have a revival box on their
12 vessels, whereas the non-Aboriginal commercial
13 fleet is required to have revival boxes on their
14 vessels.

15 There was an indication that that may be
16 because the Aboriginal vessels, or those vessels
17 used in the Aboriginal commercial fishery, are
18 often also used to fish for FSC purposes. This
19 was a little bit unclear. Could you please help
20 us? Or could you please comment on this? And
21 first of all, what regulations with respect to
22 revival boxes apply to the Aboriginal and non-
23 Aboriginal commercial fisheries in the Fraser
24 tidal waters?

25 A Well, starting with the commercial gillnet fleet
26 that fishes in the Fraser River, there's
27 requirements in their licence conditions to have
28 operating revival boxes. In the First Nation
29 fishery, economic opportunities for sockeye, for
30 example, there would be a share provided to the
31 bands in the lower river, Musqueam, Tsawwassen,
32 for example, under their treaty, or one of the
33 groups in the Port Mann Bridge to Sawmill area,
34 the Sto:lo groups, particularly in the lower part
35 of the river, Musqueam and Tsawwassen are fishing
36 with gillnets. They have a variety of different
37 boats that can be used to go out.

38 Some of them are small tin boat, kind of car-
39 topper style, right up to the larger commercial
40 vessels, which the owners of those also could be
41 licensed to fish in the Area E fishery. It's my
42 understanding, and I may not have the length quite
43 right here, but for vessel safety reasons, there's
44 a requirement to be using the revival box for
45 vessels, I think, that are 35 feet and over. And
46 some of those smaller boats, it's not a
47 requirement giving issues around safety and vessel

1 stability.

2 Q And your understanding at least of a requirement
3 to have the revival box, if the length is over 35
4 feet, would that apply equally to Aboriginal and
5 non-Aboriginal boat situations?

6 A That length requirement is applying in the
7 Aboriginal economic opportunity fishery. In the
8 commercial fishery, it's a requirement of all
9 licence holders to have operational revival boxes.

10 Q And again, a question coming out of questions on
11 Monday, can Aboriginal fishers who are fishing
12 commercially, keep bycatch for FSC purposes?

13 A In the fishery openings that we specify for
14 sockeye, for example, there are times when we also
15 allow retention of chinook in the commercial, as
16 well as in the economic opportunity fishery. In
17 the licences for the First Nation fishery
18 specifically were requiring all viable bycatch
19 species, for example, coho, sturgeon, steelhead to
20 be returned to the water alive. There have been
21 cases where mortally-wounded fish or fish that
22 were killed as a result of fishing have been
23 retained. And those are accounted for towards the
24 food, social and ceremonial allocations for the
25 group.

26 Q On selective fishing, what is currently being done
27 to implement selective fishing? What sorts of
28 measures and management tools are being used?

29 A Well, as I stated earlier, there's two different
30 ways you can maybe go about this. One is you can
31 make requirements in the inputs to fishing so
32 these are the requirements and regulations the
33 department set out that harvesters must do.
34 Operating revival boxes can be an example there.
35 The other thing we also do, though, and that we've
36 been increasingly doing, is working with
37 harvesters through their representatives to design
38 fisheries that are consistent with our Allocation
39 and Selective Fishing Policies but are flexible in
40 the ways they might achieve that. So for example,
41 in the seine fleet, we've done work in Area 20,
42 which is around the southern tip of Vancouver
43 Island. We've done work there to control that.
44 It's an area where you tend to have a lot of coho
45 bycatch depending on the year and times. We've
46 had different fishery structure in place.

47 In some years past, we've looked at fishing

1 on grids so if there's high bycatch in some parts
2 of that grid when the vessels are on the water,
3 they've moved. In other years, we've looked at
4 restricting the number of sets or effort in some
5 of those areas to control bycatch. The seine
6 fleet is looked at, fishing off the mouth of the
7 Fraser River in 2009 and '10, 2009 to harvest pink
8 salmon. It was an area they hadn't been in, in
9 quite sometime so we allowed a small number of
10 vessels to go there on an experimental basis. We
11 had observers on the boats to explore what the
12 bycatch issues might be fishing in that area. And
13 what we discovered is you can actually harvest
14 fairly large numbers of pink salmon with very,
15 very small numbers of these other species, which
16 is new information.

17 We've also looked at using fleets that have
18 lower release mortality rates than others at
19 certain times of year. So as we get into
20 September when you have more coho returning
21 through some of the fisheries, we've tended to
22 only authorize opportunities for the seine fleet
23 or the troll fleets, which typically have a
24 release mortality of 25 percent or less on bycatch
25 species compared to gillnets, which can be in the
26 40 to 60 percent range. So we've had fisheries
27 utilizing the different characteristics of those
28 gears.

29 Moving into the Fraser River itself, keeping
30 with the coho example, we've had groups, First
31 Nations, for example, that have allocations of
32 sockeye but are fishing using gillnets. And
33 they've switched to using, in 2010; we had
34 Musqueam looking at a shallow seine in the lower
35 part of the Fraser. We also had the Sto:lo group,
36 which typically would prefer to harvest their
37 allocation using gillnets, either set net or
38 drifted gillnets. They were able to switch and
39 for the first time they were using beach seines to
40 harvest Fraser sockeye. So there's a variety of
41 ways that we've worked with the fleets to allow
42 them to harvest their shares. On the coho
43 example, the department's keeping an accounting of
44 the various different fisheries and past efforts
45 in the various areas to try and use a model to
46 assess where we're at relative to our coho
47 exploitation rate objectives and we've taking

1 feedback from the fleet on how they'd prefer to
2 make their harvest.

3 Q I think my last selective fishing question is
4 this. Should more be done to promote selective
5 fishing and, if so, what should be done?

6 A In terms of the promotion of selective fishing, I
7 see the way we're going as a focus on obtaining
8 outcomes. And so the department's role will be
9 clearly stating what the objective is, whether
10 it's an exploitation objective for a stock of
11 concern or perhaps some bycatch limit on that
12 particular population in some cases, but then
13 providing the flexibility to the fleets to develop
14 ways that they might access their shares of the
15 harvest with those bycatch objectives in mind. So
16 much more a focus on the output we're trying to
17 achieve, as opposed to restricting all the inputs.

18 That said, the department is going to
19 continue to be clear about what sort of mortality
20 rates we're going to associate with certain gears
21 for certain species and at certain times. And to
22 be clear about that, we've recently included a
23 table of those mortality rates into the Integrated
24 Fisheries Management Plan. So we're trying to be
25 open and transparent about how we're going to
26 assess the impacts on the bycatch populations but
27 we're shifting to try and provide the flexibility
28 to the fleets and First Nations to develop
29 innovative solutions to access their shares while
30 minimizing the impacts in terms of bycatch, which
31 are species you don't really want to harvest.

32 Q I have a series of questions, and these are
33 shorter topics as we move along, I think you'll be
34 happy to hear. The next-to-last topic area is on
35 the department's consultative processes with the
36 commercial sector. I'd like to begin by
37 introducing some documents. These are, I expect,
38 all documents that are referred to in our Policy
39 and Practice Report and I won't be asking for us
40 to spend much time on them. It's mainly a matter
41 of putting them on the record in a formal way.

42 MR. MARTLAND: Number 44 on the list of exhibits,
43 please. This is one of the new direction papers
44 from June of 2000. I'm sorry. It's Exhibit --
45 Ms. Grant moved the sheet too fast -- number 267.
46 This is already an exhibit, thank you. I think if
47 it's already an exhibit I don't need to do this.

1 But I'll just confirm since I'm partway through.
2 Q This dating to 2000 provides an overview of the
3 advisory arrangements that were then in place, as
4 well as looking forward to proposed changes or
5 improvements?

6 A That's correct.

7 Q The next document, number 45 on our list, there
8 was a process that led to change in terms of
9 consultative processes and in shorthand, it's
10 referred to by way of the group that put it
11 together, the University of Victoria IDR, or
12 Institute for Dispute Resolution, then Professor
13 Steven Owen was involved initially in this
14 process, I understand. Is that the report?

15 A That's my understanding. Both of those two
16 exhibits are background to some of the current
17 consultation processes we have in place.

18 MR. MARTLAND: If that could please be marked as an
19 exhibit?

20 THE REGISTRAR: Exhibit 473.

21
22 EXHIBIT 473: Independent Review of Improved
23 Decision Making in the Pacific Salmon Fishery
24 - Final Recommendations, May 16, 2001
25

26 MR. MARTLAND:

27 Q Number 46 on our list of documents should be the
28 Terms of Reference for the CSAB, Commercial Salmon
29 Advisory Board. Is that correct?

30 A Yes, it is.

31 MR. MARTLAND: If that could please be marked as an
32 exhibit? And I will return to these things to ask
33 some questions.

