

## **Names of Petitioners**

Stan Proboszcz, Fisheries Biologist, Watershed Watch Salmon Society, [proboszcz@watershed-watch.org](mailto:proboszcz@watershed-watch.org)

Craig Orr, Executive Director, Watershed Watch Salmon Society, [corr@telus.net](mailto:corr@telus.net)

Eric Hobson, SOS Marine Conservation Foundation, [eric@saveoursalmon.ca](mailto:eric@saveoursalmon.ca)

**I hereby submit this petition to the Auditor General of Canada under section 22 of the Auditor General Act**

## **Signature of petitioner**

A handwritten signature in black ink, appearing to read "Stan Proboszcz". The signature is fluid and cursive, with a long horizontal stroke at the end.

## **Date**

**February 21, 2014**

**Title of Petition:** Cohen Commission of Inquiry into the Decline of Sockeye Salmon in the Fraser River, Petition 2 of 2—Wild Salmon Policy and open-net salmon farming

## **Background Information**

[Watershed Watch Salmon Society](#) (“Watershed Watch”) is a science-based conservation charity and leading voice on salmon and water conservation issues in British Columbia (“BC”). Our focus is to preserve the health and well-being of wild Pacific salmon and the ecosystems they reside in. The [SOS Marine Conservation Foundation](#) is a group of successful business leaders, entrepreneurs and philanthropists brought together to protect BC’s wild salmon stocks and the marine environment from negative impacts of open net-cage salmon farms.

Concerns over sockeye declines were heightened considerably by exceptionally low returns in 2009, and the resulting alarm among managers, harvesters, and a distressed public eventually prompted Canada’s Prime Minister to commit in November 2009 to the first-ever federal judicial inquiry into their plight. The [Cohen Commission of Inquiry into the Decline of Sockeye Salmon](#)

[in the Fraser River](#) (“Cohen Commission”) was granted the power to compel witnesses to testify under oath and also to order the production of relevant documents. Paraphrased, the Cohen Commission’s mandate was generally threefold: to examine the causes of the decline of Fraser River sockeye salmon, to consider the policies and practices of the Department of Fisheries and Oceans Canada (“DFO”) with respect to Fraser River sockeye salmon, and to develop recommendations for improving their future sustainability.



Cohen Commission Infectious Salmon Anemia Virus hearings 2011. photo by S. Proboszcz

The Cohen Commission was a massive endeavor. Twenty-one participant groups gained standing, including First Nations, the provincial and federal governments, various industry representatives, conservationists, and others. Well over 500,000 documents were disclosed to the Cohen Commission and 179 witnesses took the stand. Unquestionably, the Cohen Commission was the most authoritative of any previous investigation into BC’s wild salmon. Justice Cohen completed his task and released his mammoth final report, *The Uncertain Future of Fraser River Sockeye* (“Final Report”), and 75 recommendations on October 31, 2012.

Watershed Watch participated in the Cohen Commission as a member of the Conservation Coalition and was represented by [Ecojustice](#) lawyers. Craig Orr—our executive director—was called to the stand twice as a witness on hydropower and sea lice impacts. Stan Proboszcz—our fisheries biologist—provided what proved to be an influential affidavit on the release of fish health data from open-net salmon farms, as well as examining thousands of documents in the

Cohen Commission database. Given the significant public interest, Watershed Watch summarized key evidence from the inquiry in a unique [Cohen Inquiry Highlights report](#) that contains electronic links to hundreds of exhibits and transcripts. When Justice Cohen submitted his Final Report to the federal government, we were pleased that many of Justice Cohen's recommendations had deadlines attached to them, and so, in partnership with [SOS Marine Conservation Society](#), we began to track the federal government's action and inaction on these recommendations in our [Cohen Report Card](#). As of February 21, 2014, 18 deadlines tied to specific recommendations have lapsed with no public response from the federal government or DFO.

Watershed Watch and the SOS Marine Conservation Foundation are concerned the hard work of hundreds of people—experts and citizens alike—who worked on the Cohen Commission will be wasted. We are concerned that Fraser River sockeye and BC's other wild salmon populations will continue to decline. Given all the expert analysis and scientific evidence examined during the Cohen Commission and the delivery of the Final Report and recommendations—in essence a blueprint to protecting salmon for the future—we think Canadians deserve to know exactly how DFO has analyzed the report and how it will implement its recommendations. Sadly, it appears that the federal government may be unwilling to respond meaningfully to a \$26 million dollar inquiry of its own making, which used funds belonging to Canada's taxpayers.

