

Names of Petitioners

Stan Proboszcz, Watershed Watch Salmon Society, proboszcz@watershed-watch.org

Craig Orr, Watershed Watch Salmon Society, corr@telus.net

Eric Hobson, SOS Marine Conservation Foundation, eric@saveoursalmon.ca

Name of group: Watershed Watch Salmon Society and SOS Marine Conservation Foundation

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 1 of 2—funding for DFO’s participation, Riparian Area Regulation, stock assessment and monitoring, and independent reporting back to Canadians

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.



Sockeye salmon returning to the Adams River, British Columbia. photo by S. Proboszcz

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.

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.

Our impetus for submitting this environmental petition is two-fold. Firstly, the federal government has not provided meaningful updates on its progress in implementing many recommendations from the Cohen Commission or its analysis of the Final Report; therefore, we have a number of questions related to the subjects raised in the Final Report that we would like answered by DFO. In addition, question 3 also requests answers from Environment Canada and The Canadian Food Inspection Agency.

Secondly, we suggest that in the best interest of Canadians and for the future of Fraser River sockeye salmon, the Auditor General of Canada should become involved. More specifically as suggested in Recommendation 75 from the Final Report (Vol. 3, page 67), the Commissioner of the Environment and Sustainable Development should report to the Standing Committee on Fisheries and Oceans and to the public by March 31, 2014, and every two years thereafter during implementation of Canada’s Policy for the Conservation of Wild Salmon (“Wild Salmon Policy”), on the progress in implementing the policy. Also referring to Recommendation 75, we would like an update on the extent to which the Cohen Commission’s recommendations have been implemented.

Questions

1. Detailed solutions were developed by Justice Cohen to preserve sockeye stocks for the future, yet it's been over 15 months since the completion of the Commission's work, without a meaningful analysis or clear response from DFO.

a. Specifically, what work, if any, has DFO, and any other federal departments done to review the Cohen Inquiry Final Report and recommendations?

b. Which specific senior officials, in which sectors within DFO, were made responsible for reviewing, assessing, and responding internally to the Final Report?

c. Can you confirm the existence of, and provide a copy of, the draft and final versions of DFO's internal review that assessed the Final Report, as provided to these senior officials?

d. Can you provide a copy of the DFO Pacific Region review of the Cohen Inquiry Final Report and all draft versions?

2. Canadian taxpayers funded the \$26 million Cohen Commission and the production of the recommendations.

a. Can you detail what (if any) specific recommendations DFO and any other federal departments have acted on and how they have acted?

b. What funding was assigned to each recommendation acted upon?

c. What rationale and science was used to prioritize action on each of these recommendations?

3. It was widely reported in the media the Cohen Commission required approximately \$26.4 million to complete its work. We believe this value accounts for the Cohen Commission itself and not the DFO's involvement or the participation of other federal agencies such as the Canadian Food Inspection Agency and Environment Canada. For example, there was significant DFO staff time involved in participating in inquiry processes such as interviews, testimony, internal DFO meetings, and facilitating processes such as document production and other activities.

a. How much money was spent by DFO and all other federal agencies to participate in the inquiry?

b. Can you please provide the dollar amounts for each federal agency that participated in the Cohen Commission and detail specifically what those funds were used for?

4. Recommendation 45 (Vol. 3, page 47) of the Final Report states,

“The Department of Fisheries and Oceans should work with the Province of British Columbia to achieve the Riparian Areas Regulation target of 90 percent compliance with 90 percent confidence levels.”

Habitat loss is a critical issue in BC, especially given the recent changes weakening the habitat provisions of the *Fisheries Act*.

a. Can you please detail how DFO has acted on this recommendation, including setting out whether DFO has decided to implement Recommendation 45 and what DFO’s decision was?

5. We believe investments in monitoring and stock assessment are critical to understanding Fraser sockeye stocks so they can be protected into the future. If these programs do not have sufficient funding, protecting sockeye populations becomes even more challenging. Recommendations 27, 28, 29, 31 (fourth bullet) and 32 of the Final Report say that DFO should provide sufficient funding and support to various habitat and stock assessment monitoring, at not less than 2010 levels (Vol. 3, pages 31-37).

a. Has DFO made a decision as to whether it will implement Recommendations 27, 28, 29, 31 (fourth bullet) and 32, and if so, what was its decision(s)?

b. What steps has DFO taken towards putting its decision(s) into action?

c. Can you please provide copies of any records documenting any such decision(s) in your response?

d. For each of these four recommendations, can you please set out the funding assigned by DFO in the 2010-2011, 2011-2012, 2012-2013 and 2013-2014 fiscal years, for each of the monitoring and assessment activities covered in these four recommendations?

6. Of particular importance to this petition is the final recommendation provided in Justice Cohen’s Final Report. His recommendation 75 states:

“An independent body such as the Office of the Commissioner of the Environment and Sustainable Development should report to the Standing Committee on Fisheries and Oceans and to the public as follows:

- By March 31, 2014, and every two years thereafter during implementation of the Wild Salmon Policy, on progress in implementing the policy in relation to Fraser River Sockeye
- By September 30, 2015, on the extent to which and the manner in which this Commission’s recommendations have been implemented.”

At the time of writing this petition, we still have not seen any meaningful statement or analysis from the federal government generally or from DFO specifically, that responds to the findings and numerous recommendations in Justice Cohen’s Final Report.

- a.** Has DFO made any decision whether to support Recommendation 75; if so, what was DFO's decision, what steps have been taken to put it into action, and can DFO provide us with a record of its decision?
- b.** Has DFO formally communicated with the office of the Commissioner of the Environment and Sustainable Development about Recommendation 75; if so, on what dates did DFO officials send letters or have meetings?
- c.** If communications about Recommendation 75 occurred between DFO and the Commissioner of the Environment and Sustainable Development, what was discussed?
- d.** Regardless of whether DFO has yet made a decision about whether to support this recommendation, have DFO officials performed any internal analysis of Recommendation 75 or provided any advice to senior officials on this recommendation or both; if so, what was its analysis and advice and can a copy of that advice please be provided?