34 THE REGISTRAR: Exhibit 474.

35
36 EXHIBIT 474: Commercial Salmon Advisory
37 Board and Area Harvest Committee TOR
38

39 MR. MARTLAND:

40 Q And to not leave out other processes or terms of
41 reference, I have two others. Number 47. I don't
42 know that I need to have you identify this. I'll
43 just point out, though, number 47 in our list is
44 already Exhibit 342. That should be the IHPC
45 Terms of Reference. Is that correct, Mr. Grout?

46 A Yes, it is.

47 Q I think, last, for this part of my questions,

1 number 48 on our list, will be the Terms of
2 Reference for the Allocation Implementation
3 Committee.

4 A That's correct.

5 Q Before I ask you about some of those particular
6 bodies, at a general level, I'd like to ask for
7 your view on the effectiveness of the processes
8 for consulting with the commercial sector.

9 THE COMMISSIONER: What is the exhibit number for the
10 Terms of Reference, the last one?

11 MR. MARTLAND: I'm sorry?

12 THE COMMISSIONER: The Terms of Reference for this last
13 exhibit...?

14 THE REGISTRAR: Number 48?

15 MR. MARTLAND: I have not marked it. I'm sorry. I've
16 overlooked that. If that could please be marked
17 as an exhibit?

18 THE REGISTRAR: Number 475.

19 MR. MARTLAND: Thank you.

20

21 EXHIBIT 475: TOR Recreation-Commercial
22 Salmon Allocation Implementation Committee
23

24 MR. MARTLAND:

25 Q My question was, in a general level, if you could
26 comment on the effectiveness of these different
27 processes for having consultations and input from
28 the commercial sector.

29 A Well, in terms of the Commercial Salmon Advisory
30 Board and Area Harvest Committee Terms of
31 Reference, I think the structure of the Area
32 Harvest Committees are designed to fit with the H
33 Area commercial salmon fleets. Their
34 representatives are drawn from those. They're
35 elected using a secret ballot process so it's an
36 elected representative process. On the area
37 harvest committees, they operate by majority on
38 the committee. At the Commercial Salmon Advisory
39 Board level, we're drawing in representatives from
40 each of those harvest committees and then also
41 from processors, the union and the Native
42 Brotherhood of B.C., at least when they are
43 participating, as well as an *ex officio* role for
44 the province.

45 In terms of the operation of the committee, I
46 think from a departmental point of view, it's been
47 effective for getting feedback on issues from the

1 Commercial Salmon Advisory Board. I think at the
2 Board level itself, they've been challenged around
3 coming to consensus on some of the more
4 controversial issues, which is one of the
5 requirements in their mandate. And so I think
6 that, in particular, has been a challenge for the
7 committee.

8 Q Indeed, some frame that as a concern that because
9 of a requirement for unrealistic or unachievable
10 consensus, it can result in a paralysis that
11 nothing ever gets done. Could you comment on
12 that?

13 A Well, I think consensus is a pretty powerful tool
14 when the group can reach consensus either because
15 everyone is fully on-side or at least can accept
16 what's been proposed and not oppose it. The
17 challenge is, as you state. When you have a more
18 challenging issue that divides the committee, it
19 can be a real challenge reaching consensus on the
20 issue.

21 Q And I won't go back to the SCORE report but this
22 certainly seems to be an area fraught with the
23 likelihood of disagreement; is that fair?

24 A So is your question specifically about the SCORE
25 report?

26 Q No. I'm using that as an example of a description
27 of the extent of a lack of unanimity. Is it not
28 fair to say consensus will be very hard or if not
29 impossible to achieve on most issues?

30 A Well, on some issues there has been consensus
31 received from the Commercial Salmon Advisory
32 Board. Licence fee relief springs to mind from a
33 couple of years ago. There was agreement on that.
34 There was even agreement to support that at the
35 Integrated Harvest Planning Committee. But on
36 other issues, you're correct, it's more
37 challenging to reach consensus. Share base
38 management approaches outlined in the SCORE
39 report. I think there's two clear groups that
40 were identified there but there are elements of
41 what they were discussing that they could all
42 agree on.

43 Q Another complaint that is sometimes put forward in
44 relation to these consultative processes is that
45 they consume too much time and effort and we've
46 heard it put that this takes salmon managers out
47 of the business of "just making decisions" or

1 "just doing their job and managing". Could you
2 respond to that criticism?

3 A Well, I think there's a fine balance there because
4 if you aren't engaged in these processes and you
5 don't have discussions in an open and transparent
6 way, you risk losing some of the accountability
7 that the process were intended to bring into play.
8 So they were trying to keep these processes
9 effective and efficient and we continue to discuss
10 with these committees ways that we can improve
11 what we're doing but I think there's a balance
12 there.

13 If you go too far one way and there's no
14 consultation at all, I think that takes you back a
15 number of years to times when people were
16 complaining about the lack of transparency in the
17 decision making, lack of input on some of the
18 decisions that were made. The department's moving
19 much more in the direction of harvesters and
20 others having an increased role in how we manage
21 the resource.

22 Q In the last day or two, we've heard some people
23 express concern about the lack of funding and I
24 take it there may be funding for the CSAB process,
25 for example, that may cover expenses but not
26 remunerating people for their time and work?

27 A We're certainly not paying anybody in our advisory
28 processes for their time so nobody's receiving an
29 honoraria for coming. I know there's specific
30 budgets for the Sport Fishing Advisory Board to
31 carry on their work. The department does support
32 some of the Commercial Salmon Advisory Board's
33 work. We do provide for travel to the Integrated
34 Harvest Planning Committee meeting and we have
35 picked up some of the expenses around meeting
36 rooms and teleconference lines as part of the
37 operation of the Board itself.

38 Q Does the lack of funding impede the effectiveness
39 of the process?

40 A Well, it's been something we've been working
41 around. I think it's been a complaint at times
42 from the Commercial Salmon Advisory Board that
43 it's difficult for some of their representatives
44 to travel to some of the meetings and participate
45 that way. In those cases, we've used
46 teleconference lines and other ways to try and
47 keep the lines of communication open.

- 1 Q And I'm sounding like a long list of one
2 complaints. I think I just have one last thing
3 I'd like to ask you about. We've heard the
4 complaint that area harvest committees are not
5 provided the mailing list of licence holders,
6 rather than that sort of contact has to go through
7 the DFO; is that true?
- 8 A Well, the contact information of our licence
9 holders is not public information. It's held by
10 our licensing unit. When harvest committees want
11 to get in touch with their licence holders through
12 a mail out, then they would work through the
13 department to get a mail out sent out to the
14 membership and that can be done through a bonded
15 mailing house or such to get the mail out done.
- 16 Q And am I right that that's a complaint that you
17 sometimes hear from some at least that they wish
18 they could contact, whether they use the term,
19 their "members" but to contact licence holders
20 directly?
- 21 A Well, I think it's been a challenge for some of
22 the area harvest committees to stay in regular
23 communication with some of their members. The way
24 that some of the groups have worked around this is
25 setting up an association. So for example, I can
26 use Area F, the Northern Troll, as work through
27 the department to send out an application to
28 become part of the association. And they can
29 provide an opportunity for people to provide their
30 contact information, as well as other things
31 related to the association's business in the mail
32 outs. So that's one route that people have gone
33 is set something like that up.
- 34 Q And does the department approve of the content of
35 mail out to the licence holders?
- 36 A We do look at the material that's going out. It's
37 submitted to the department for review before it's
38 sent out.
- 39 Q Review and approval, I presume?
- 40 A Yes.
- 41 Q Why is that?
- 42 A Well, we're making sure that the licence holder's
43 privacy is being respected and that the work being
44 done is related to the business of the fishery.
- 45 Q Mr. Grout, I'm almost all the way through my
46 questions. My last few questions deal with the
47 conditions that apply to commercial salmon

1 licences. And if I can ask you this as the first
2 question. Is it fair to say that the conditions
3 are really where management decisions are put into
4 effect in the main? The management decisions for
5 a particular area will, not all of them, but in
6 large measure be set out in the licence
7 conditions?

8 A In managing our commercial fisheries, we're using
9 a couple of tools. The licence conditions you
10 refer to set out a number of parameters related to
11 the operation of the vessel and other requirements
12 associated with the fishery. For example,
13 maintaining a harvest log, requirements around
14 species, harvest limits. We also are using
15 variation orders when we open the fishery to set
16 other constraints on the fishing activity.

17 Q How are the conditions of licence developed?

18 A We use a licence condition working group in the
19 department where we meet in the spring each year
20 to discuss specific issues around the licence
21 conditions for salmon. And we have
22 representatives there from fisheries management,
23 the area managers for the fleets, our regulations
24 unit, somebody from licensing and conservation and
25 protection. So we use a working group process to
26 review any changes we're contemplating for the
27 coming year. We've also used this group to
28 implement and discuss specific provisions related
29 to our demonstration fisheries that go into our
30 licence conditions as well.