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The impetus for submitting this environmental petition spurs from the lack of a meaningful update from DFO on recommendations associated with two subject areas. Firstly, serious action on the implementation of [Canada's Policy for the Conservation of Wild Salmon](#) ("Wild Salmon Policy") has been lacking. According to Justice Cohen's Final Report (Vol. 1, page 482), the Wild Salmon Policy originated in the late 1990s and early 2000s. The Wild Salmon Policy's goal is to restore and maintain healthy and diverse salmon populations and their habitat for the benefit and enjoyment of the people in Canada in perpetuity. In 2005—after five years of development—a press release announced the Wild Salmon Policy will significantly transform the management and conservation of wild salmon, their habitat and dependent ecosystems (Vol. 1, page 481). According to Justice Cohen in his Final Report, "seven years after the release of the policy, little progress has been made in implementing it beyond developing the methodologies required to monitor and assess the status of salmon Conservation Units and some of their habitat" (Vol. 2, page 13). We believe Canadians deserve to know details about DFO's commitment to implementing the Wild Salmon Policy—nine years after the release of the policy.

Secondly, Justice Cohen concluded that, "the potential harm posed to Fraser River sockeye salmon from salmon farms is serious or irreversible" (Vol. 3, page 22). Given the risk posed by open-net salmon farms, in the best interest of Canadians and for the future of Fraser River

sockeye salmon, we think it is prudent for DFO to report on the implementation of recommendations related to open-net salmon farming.

## Questions

**1.** The Wild Salmon Policy was developed by DFO to change the management approach to wild Pacific salmon and to restore and maintain healthy and diverse salmon populations and their habitat for the benefit and enjoyment of the people in Canada in perpetuity. As reported in the Final Report, DFO developed the Wild Salmon Policy, in part, as a response to criticisms in reports by the Office of the Auditor General in 1997, 1999, 2000 and 2004 (Vol. 1, pages 482-483). Despite the importance of the Wild Salmon Policy to the sustainability of salmon, and despite that Strategy 6 of the Wild Salmon Policy requires an implementation plan, Justice Cohen found no evidence of an implementation plan for the Wild Salmon Policy (Vol. 1, page 494-495). He also found that DFO had never performed a comprehensive costing exercise regarding its implementation (Vol. 1, page 495).

**a.** Since the Final Report was released, has an implementation plan and a comprehensive costing analysis been created by DFO for the Wild Salmon Policy, whether in final form or in draft?

**b.** If so, can DFO please enclose copies of the implementation plan and the costing analysis in its response to this petition?

**c.** Has a specific timeline been developed for implementation of the six strategies of the Wild Salmon Policy and if so, at what date(s) does DFO plan that its strategies will finally be implemented?

**2.** Recommendation 4 of the Final Report states that, “The Department of Fisheries and Oceans should immediately create a new position in the Pacific Region at the Associate Regional Director General level,” to implement the Wild Salmon Policy (Vol. 3, page 15).

**a.** Why has DFO not yet created this new position, more than a year after the recommendation was tabled?

**b.** Has DFO made a decision as to whether it will implement Recommendation 4, and if so, what was its decision?

**c.** Can DFO please provide copies of any records documenting any such decision in your response?

**3.** The Final Report also included several other recommendations associated with implementing the Wild Salmon Policy, including Recommendations 5, 7, 8 and 9 (Vol. 3, pages 15-17).

- a.** Has DFO made a decision as to whether it will implement Recommendations 5, 7, 8 and 9 of the Final Report?
- b.** Can DFO please provide copies of any records documenting any such decisions in your response?
- c.** What, if any, steps has DFO taken towards implementing each of Recommendations 5, 7, 8 and 9? Please address each of these recommendations separately in your response.
- d.** Can DFO please also indicate which specific sectors, branches and officials are responsible for implementing each of these recommendations?