31 Q You alluded to variation orders. Is that the main
32 vehicle for affecting a change mid-season or in-
33 season?

34 A As I stated before, the commercial fishery is
35 closed unless it's opened by variation order. We
36 use the variation order to open the specific areas
37 where fishing is going to be allowed, set the
38 times for the fisheries, species that may be
39 retained in the opening.

40 Q At a general level, how much change would there be
41 from one year to the next with the commercial
42 salmon licence conditions?

43 A Well, we have some changes that you might say are
44 incremental from one year to the next but we've
45 increasingly been requiring additional actions
46 around catch monitoring and reporting of catch.
47 So we've added conditions. For example, last

1 year, we added conditions for the southern net
2 fleets, so this would be the gillnet and seine
3 fleets, to hail out when they're going out when
4 they're going out to start fishing, which wasn't a
5 requirement before. It gives an opportunity for
6 compliance and auditing of submission of logbook
7 information later on.

8 Or even if some of our enforcement staff or
9 observers are on the water they can identify boats
10 that haven't hailed out that should have out on
11 the water. The licence conditions have also been
12 very important for implementing our demonstration
13 fisheries. So when you look at licence conditions
14 for fleets that have a demonstration fishery,
15 we've made specific provisions in there for the
16 amounts of fish they're allowed to harvest, as
17 well as the catch monitoring that goes with
18 implementing that demonstration fishery. And if
19 it's of interest, I can show you the specific
20 provisions of those.

21 Q I don't think I'll go to that level of detail.
22 What I would like to do as my last question on
23 this area about licence conditions is this. Our
24 Policy and Practice Report appended a set of
25 sample licence conditions. We now have three
26 different sets of licence conditions for the
27 2010/2011 season for the southern salmon fleets,
28 at least there of them. So I'd like to begin with
29 number 49 on the list of exhibits. If I can lead
30 you and just confirm that -- I hope what comes on
31 the screen is the 2010/2011 licence conditions for
32 the Area B seine?

33 A That's correct.

34 MR. MARTLAND: If that could be marked as the next
35 exhibit, please?

36 THE REGISTRAR: Exhibit 476.

37
38 EXHIBIT 476: Conditions of 2010-2011 Salmon
39 Area B (Seine) Licence
40

41 MR. MARTLAND:

42 Q And to ensure that we're not missing comparators,
43 number 50 on the list should be the equivalent
44 document for Area E gillnet; is that correct?

45 MR. GROUT: Yes, it is.

46 MR. MARTLAND: If I could ask that be marked, please?

47 THE REGISTRAR: Exhibit 477.

JEFF GROUT

In chief by Mr. Martland

Questions by the Commissioner

1 EXHIBIT 477: Conditions of 2010-2011 Salmon
2 Area E (Gill Net) Licence
3

4 MR. MARTLAND:

5 Q And finally, number 51 on our list should be Area
6 H Troll; is that correct?

7 A That's right.

8 MR. MARTLAND: If I could mark that, please?

9 THE REGISTRAR: 478.

10

11 EXHIBIT 478: Conditions of 2010-2011 Salmon
12 Area H (Troll) Licence
13

14 MR. MARTLAND:

15 Q My last question, Mr. Grout, is here and there
16 I've asked you for your views on the Policy and
17 Practice Report and whether there's particular
18 things you wish to draw to our attention. Are
19 there further points you'd like to raise or
20 clarifications or corrections to the PPR that
21 you'd like to take us to?

22 A There may be some specific points that I've
23 discussed with my counsel but it might be easier
24 if I let them walk me through it later.

25 MR. MARTLAND: That sounds just fine. Why don't we
26 leave that and they can cover off anything if
27 there's further points? I have no further
28 questions. Thank you, Mr. Commissioner.

29 THE COMMISSIONER: Mr. Martland, I just have a couple
30 of quick questions just before Mr. Timberg, who I
31 believe is next. A moment ago, Mr. Grout, you
32 said that the DFO was moving more in the direction
33 of harvesters having an increased role in the
34 management of the resource. In the document at
35 Tab 27, I've forgotten the exhibit number, sir,
36 and I apologize. I think you have it in your
37 binder.

38 MR. MARTLAND: Yes, it's on the screen.

39

40 QUESTIONS BY THE COMMISSIONER:

41

42 Q If we could just to page 22 first of that
43 document? And I appreciate that you were not
44 specifically the author of this document but I
45 just wanted to ask you a couple of quick
46 questions. Just taking that statement you made a
47 moment ago and just trying to put it into context,

1 under the topic of "Addressing Conservation", it
2 talks about the Wild Salmon Policy and some of its
3 objectives to be met. And then the last sentence
4 says:
5

6 These changes have the potential to intensify
7 the already significant conflict within the
8 salmon fisheries unless specific fisheries
9 reform is implemented on an urgent basis.

10
11 Can you enlighten me as to what was meant by that
12 statement?

13 A Well, I can do my best to do that. Mr. Kadowaki
14 did talk with me at lunch and I did clarify that
15 himself and Mr. Sandy Fraser had the leading roles
16 in the development of this document. I think
17 what's referring here in terms of addressing
18 conservation is a move to, both with SARA and the
19 Wild Salmon Policy, for increased efforts to
20 protect conservation units. And that's going to
21 drive the need for changes in how the fish are
22 harvested or where. And one of the elements of
23 Pacific Fisheries Reform was providing the fleets
24 the opportunity to self-adjust to address some of
25 those changes that are coming.

26 So one of the linkages I was trying to make,
27 and perhaps clumsily, was there with share based
28 management it provides an opportunity for the
29 fleets to take charge of the situation themselves.
30 They've got a fixed share that they're working
31 towards and they can find the most effective way
32 to do that. Where specific fleets may not be able
33 to harvest that share, there may be opportunities
34 for them to move it to others that can also
35 harvest it, either more selectively in another
36 commercial gear or in another area or perhaps in
37 an inland area. So really, the paper is trying to
38 outline a vision for some of these things that
39 might be able to assist with the implementation,
40 especially of improving the conservation of the
41 resource.

42 Q And just on page 24, and again just in the context
43 of an answer you gave to Mr. Martland a few
44 moments ago, I apologize if I've got this wrong,
45 but I think your answer was that none of the folks
46 who are involved in the CSAB, they volunteer their
47 time; they're not paid an honorarium, they're not

1 paid any sort of stipend for attending meetings,
2 as I understood your answer?

3 A That's correct. Nor do we pay a stipend to the
4 recreational or First Nation or Marine
5 Conservation Caucus members that attend our
6 processes.

7 Q Okay. So just in that context, on page 24 under
8 "Co-management", there is a discussion that about
9 co-management, and then I think if I can take you
10 to the last sentence it says:

11
12 Pacific Fisheries Reform will have to address
13 cost sharing in the salmon fishery in a
14 significant way if a sustainable management
15 system is to emerge.

16
17 And again, if you can, enlighten me on what is
18 meant by that sentence.

19 A Well, I think one of the elements here is that a
20 commercial fishery, in particular, deriving income
21 from the resource, we're looking for ways for them
22 to become increasingly responsible for carrying
23 some of the costs. So for example, in a share
24 based management system where we're specifying a
25 defined share that's being harvested, we're also
26 looking for the increased accountability that
27 would go with that. So we're providing some
28 flexibility around the harvesting of that share,
29 as long as the accountability mechanism is in
30 place so you're not exceeding that share, for
31 example. So some of the cost would be around
32 additional monitoring and validation of the catch,
33 for example.

34 Q And when you talk about co-management in that
35 topic, are you talking about some sort of
36 formalized management scheme? I'm still not clear
37 as to what is meant by co-management under that
38 particular -- you may not be able to enlighten me
39 on this because it's not your document but...

40 A I think to go back a little bit. The discussion
41 paper is intended to outline a vision for where we
42 might go in the future and lay out some of the
43 ways we might get there. We're looking at an
44 increased role in co-management but it hasn't laid
45 out the specific framework for how that will
46 occur. Some of the other exhibits with the white
47 paper, for example, are trying to further describe

1 what these things might look like. But as I
2 stated, they're still in a draft stage at this
3 point.

4 THE COMMISSIONER: Thank you.

5 MR. TIMBERG: For the record, Mr. Timberg,
6 T-i-m-b-e-r-g, for Canada, and with me is my
7 colleague, Geneva Grande-McNeill. Mr.
8 Commissioner, I've got three lines of questioning
9 I shall just set out for you. I prepared sort of
10 an overview of the commercial fishery, which I'll
11 take Mr. Grout through in order to help explain
12 the commercial fishery with input controls and
13 output controls to try and give a bit of a
14 historical chronology as to where we are today.
15 I'll endeavour not to overlap with what Mr.
16 Martland has done this morning. I'll then ask Mr.
17 Grout some questions that arose yesterday from the
18 commercial panel. And then finally, I've got a
19 few questions to follow up on Mr. Martland's
20 questions from this morning and earlier this
21 afternoon.

22
23 CROSS-EXAMINATION BY MR. TIMBERG:

24
25 Q So the first portion is, if we could turn to the
26 PPR-6, please? And if we could then turn within
27 that to paragraph 62, 64 and 65? And Mr. Grout,
28 this is a section on the minister's authority.
29 And Mr. Grout, did you want to clarify this
30 section of the PPR to clarify the statements here
31 with respect to the allocations?

32 A Just one point I thought it was important to make
33 clear, particularly as it relates to setting the
34 limits to fish numbers or amounts of fish to be
35 harvested is that when we're dealing with Fraser
36 sockeye, for example, where the TAC can change
37 quickly, we're specifying conditions that set out
38 a share of the resource in terms of a percentage
39 and not necessarily a fixed *quantum* of fish. So
40 maybe it's a relatively minor clarification but
41 that was the point I was going to make here.

42 Q Okay. And with respect to paragraph 65, you're
43 satisfied with paragraph 65, Mr. Grout?

44 A Yes.

45 Q Okay. And if we could then turn to paragraph 169,
46 please? And with respect to this paragraph 169,
47 do you have any comments with respect to this list

1 of implications that flow from share based
2 management? Is that a complete list or are there
3 other implications that perhaps should be listed
4 there?

5 A I think the list is a partial list of some of the
6 issues around share based management. There may
7 be other things. I think relating back to Mr.
8 Commissioner's question this morning about the
9 provisions of the Allocation Policy, I think
10 that's accurate. The Pacific Fisheries Reform is
11 setting out a vision for moving forward consistent
12 with the Allocation Policy for salmon that remains
13 in effect.

14 Q Okay. And if we could turn to paragraph 172 and
15 this comment about the mixed support from the
16 fleets with respect to share based management. Do
17 you have anything further to comment there?

18 A We didn't go into a lot of detail this morning but
19 one of the challenges with share based management
20 has been looking at the wishes of the licence
21 holders and how they would like to proceed on an
22 individual basis and then providing that
23 information to area harvest committee members and
24 to the department to get their views on what they
25 would like to do based on information they've got
26 from their licence holders. And to try and shed
27 some more light on that particular issue, the
28 department did circulate a survey in the fall of
29 2008. It was the second of the two surveys I
30 referred to this morning. The first one was on a
31 specific project for Area B, D and H. The second
32 survey, we did ask all of the licence holders in
33 each of the areas what their views were in terms
34 of moving ahead with share based management in --

35 Q And that's the SCORE report you're talking about?

36 A No, it's not.

37 Q Okay.

38 A There is a summary that I've seen of the results
39 from the survey results and it's a specific
40 question. And I'm going from the top of my head
41 but it's something along the lines of, "Are you in
42 favour of your harvest committee working with the
43 department to develop share based management
44 approaches for", and then it had a list of
45 different species for each of the commercial
46 areas.

47 Q So perhaps we should go to that exhibit right now.

1 Let me just find that.

2 A I think the results were shown in one of the
3 PowerPoint decks this morning.

4 MR. MARTLAND: And to assist, that's the Ops Committee
5 presentation at Tab 29 of our list. I'll try and
6 also give you an exhibit number.

7 MR. TIMBERG: Yes, I have it here, thank you.

8 MR. MARTLAND: Thank you. Should be page 10 of that.

9 MR. TIMBERG: So this was entered as Exhibit 468 this
10 morning.

11 Q So Mr. Grout, perhaps you can take us to the
12 results of the survey.

13 A So these results, I think I explained the general
14 categories this morning but in terms of what this
15 means, in the second column, we have "area" in the
16 first column and then "percentage support for
17 demonstrations" in the second column. And what
18 you can see is the level of support varies among
19 the fleets. You can see the two seine fleets,
20 Area A and B, are strongly in favour of developing
21 demonstration fisheries. The three gillnet
22 fleets, Area C is the northern gillnet fleet, and
23 then D and E are the fleets in the south. You can
24 see Area C is clearly, when you look at the
25 licence holders, not in favour of moving ahead.
26 Area D has got a range but less than 50 percent.
27 Area E is, depending in the species, in the 47 to
28 53 percent range and I think there were slim
29 majorities in favour for sockeye and chinook, if I
30 remember on that one in particular. Area F, we
31 didn't survey them again for their chinook ITQ
32 fishery, but for other species, split. Area G,
33 again, a split of above and below the 50 percent
34 mark. And then H was generally in favour, about
35 two-thirds in favour of proceeding.

36 So what these results do is help to inform
37 the department and the harvest committee of the
38 level of interest for proceeding. It creates
39 challenging circumstances for the harvest
40 committee representatives themselves. If you look
41 at Area E, for example, with the fleet roughly
42 split on the way to proceed, the harvest committee
43 members really need to figure out if they can find
44 a project that will meet the needs of most of
45 their licence holders that they're representing or
46 whether they should not proceed.

47 MR. TIMBERG: So to perhaps help us out, yesterday we

- 1 looked at Exhibit 444, and I'm wondering if we
2 could split the screen, Mr. Lunn. These are the
3 maps that we put to the commercial fisher's
4 licences. And we can perhaps look at this to help
5 us make this real with the witnesses we had before
6 us yesterday.
- 7 Q So Area B, I understand, is Chris Ashton. It's
8 the seine fleet. And 71 percent is in support of
9 it from this survey.
- 10 A Right. So Area B for Fraser sockeye is the areas
11 shown in orange. This fleet, when they're
12 accessing Fraser sockeye, are primarily going to
13 be fishing, at least in recent years, Fraser
14 sockeye have, later in the season, largely come
15 down and diverted through the Johnstone Strait
16 area. So substantial amounts of fishing in Area
17 12 and 13, if I'm seeing those correctly from over
18 here.
- 19 Q That's correct.
- 20 A And then more limited amounts of fishing have
21 occurred in some years in Area 20. I alluded to
22 some of the coho bycatch issues there so there's
23 stronger limits on the fishing that occurs there.
24 And then in recent years, we've also done more
25 work exploring fishing in Area 29 off the mouth of
26 the Fraser River.
- 27 MR. TIMBERG: Okay. And perhaps we can look at the
28 next map, Mr. Lunn, Area D, gillnet.
- 29 Q I understand that that was Ryan McEachern
30 yesterday, the gillnetter, and then Chris Ashton
31 is the executive director.
- 32 A Again, with this fleet, areas shown in orange are
33 part of their fishing area. For Fraser sockeye,
34 they're primarily fishing in Area 12 and 13.
35 They're not accessing these stocks out on the west
36 coast. The areas in orange there are more for
37 terminal opportunities along the west coast of
38 Vancouver Island for other species or stocks.
- 39 MR. TIMBERG: I'd just like to correct the record.
40 Chris Ashton, I'm advised, is not Area D; he's B.
41 So I apologize for that.
- 42 A Should be, yeah, Chris Ashton, B, Ryan McEachern
43 is D.
- 44 MR. TIMBERG: Okay. And then if we could go to the
45 next, Area E gillnet.
- 46 Q So this is the one with the 47/53 percent split.
47 I understand that's Dennis Brown for Area D

- 1 gillnet and also Ryan McEachern. Area E gillnet.
2 A Okay. The area in orange show the fishing area.
3 For Fraser sockeye, the fisheries are primarily
4 occurring off the mouth of the Fraser in 29 and in
5 the Fraser itself below Mission in the tidal
6 portion.
7 Q So perhaps you can comment on how DFO is handling
8 the move towards demonstration fisheries in this
9 area with the split.
10 A Well, I think you can see with a number of these
11 fleets, well, maybe starting with the fleets where
12 there's strong support, we've moved ahead with
13 developing a demonstration with Area B and H for
14 Fraser sockeye. For the other fleets, we've had
15 discussions with the harvest committees about how
16 to do this and you can see it's challenging
17 because there's different points of view and
18 levels of support for doing that. For Area D, we
19 have not moved ahead with a demonstration for
20 Fraser sockeye, nor have we for Area E. We have
21 looked at other arrangements in Area E. For
22 example, a pool fishery arrangement for chinook
23 has been discussed and a framework for doing that
24 was developed to try and implement it in 2009 and
25 '10 but we have not actually done that fishery to
26 date.
27 Q All right. Well, I think that's sufficient.
28 Thank you for your help in clarifying that. And
29 then just to finalize the comments on the PPR, if
30 we could go to paragraph 178. And this is the
31 SCORE Report. And can you just clarify who funded
32 the SCORE Report?
33 A Yeah, when I reviewed the Policy and Practice
34 Report, I did check and it's my understanding that
35 the department and the province jointly funded the
36 work on the report itself. I wasn't able to
37 determine specifically how much, if any, of the
38 funding came from the CSAB for the work.
39 MR. TIMBERG: Thank you. And Mr. Registrar, if we
40 could have Exhibit 444 back up, please?
41 Q So I think you've provided a brief overview of the
42 various fish gear types. And the eight maps are
43 the eight different fleets that you've talked
44 about in your testimony today. There's a map for
45 each fleet; is that correct?
46 A at's correct.
47 Q Okay. And so when we're talking about the

1 different fleets, we really can sort of understand
2 that by looking at these maps?