**4.** Recommendation 6 (Vol. 3, page 15) of the Final Report states, “The Government of Canada should establish dedicated Wild Salmon Policy funding sufficient to carry out the Department of Fisheries and Oceans’ implementation plan and to cover ongoing operational costs.” In the Final Report (Vol. 1, page 524), Justice Cohen reported the total funding per year that DFO has assigned to the Wild Salmon Policy for the years 2005 through 2011 (2005-6 \$700,000; 2006-7 \$700,000; 2007-8 \$864,000; 2008-9 \$924,000; 2009-10 \$528,000, and 2010-11 \$555,000). In making these findings, including at table 1.10.3 of his Final Report, Justice Cohen relied in part on the methodology used in a Wild Salmon Policy Performance Review conducted by Gardner Pinfold (as referenced in the Final Report Vol. 1, page 524).

**a.** Using this same methodology for reporting on Wild Salmon Policy funding as relied on by Justice Cohen in his Final Report, what total yearly funding has been dedicated to the Wild Salmon Policy for the fiscal years 2011-12 and 2012-13, under each of the categories used in table 1.10.3 of the Final Report?

**b.** Again using this same methodology, what is the Wild Salmon Policy budget for the current fiscal year 2013-2014, and what is the proposed budget for fiscal year 2014-15?

**5.** In his Final Report, Justice Cohen found that, “there is some risk posed to wild Fraser River sockeye salmon from diseases on salmon farms” (Vol. 2, page 113). Justice Cohen also found that “in the past, the public and non-government/non-industry scientists have not been given access to the raw data in the fish health database. Instead, they have been given summaries of overall fish health in the provincial annual reports.” (Vol. 3, page 18) At the time of writing this petition, DFO still has not reported raw data or even summaries of overall fish health on its [website](#) since DFO assumed jurisdiction over the BC salmon farming industry from the province of BC years ago. In his Final Report Justice Cohen states,

“DFO needs to be even more transparent and should allow non-government and non-industry researchers to have access to the fish health database for the purposes of original analysis. The information in the database is collected to assist in the assessment of risks posed to wild stocks and should not be treated as proprietary. Although DFO has a mandate to analyze these data, it does not hold an exclusive mandate to do so.”

Further, recommendation 13 states (Vol. 3, page 19),

“The Department of Fisheries and Oceans should give non-government scientific researchers timely access to primary fish health data collected through DFO’s routine monitoring programs, including data that relate to farmed or wild salmon.”

**a.** Did DFO make a decision whether to implement recommendation 13, and if so, what was the decision and can a copy of the decision record please be provided?

**b.** In 2014, will DFO provide non-government scientific researchers, such as those at Watershed Watch Salmon Society, with timely access to primary fish health data from farm salmon and wild salmon collected through DFO’s routine monitoring from the period starting when DFO assumed monitoring of the industry from the province of BC?

**6.** Many Canadians believe that DFO is confused and conflicted respecting its primary regulatory objective to conserve wild fish stocks. Justice Cohen comes to similar conclusions in his Final Report about DFO’s promotion of the open-net salmon farming industry—an industry that threatens wild salmon stocks. He found that:

“Because of its mandate to promote the salmon-farming industry, there is a risk that DFO will act in a way that favours the industry to the detriment of wild fish.” (Vol. 3, page 12)

In Recommendation 3, Justice Cohen states that:

“The Government of Canada should remove from the Department of Fisheries and Oceans’ mandate the promotion of salmon farming as an industry and farmed salmon as a product.”

With respect to sustaining marine biodiversity, another prestigious and independent body—an expert panel from the Royal Society of Canada— came to similar conclusions in its 2012 final report (Hutchings 2012):

“progress is impeded by conflicting regulatory responsibilities within DFO to promote industrial and economic activity while conserving marine life and ocean health.”

**a.** Can DFO provide evidence that it has taken action to remedy its conflicting bureaucratic mandates between conserving wild fish and promoting industries such as the open-net salmon farming industry and others?

**b.** Can you provide any meaningful evidence that DFO has taken any action on Recommendation 3?

**c.** Has DFO been part of any federal government decision regarding Recommendation 3, and if so, what was that decision, and could DFO please provide copies of any records documenting that decision?

**d.** As a department, what is DFO’s position on Recommendation 3?

## References

Hutchings, J.A., Côté, I.M., Dodson, J.J., Fleming, I.A., Jennings, S., Mantua, N.J., Peterman, R.M., Riddell, B.E., Weaver, A.J., and D.L. VanderZwaag. 2012. Sustaining Canadian marine biodiversity: responding to the challenges posed by climate change, fisheries, and aquaculture. Expert panel report prepared for the Royal Society of Canada, Ottawa.