3 A s, the maps are clearly showing in orange under
4 "Area Base Management" where each of the eight
5 fleets is allowed to fish. So we've got five
6 fleets in the south, which can potentially access
7 Fraser River sockeye, depending on the allocation
8 arrangements. And then three fleets in the north,
9 which are focused on northern socks.

10 MR. TIMBERG: Okay. And Mr. Registrar, if we could
11 then turn to the Area G documents, Tab 5. Sorry.
12 I don't have a CAN number. There was no CAN
13 number for it.

14 Q While that's happening, Mr. Grout, I'm going to be
15 asking you about the number of licence that each
16 fleet has and perhaps you could give a descriptor
17 for the benefit of the Commissioner sort of the
18 size of the relative fleets of each fleet?

19 A Okay.

20 Q And here is the document come up. So perhaps
21 before you answer the question, can you identify
22 this document, please?

23 A This document looks like it's information that's
24 come from the department's website.

25 Q And it provides a list of the fishing licences as
26 of May 2010?

27 A That's correct.

28 MR. TIMBERG: And if this could be marked as the next
29 exhibit, please?

30 THE REGISTRAR: Exhibit 479.

31

32 EXHIBIT 479: Fisheries Management Decision,
33 Pacific Salmon - Areas B D E G H, July 3,
34 2009 [website] - NonRT

35

36 MR. TIMBERG:

37 Q And for the assistance of the Commissioner, can
38 you just review the size of the fleet and how that
39 affects DFO's management?

40 A Okay. Well, for each of the fleets, there are a
41 variable number of licences that are licensed to
42 fish in the area and this is an outcome of area-
43 based licensing that was brought in, in 1996. So
44 we've got in the area of B seine fleet, 168
45 licences that are eligible to attend a fishery
46 opening. We've got 355 licences for the Area D
47 fishing area, 393 in Area E. On the west coast

1 troll fleet, we've got 165 licences. And in the
2 Area H troll fleet, we've got 89.

3 Q And can you explain if these licences are being
4 actively fished or what the status is of these
5 licences in each of the fleet?

6 A When the department is managing a fishery opening
7 and opens a commercial fishery, any commercial
8 licence in each of these areas would be
9 potentially eligible to fish. So if we had an
10 opening for the Area B seine, any one of those 168
11 licences could potentially go out to fish,
12 assuming it was either a competitive opening or,
13 in the case of Fraser sockeye, where we've got
14 quotas in place, if they had quota on their
15 licence remaining, they would be allowed to attend
16 the opening. So you can see for each of these
17 fleets, you can have quite a large number of
18 vessels potentially attend an opening. In
19 practice, we don't see the full number of licences
20 going out and attending an opening. We refer to
21 that as active and inactive licences. So when the
22 fisheries open, we would refer to the licences
23 that are out on the fisheries, the active licences
24 and inactive licences would be ones that are not
25 out harvesting fish.

26 Q All right. And with respect to the three gear
27 types then, we've heard a bit about the different
28 mortality rates associated with the gear types and
29 yesterday we were taken to the south coast IFMP
30 mortality table so we've looked at that. But from
31 a fisheries management perspective can you explain
32 how the different mortality rates is relevant to
33 the management of the fisheries?

34 A Well, the mortality rates are important when
35 dealing with bycatch. So when you have a fishery,
36 for example, that's targeting Fraser River
37 sockeye, there's potential for bycatch of the
38 other species. You might be particularly
39 concerned about coho, for example, or you might be
40 doing a pink fishery where you're concerned about
41 the mortality of sockeye that are bycaught in that
42 fishery. Each of the different gears has a
43 different ability to release fish alive and
44 unharmed. The seine fleet is using a large net
45 and they're circling schools of fish with the net
46 and then pursing the net at the bottom and then
47 dipping the fish out of the larger seine or the

1 pursed seine net with a long-handled net, which is
2 called a brailer, so they're able to sort some of
3 the fish at the water or they can bring them
4 onboard and sort them onboard for the larger
5 catches and release fish alive. And just to
6 complete that, the seine release mortality depends
7 on the species but in the range of 25 percent.
8 We've got the specific ranges outlined in the
9 table. In some areas, for example, in Area 20,
10 the mortality rate is much higher.

11 MR. TIMBERG: Right. So perhaps just for the
12 assistance of the record, that's at Exhibit 445,
13 page 59. And perhaps we'll have it up just so
14 we're being clear.

15 Q This is the table. We have gone through this but
16 I just wanted you the opportunity to explain the
17 relevance to you from a management perspective.

18 A Okay. So the main point I'm making here is that,
19 looking at the 2001 post-release rates, these are
20 intended to identify short-term release mortality
21 so likely to occur within 24 hours of fish being
22 released. I was just going through the seine in
23 the south coast, which is this row, "Commercial
24 Seine South Coast Areas 11 to 29". You can see
25 it's typically 25 percent in most areas for
26 sockeye and the same for coho in Johnstone Strait.
27 We do apply a higher rate in Area 20. Given that
28 that's more of a rearing area for coho, you're
29 more likely to encounter smaller fish that can
30 lose scales and have a lower survival rate.

31 In the troll fishery, they're using poles
32 with lines with numerous hooks and lures on them.
33 They're hooking the fish individually. They can
34 release the fish from the hook either at the water
35 or bring it onboard, release it from there, put it
36 in the recovery box. Ten percent release
37 mortality for sockeye, 15 percent for coho and
38 chinook. So the lowest among the commercial
39 fleets.

40 And then the gillnets, we've got a
41 rectangular net that's hanging in the water. The
42 fish are swimming in and being gilled, some
43 suffocation occurring and potentially the fish
44 being killed before they're brought into the
45 board. We typically use a 60 percent mortality
46 rate, although we've used lower rates in cases
47 where provisions are in place for shorter nets

1 perhaps or shorter set times or soak times where
2 the fish are more likely to be brought onboard
3 alive.

4 So that's the breakdown in terms of the
5 release mortality rates.

6 Q Right. And are you aware of any work that's
7 ongoing with respect to post-mortality release
8 rates and long-term survival of the fish after
9 they've been released?

10 A One of the concerns that come up is that a lot of
11 the selective fishing work that was done in
12 2000/2001, that sort of timeframe, was looking at
13 fish that were captured, tagged and then put into
14 a holding pen and then assessed after 24 hours.
15 It gave you a sense of the short-term survival
16 rate and even immediate mortalities potentially.
17 What it didn't tell you is once you let those fish
18 go out of those net pens what might happen to
19 them. Are they compromised in some way or do they
20 swim away and survive? There's been some work
21 that's been funded by NSERC and I'm going to
22 struggle with that acronym. It's a funding agency
23 that provides money to researchers. It's a
24 strategic grant. I think it's National Science
25 Engineering Research Council.

26 I might have some of the words off but
27 they've provided funding to some researchers from
28 the department, from UBC, Dr. Scott Hinch is the
29 lead there and Dr. Stephen Cook. They're doing
30 some new work looking at salmon migration and
31 post-release mortalities under a variety of
32 different conditions. They're using acoustic and
33 radio tags to track the fish for longer time
34 periods after they're released up to the spawning
35 grounds. So they just recently provided an update
36 to the department and a number of people that have
37 been involved in this work in January or February
38 and they're finding a number of factors can affect
39 the release mortality of the species, including
40 things like whether the fish was lifted out of the
41 water and out of the water for some period of time
42 before it was released, what the water temperature
43 of the Fraser River was when the fish was
44 released. So they're able to look at a lot of
45 additional variables that we didn't look at in
46 some of those earlier studies. So some of that
47 work may help us to refine some of these factors

- 1 we're using for release mortality in this table.
2 Q Okay. That's very helpful. And so just to try to
3 make sure we're all on the same page here,
4 historically, the commercial salmon fishery was
5 entirely a competitive fishery or a derby fishery?
6 And I'm going back, let's say, to the 1960s?
7 A That's correct.
8 Q And then DFO started to implement share based
9 fisheries using scientific licences in
10 approximately 2005/2007?
11 A Well, we're leaving a lot of things out there but
12 there's been a progression from the department
13 managing fisheries and looking at various
14 different ways to try and control the effort in
15 the fisheries in response to declines in abundance
16 in some cases. Area-based licensing was one of
17 the --
18 Q Okay. Sorry. I will get to my questions about
19 input at the evolution of input controls. I'm
20 just trying to clarify the process with respect to
21 the movement towards the share based fisheries
22 just in the last ten years and then I'll jump back
23 in time, if that's okay?
24 A Okay. In terms of share based management, we've
25 had some small projects with Area H, one of which
26 started -- we had a review of the fishery, I
27 believe 2002 or 2003 was the date on that exhibit.
28 Primarily, though, we've been looking at
29 demonstrations as a result of the Pacific
30 Fisheries Reform post-2005 or beginning of 2005.
31 Q All right. And then initially for a couple of
32 years when DFO was using the scientific licences,
33 you didn't have the policy of working only with a
34 willing fleet. So for approximately two years,
35 DFO was implementing share based management
36 without that requirement of a willing fleet.
37 A In 2005/6/7, we were using scientific licences as
38 a way to provide an opportunity to test share
39 based management for those vessels that were
40 interested in that while also having derby
41 competitive fisheries in the same gear type at the
42 same time. So for Area F, for example, in the
43 northern troll, we had some number of vessels that
44 remained in the derby fishery fishing for their
45 share or proportion of the total allowable catch.
46 The remainder of the vessels were in the quote-
47 style fishery where they each had an equal share

82
Jeff Grout
Cross-exam by Mr. Timberg (CAN)

1 of their proportion of the harvest using a
2 scientific licence.

3 Q Okay. And then DFO has since moved to --
4 THE COMMISSIONER: Sorry. I wonder if we could take
5 the break at this point?

6 MR. TIMBERG: Oh, I apologize, Mr. Commissioner, yeah.

7 THE REGISTRAR: The hearing will now recess for 15
8 minutes.

9

10 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

11 (PROCEEDINGS RECONVENED)

12

13 CROSS-EXAMINATION BY MR. TIMBERG, continuing:

14

15 Q So, Mr. Grout, just perhaps you could describe
16 what is the present status of the move towards
17 implementing share-based fisheries at DFO? How
18 would you describe the present status?

19 A I think the most accurate way to describe it is a
20 work in progress. And we're still working to
21 develop demonstration fisheries to further explore
22 the implications and issues associated with
23 implementing share-based management types of
24 approaches.

25 Q All right. Thank you. So now going back in time,
26 I'd like you to perhaps describe a bit of the
27 evolution of how we got to where we are today. So
28 my first question is a big round question. What's
29 the outcome you want to achieve when managing a
30 fishery?

31 A Well, one of the primary outcomes we're looking at
32 managing to is clearly our top priority, I guess,
33 is conservation of populations. We're also
34 looking at delivering priority for food, social
35 and ceremonial fisheries and then applying our
36 harvest sharing arrangements according to the
37 allocation policy.

38 And one of the key ways we do that is in
39 managing to specific harvest levels. We -- I'll
40 maybe just add, we also in some cases - so that
41 would be for target stocks, we also are looking at
42 managing to meet objectives for any bycatch that
43 might occur and bycatch is referred to species
44 that are unintended consequences of the fishing
45 activity.

46 Q All right. And for clarity, the allocation policy
47 is certainly still in effect?

February 23, 2011

1 A That's correct.

2 Q And except for this movement to modernize it or to
3 look at it again with funds that you spoke about
4 this morning coming from the Pacific Salmon
5 Treaty?

6 A There's a specific focus with that funding from
7 the Pacific Salmon Treaty Mitigation Fund to look
8 at the modernizing the commercial salmon
9 allocation framework, so the intrasectoral
10 allocation arrangements in the commercial fleet.

11 Q Thank you for your precise answer on that. Thank
12 you.

13 So perhaps you could describe how DFO
14 traditionally used what I understand are called
15 input controls to constrain fishing effort and so
16 for the assistance of the commissioner, you could
17 describe through the evolution of the various
18 tools, starting off with these input controls.

19 A Input controls refer to a variety of measures that
20 can be used to control the amount of fishing power
21 that's harvesting the resource. Typically, we've
22 in managing to try and achieve a specific catch
23 level, the department has relied on controls
24 starting with the total number of vessels that can
25 participate in the fishery, so we have those
26 organized in various -- the eight commercial
27 fishing areas. We've divided the coast into north
28 and south, so only the southern fleets, for
29 example, can access Fraser sockeye.

30 Q So that would be perhaps limited entry as limiting
31 the number of licenses and then area licensing as
32 the second --

33 A That's correct. Those are two factors. We then
34 would look at specific gears that might be
35 permitted to be used, length of net for example,
36 and the amounts of fishing time is one of the
37 other key parameters. When the fisheries open --
38 we call these input controls because we try and
39 set all the constraints for the fishery and
40 looking at historical relationships between when
41 we use those sorts of inputs in the past, we can
42 try and assess roughly how many fish might be
43 caught. It's -- it can be imprecise, especially
44 when you're trying to harvest a small number of
45 fish, and you don't always achieve the exact
46 amount of catch you're hoping to.

47 Q Perhaps you could give the commissioner an example

1 of a derby-style fishery using just input
2 controls.

3 A Well, for Fraser sockeye, all of our southern
4 commercial fleets were derby fisheries at one
5 point. In terms of relative catching power in the
6 fleets, when the fleet fisheries are open, the
7 seine fleet in the past had the ability to catch
8 the most fish per unit of time, followed by the
9 gillnet fleet and then by the troll. So usually
10 you would see the least amount of time provided
11 for Area B. Depending on certain conditions, Area
12 E in the Fraser River could also catch a lot of
13 fish, 'cause the fish are quite concentrated
14 there. Area D less so because the fish are more
15 spread out in Johnstone Strait and then the troll
16 fishery tends to be a slower fishery for sockeye.

17 In terms of my point about managing to a
18 small amount of TAC, I'm not intending to pick on
19 one particular fleet here - it's just an example -
20 but we had a case in 2002 where we were trying to
21 access a small harvest share for the Area E
22 gillnetters in the Fraser and the amount was about
23 30,000 pieces. And if you can imagine for
24 managers trying to do that with a fishery where
25 you control the inputs and 393 licences can
26 potentially show up, in reality somewhere in the
27 200 to 300 range usually do. It's very
28 challenging to try and design a fishery to catch
29 that small quantum of fish, especially when
30 everyone can go out and fish for as much as they
31 can take when the fisheries open.

32 So in that case we had the fleet use half-
33 length nets. They're usually using 200 fathoms.
34 In this case, we knocked it down to a hundred and
35 we tried to set the time of day when the fishing
36 occurred. And we also limited it down to three
37 hours. And typically this fleet might get an
38 opening for 12 to 24 hours or longer.

39 In this particular case, we caught roughly
40 45,000 fish, so it was quite difficult to actually
41 determine what you'd get on -- towards 30,000. In
42 a subsequent opening in that same year, again we
43 used the parameters of the inputs around the half-
44 length net, a three-hour opening. We also further
45 restricted some of the fishing areas. We had a
46 few more fish to catch in that opening, around
47 50,000 and in that particular case, we came much

1 closer to the 50,000 target with the catch being
2 there, but there's a little bit of art, as well as
3 science in terms of setting the inputs in trying
4 to achieve the outcome when you're using that sort
5 of approach.

6 Q And tension there is the input controls that DFO
7 sets and on the other side, the right to catch as
8 much as you can within the opening; that's the
9 tension there?

10 A That's correct.

11 Q So perhaps for the assistance of the commissioner,
12 you can describe are there any more benefits or
13 problems that we need to know about about input
14 controls before we move on?

15 A Well, I mean, in terms of benefits for that sort
16 of approach, if you're a good fisherman, it gives
17 you a good opportunity to compete and achieve good
18 catches, often at the expense of some of those in
19 the fleet or perhaps even you're accessing some of
20 the share that one of the inactive boats might
21 have otherwise taken. But it's certainly an
22 opportunity for the good fisherman to do well.

23 In terms of other benefits, the openings tend
24 to be shorter for those sorts of fisheries, so in
25 terms of the monitoring of the fishery with the
26 on-water patrols and the enforcement activity, you
27 can have less of that required for those openings
28 if they're of shorter duration.

29 Q Right.

30 A So there may be less inputs required there. On
31 the down side you're not as precise at achieving a
32 specific catch outcome. If you're unlucky enough
33 to break down just as the opening is about to
34 start, you're out of luck. You may not catch any
35 fish at all that day. So there are some down
36 sides.

37 MR. TIMBERG: All right. And perhaps we could then
38 turn, Mr. Registrar, to Tab 6 in Canada's list of
39 documents. It's a PowerPoint CAN045930.

40 Q And Mr. Grout, can you identify this document?

41 A This is a document that Mr. Ron Kadowaki, who is
42 our Director of Pacific Fishery Reform, put
43 together. It was meant to be a companion piece to
44 the discussion paper that was identified earlier
45 at Tab 27 in the commission's documents there.

46 Q This goes with the discussion paper on the
47 implementation of Pacific fisheries that we spoke

1 about earlier?

2 A That's correct. It was intended to be used as a
3 consultation piece that Mr. Kadowaki then did take
4 to a number of consultation meetings that were
5 held throughout fishing communities around the
6 province to solicit views and feedback.

7 Q All right. And perhaps we should look at the
8 content of this. Page 9, if we could perhaps just
9 flip through it together, talks --

10 MR. LUNN: Do you want me to scroll through it?

11 MR. TIMBERG: Yes, please.

12 Q I'm going to end up on page 9, but if there's
13 something that you feel is of particular
14 relevance, Mr. Grout, let us know.

15 A It might be worth starting on page 8. There's a
16 number of key themes there that are identified as
17 part of moving ahead with Pacific fisheries
18 reform. These tie in with sustaining strong
19 salmon populations, clear conservation objectives
20 and it refers to the Wild Salmon Policy. We had
21 the **Species at Risk Act** as well, which is also one
22 of the drivers here.

23 We've also got as the second theme
24 strengthening the department's programs that are
25 critical around conservation, habitat protection,
26 enforcement and the assessment of stocks. And a
27 number of the pieces around those issues are also
28 identified in the Wild Salmon Policy. We're also
29 looking to make progress on increasing First
30 Nations access to economic fisheries as part of
31 treaty processes, as well as providing increased
32 shares through other programs, for example, the
33 Pacific Integrated Commercial Fisheries
34 Initiative, which came along after this. And then
35 one of the key ones was improving the economic
36 performance of the fisheries to make them reach
37 their full potential, provide certainty,
38 especially around harvest shares, and try to
39 optimize harvest opportunities.

40 Q All right. And then on the next page, page 9, the
41 fourth -- so the following measures will be
42 implemented in 2005, and so this is, again, tying
43 in the Wild Salmon Policy. And can you describe
44 the fourth bullet there, what that means:

45
46 Implement interim steps to enhance First
47 Nations commercial access.

- 1
2 A This was looking at -- one of the things we
3 started to look at here was providing access to
4 demonstration fisheries, inland demonstration
5 fisheries. In the early days these fisheries were
6 primarily supported with licences in the
7 department's inventory from the Allocation
8 Transfer Program. Those shares were bolstered
9 later on with additional capacity or licences that
10 came from the -- licences purchased through the
11 PICFI program, as well.
- 12 Q And what's the next line there:
13
14 Design and introduce a building blocks for
15 reform.
16
17 What's your understanding of what that direction
18 was for?
- 19 A This is relating to key elements needed around
20 providing certainty as to what the various
21 different fisheries are catching, various other
22 changes that would need to be made to support the
23 move towards the vision outlined in the Pacific
24 fishery reform.
- 25 Q All right. And so these are some of the key
26 building blocks at DFO's direction?
- 27 A Yeah. I'd maybe point to one other one here, is
28 the consultation with the Commercial Salmon
29 Advisory Board on approaches to clarifying and
30 confirming fleet shares alludes to work that was
31 outlined and summarized in the SCORE report, as
32 well.
- 33 Q All right. Thank you. We've heard about the
34 concept of self-adjustment and more flexible
35 commercial fishery. Can you explain what's meant
36 by those ideas?
- 37 A Really, the intention there is to provide an
38 opportunity for the fleets to adjust themselves to
39 changing circumstances, be they conservation or
40 otherwise. It's looking forward to share-based
41 approaches where shares can be defined in the --
42 at the individual licence level or perhaps at
43 pools of licences. The licence-holders would then
44 have the tools they need to adjust those shares,
45 perhaps by increasing or shrinking the size of the
46 pools they're in, or perhaps through quota
47 arrangements where they're transferring shares

1 between each other such that in cases when you
2 have, for example, a small TAC and it's not
3 profitable perhaps to go out and access that, you
4 might acquire the share from some other vessels to
5 make that worthwhile.

6 It's really providing the tools for the
7 fleets to allow them to make those adjustments on
8 their own.

9 Q All right. So at this point perhaps you could
10 assist us with a description of what the term
11 "output controls" is and some examples, perhaps?

12 A The output controls are often referred to in
13 tandem with input controls. Whereas input
14 controls I described earlier are controlling a
15 variety of factors controlling fishing effort with
16 the outcome of achieving a specific catch, output
17 controls go at that in a more direct way and says
18 given that this is our catch that we're trying to
19 achieve, let's prescribe the shares of that catch
20 to the various participants in the fishery so that
21 they know what their share is clearly and they can
22 just go out and access their portion of the share.
23 So really, it's taking the outcome or the output,
24 which is the specific amount of catch you'd like
25 to achieve and then designing the fishery to do
26 that.

27 Q And can you have an output control on bycatch
28 also?

29 A Certainly bycatch is something that's also
30 amenable to that sort of system. It's been one of
31 the key drivers in some of the other fisheries in
32 the Pacific Region - ground fish, for example. It
33 can also be used in salmon, and I alluded to that
34 earlier in terms of trying to meet specific
35 objectives around limiting exploitation rates on
36 stocks of concern, for example, and allowing the
37 fleets to adjust where they fish, how they're
38 doing it themselves to meet those objectives.

39 Q And so just so I understand it, if there is a
40 bycatch limit and a fisher reaches that bycatch of
41 a particular species, then they would have to stop
42 fishing at that point?

43 A That's certainly one way you could do it and it's
44 a way that's been done in some other fisheries.
45 There are going to be challenges with doing that
46 in salmon. If I go back to the coho example that
47 I've used several times, we don't have a pre-

1 season forecast or even an in-season assessment of
2 the abundance of returning coho, so it would make
3 an approach where you needed to rely on -- if you
4 wanted to specify a specific catch of coho and
5 then spread that out among your licence-holders,
6 that would be a challenging thing to do because we
7 don't have the stock assessment information to
8 support that in that case.

9 Q All right. So there's limitations to that. And
10 just -- perhaps just to summarize some output
11 controls are pooling, IQs or ITQs and these count
12 or rate limits for bycatch. Are those three, is
13 that a fair...?

14 A Yeah. That summarizes some of the things we've
15 looked at. As I've pointed out this morning,
16 there are a lot of different variations to quota
17 styles of management. We've also looked at effort
18 controls in an effort managed fishery which is for
19 Johnstone Strait chum, and we did -- we have done
20 a demonstration with the troll fleet there where
21 the number of days fishing is what's being
22 controlled and they're allowed to move those days
23 around between vessels.

24 Q So that's a third concept, effort control.

25 A That's right.

26 Q Okay. Thank you. And perhaps you could provide
27 us with some of the benefits and problems with
28 output controls.

29 A Well, one of the main selling features of output
30 controls is you can be more precise about
31 achieving the outcome you're looking for. Each
32 licence, for example, in an ITQ, has a prescribed
33 share of the allowable catch that they're allowed
34 to harvest. So it's much more precise control of
35 the total amount of catch you're trying to access.
36 In the output control demonstration fisheries,
37 we've had improved catch monitoring through
38 mandatory landing and dockside monitoring to
39 verify the catches, so we've provided more
40 flexibility around the number of days open to
41 fishing and when vessels can go out. But in
42 return for that, there's been an increased
43 accountability to make sure people are being
44 honest and fishing to their shares.

45 It's a system that also provides the
46 flexibility for the self-adjustment that I
47 referred to earlier. So if the TAC is small and

1 it's not worthwhile for somebody to go out fishing
2 when they look at their costs, fuel, other things
3 that they're going to need to pay for when they go
4 out on a fishing trip, they could look at either
5 leasing their share potentially to somebody else
6 or perhaps acquiring shares from others to make
7 that more of a viable opportunity for them.

8 Q And perhaps some of the problems with output
9 controls?

10 A Well, the department in the past has primarily
11 been focusing on -- or focused on managing the
12 inputs to fishing, so in terms of implementing
13 these output controls, we've had to design new
14 databases for the tracking of quotas and the
15 reconciling of the catches associated with those.
16 Service providers or third parties have been
17 required to assist with the catch monitoring and
18 validation component and we've had some challenges
19 around the relatively short-term duration of the
20 fishery and making sure there's enough people
21 available to do that kind of work. So there's a
22 number of technical issues and other issues around
23 trying to implement the fishery.

24 As I pointed out this morning too, there's
25 been concerns expressed by others about the
26 potential impacts of having a commercial fishery
27 that maybe has fewer boats out fishing at any
28 given time, but it's open for a longer period of
29 time than it might have been under an old derby or
30 competitive style of management.

31 MR. TIMBERG: All right. And Mr. Registrar, if we
32 could move to Canada's Tab 8, CAN224225.

33 MR. MARTLAND: And just as Mr. Timberg does that, the
34 document that's on screen, I don't know if it was
35 marked as an exhibit.

36 MR. TIMBERG: Sorry, if that document could be marked
37 as the next exhibit?

38 THE REGISTRAR: Exhibit 480.

39
40 EXHIBIT 480: Pacific Fishery Reform -
41 Response to the Reports of the Joint Task
42 Group and First Nations - April 14, 2005
43

44 MR. TIMBERG: Tab 8 in Canada's book of documents. Oh,
45 sorry, it -- can you go to CAN224225? It's from
46 the commercial fishing panel of yesterday. I had
47 the wrong binder.

91
Jeff Grout
Cross-exam by Mr. Timberg (CAN)

1 MR. LUNN: Is there a tab number or exhibit number for
2 that?

3 MR. TIMBERG: I have a CAN number 224225.

4 MR. LUNN: Okay. It will take just a moment to pull it
5 from Ringtail.

6 MR. TIMBERG: Yes. It was from our list of documents
7 yesterday.

8 MR. LUNN: Thank you.

9 MR. TIMBERG: That was Tab 8.

10 Q Mr. Grout, this -- are you familiar with this
11 document?

12 A Yes, I am.

13 Q And I understand this is a document that's titled
14 "Sustaining America's Fisheries and Fishing
15 Communities" and what's your sense of -- is this
16 document helpful for us today?

17 A I think the document provides a synopsis of some
18 of the issues around -- they call it an evaluation
19 of incentive-based management, but we're using the
20 term output controls here today. There's
21 different ways of describing it. Catch shares are
22 another way that it's been described.

23 MR. TIMBERG: All right. If this could be marked as
24 the next exhibit.

25 THE REGISTRAR: Exhibit 481.

26

27 EXHIBIT 481: Sustaining America's Fisheries
28 and Fishing Communities

29

30 MR. TIMBERG:

31 Q And perhaps we could go through this document
32 together to summarize some of the pros and the
33 cons of share-based management.

34 A Sorry, was there a tab number with this one in one
35 of my binders? Did we establish that or no?

36 Q I have a paper copy I can give you. So I
37 understand this is sort of a review of share-based
38 management and some of the pros and the cons and
39 I'm wondering if it's helpful for us to start at
40 page 15 of 36 and perhaps you can comment on the
41 main headings to help us understand some of the
42 issues here.

43 A Yeah. This report was intended to be a discussion
44 of some of the key issues of essentially measuring
45 the use of catch shares against key fishery
46 management objectives, and they've categorized
47 these with some specific headings. The first one

1 they've got is complying with catch limits. And
2 in here they discuss the performance of these
3 sorts of fisheries with achieving conservation
4 objectives and overall they note improved
5 performance in fisheries that have gone to these
6 sorts of output controls.

7 Q All right. If we could then turn to the next page
8 with respect to the issue of science and
9 monitoring.

10 A Again, this is one of the issues where monitoring
11 has been improved in a number of these fisheries
12 through the implementation of these programs.
13 There's obviously a lot of different issues that
14 you can discuss related to these, but in terms of
15 monitoring relative to an output, you tend to need
16 a higher standard to make sure the harvesters are
17 being accountable with the shares they've been
18 assigned.

19 Q And the next page, 17, the reducing of bycatch?

20 A One of the themes around bycatch in these output-
21 controlled fisheries is the fishery itself tends
22 to be a slower pace, so it's not a competitive
23 race for the fish. The openings can be longer,
24 stretched through time. That allows the fleet to
25 move away from areas or adjust to deal with
26 bycatch issues and potentially reduce some of
27 those variables, given that they're fishing more
28 to a specific share and able to do it in a way
29 that they're not racing against others.

30 Q All right. And the next page, 18, limiting
31 fishing impacts on habitats. If you could comment
32 on how share-based management...?

33 A This one is referring to -- and a number of these
34 fisheries are in marine areas using gears that
35 potentially contact with the bottom, which isn't
36 as large a problem in the salmon fishery. Most of
37 our gears are employed in the water column, but
38 share-based fisheries tend to have fewer vessels
39 out in a given opening, so there's less gear, less
40 potential for lost gear to be left in the water
41 and they call that ghost fishing, so gears that
42 are fishing that have been lost from boats, tends
43 to reduce impacts on habitats potentially.

44 Q All right. And we just have a couple of minutes
45 left for the day, but the next page there, making
46 fishing safer.

47 A This was looking at information on the safety of

- 1 the fishery and again, this relates to the ability
2 of the fisherman to not have to necessarily go out
3 for a derby or competitive opening in adverse
4 weather conditions which they might have done
5 under that sort of program. They can spread their
6 fishery out over time and they're not competing
7 against others to take -- access their fish. So
8 in their comparison, they noted improved safety.
- 9 Q And then finally page 22, ensuring fairness to
10 fishermen and communities, there was some concern
11 expressed yesterday from Mr. Brown with respect to
12 ownership concentration with movement towards
13 share-based managements. Are there steps that can
14 be taken when implementing such a program?
- 15 A Can I come to that question? I just wanted to
16 note that you missed the last point, which was
17 improving economic performance.
- 18 Q Oh, I apologize, yeah.
- 19 A So this is just the notion of improved revenues
20 per boat with a higher yield on a per-boat basis.
21 I will note there's been discussion about this
22 point in particular and how you factor in leasing
23 costs for quota and things like that, but at least
24 in this study, they noted improved economic
25 performance.
- 26 MR. TIMBERG: I'm wondering if this is an appropriate
27 time. And if this could be -- this has been
28 marked as an exhibit. Yes.
- 29 MR. EIDSVIK: Mr. Commissioner, I wonder if I could
30 raise one issue before we close for the day. And
31 it's on the issue of discussions with the four
32 witnesses who were up. I didn't expect today that
33 we'd cover such broad issues. We've covered IQs,
34 we've covered economic impacts, allocations, and I
35 could use the assistance of our -- at least
36 certainly my witness to prepare to respond to
37 what's happened here. And I've been reluctant.
38 I've made him go sit on the other side of the room
39 today because I don't want to be accused of
40 breaking that undertaking, but I wonder if we
41 could be relaxed from that undertaking?
- 42 THE COMMISSIONER: Mr. Eidsvik, I think the most
43 reasonable way I can answer that is I'm sure you
44 understand and everyone understands that I would
45 prefer that evidence that these witnesses have
46 already given not be addressed with them, but that
47 you be permitted to discuss with those persons who

1 are coming back on Monday. One is your witness, I
2 believe. Is it Mr. Brown?

3 MR. EIDSVIK: Mr. Brown, that's correct.

4 THE COMMISSIONER: Right. Yes, of course, if you want
5 to prepare for cross-examination and you need that
6 assistance, you should have it. So I leave it to
7 your judgment at the moment. But if you have some
8 concern about how far you can go with discussing
9 matters with Mr. Brown, I would suggest you talk
10 to Mr. Martland and Mr. Martland can at least know
11 where you want to go with your discussion with Mr.
12 Brown and if Mr. Martland has some concern about
13 that, he can raise it with me. Otherwise, I
14 prefer that between you and Mr. Martland, you sort
15 that out.

16 I understand what you're saying and I want to
17 give you as much flexibility as possible to
18 accommodate you. I just want to make sure that
19 evidence that's already before the commission
20 isn't discussed with the witness before they come
21 back on Monday. But I realize there might be some
22 grey areas there and I think Mr. Martland and you
23 can sort that out quite nicely.

24 MR. EIDSVIK: Thank you, Mr. Commissioner.

25 MR. ROSENBLOOM: Mr. Commissioner, just for further
26 clarification, am I not correct that in the case
27 of Mr. Eidsvik, he is still in chief with his
28 client, Mr. Brown, with that panel and as a
29 result, would he not be less restricted than, for
30 example, myself because he is in chief at this
31 point in time?

32 THE COMMISSIONER: You know, that's always been a tough
33 question. You and I know going back many years
34 that Chief Justice McEachern always had some
35 difficulty about counsel discussing evidence with
36 their witnesses, whether they were in chief, in
37 cross or re-examination. I hear what you're
38 saying and I'm just trying to avoid any potential
39 problems with that area and I'm suggesting that if
40 Mr. Eidsvik has any concern about where he can go
41 with that, I think between he and Mr. Martland,
42 they can sort that out quite nicely.

43 MR. ROSENBLOOM: Thank you.

44 THE COMMISSIONER: I don't anticipate a problem, but if
45 there is one, it can be raised with me and I can
46 deal with it.

47 MR. ROSENBLOOM: Only rise as Mr. Eidsvik obviously

1 doesn't have a legal background.

2 THE COMMISSIONER: No.

3 MR. ROSENBLOOM: I had always understood that while in
4 chief, you did have -- you were allowed to have a
5 discourse with clients.

6 THE COMMISSIONER: I think you're right, but there have
7 been areas where sometimes the line gets crossed
8 in terms of where you go with that. So I'm just
9 trying to err on the side of being cautious. But
10 thank you for your reminder. Thank you.

11 MR. ROSENBLOOM: Thank you.

12 MR. MARTLAND: Mr. Commissioner, we're, I believe, now
13 adjourned till tomorrow 10:00 a.m. Thank you.

14 THE REGISTRAR: Hearing is now adjourned until ten
15 o'clock tomorrow morning.

16

17 (PROCEEDINGS ADJOURNED AT 4:05 P.M. UNTIL
18 THURSDAY, FEBRUARY 24, 2011 AT 10:00 A.M.)

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I HEREBY CERTIFY the foregoing to be a true
and accurate transcript of the evidence
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Pat Neumann
Registered Court Transcriber

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