

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.

Tuesday, November 30, 2010

**Tenue à :**

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

le mercredi 30 novembre 2010

## APPEARANCES / COMPARUTIONS

Brian J. Wallace	Senior Commission Counsel
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D. Clifton Prowse, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
Charlene Hiller	Rio Tinto Alcan Inc ("RTAI")
Shane Hopkins-Utter	B.C. Salmon Farmers Association ("B.C.SFA")
No appearance	Seafood Producers Association of B.C. ("SPAB.C.")
Lisa Glowacki	Aquaculture Coalition: Alexandra Morton; Raincoast Research Society; Pacific Coast Wild Salmon Society ("AQUA")
Tim Leadem, Q.C. 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.**

David Butcher, Q.C.	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")
Keith Lowes	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 Leah Pence	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")

**APPEARANCES / COMPARUTIONS, cont'd.**

No appearance	Métis Nation British Columbia ("MNB.C.")
No appearance	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society James Walkus and Chief Harold Sewid Aboriginal Aquaculture Association ("LJHAH")
No appearance	Heiltsuk Tribal Council ("HTC")
No appearance	Musgagmagw Tsawataineuk Tribal Counsel ("MTTC")

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1  
PANEL NO. 6  
Brian Riddell  
In chief on qualifications by Mr. Wallace

Vancouver, B.C. /Vancouver (C.-B.)  
November 30, 2010/le 30 novembre  
2010

1  
2  
3  
4  
5 THE REGISTRAR: Order. The hearing is now resumed.  
6 MR. WALLACE: Good morning, Commissioner Cohen. Brian  
7 Wallace, Commission Counsel, and I have nobody  
8 with me today.

9 Before Mr. Timberg continues with his  
10 examination, counsel met this morning for a few  
11 minutes and an issue was raised qualifying  
12 experts. It's a compromise between doing things  
13 the old-fashioned civil litigation way and  
14 allowing the Commissioner to use whatever evidence  
15 you choose to use, which our rules provide. I am  
16 suggesting as a compromise that where a witness  
17 will be giving or has given evidence relating to a  
18 matter of expert opinion, that the *curriculum*  
19 *vitae* of that witness simply be filed, and if a  
20 participant wishes to question their  
21 qualifications or expertise, they can do that, but  
22 in the regular substantive cross-examination,  
23 rather than setting aside valuable hearing time  
24 for an exchange about qualifications. I don't  
25 think it should be a big issue, but it then at  
26 least has the *curriculum vitae* on the record to  
27 assist you in your reliance on the evidence.

28 On consideration of this panel, I think it  
29 was only Dr. Riddell who has provided us with  
30 scientific evidence in dealing with the genesis of  
31 the Policy, and I would tender Dr. Riddell's *c.v.*  
32 as the next exhibit.  
33

34 EXAMINATION IN CHIEF ON QUALIFICATIONS OF BRIAN RIDDELL  
35 BY MR. WALLACE:  
36

37 Q Dr. Riddell, you have looked at this *c.v.* It was  
38 dated March 19th, 2009. I gather you updated it,  
39 but this is substantially correct?

40 A Yes, it is.

41 Q Thank you. I would point out that one thing that  
42 that's not on here is that in 2010 you became a --  
43 you were appointed by Canada as a Commissioner for  
44 the Pacific Salmon Commission, correct?

45 A Yes, I believe it is actually on there.

46 Q Oh, is it on there?

47 A And that it would be the top of the second page.



2  
PANEL NO. 6  
Cross-exam by Mr. Timberg (CAN)

1 MR. WALLACE: Oh, indeed, 2009. Thank you.  
2 THE REGISTRAR: That will be marked as Exhibit 108.  
3 MR. WALLACE: Thank you. And I will leave it at that,  
4 thank you.  
5

6 EXHIBIT 108: *Curriculum vitae* of Dr. Brian  
7 Riddell  
8

9 MR. TIMBERG: Timberg, T-i-m-b-e-r-g, first name Tim,  
10 counsel for Canada. If I could please have  
11 Exhibit 97 brought up, please.  
12

13 CROSS-EXAMINATION BY MR. TIMBERG, continuing:  
14

15 Q Dr. Riddell, I have a few questions that I'd like  
16 to follow up on your presentation from yesterday  
17 morning, and perhaps we could turn to the third  
18 page of the presentation. At the top it says "A  
19 Convergence of People and Issues". And, Dr.  
20 Riddell, could you perhaps elaborate on the five  
21 points that you set out there as to the reasons,  
22 or the context for the change that was happening  
23 at the time. I don't quite understand what you  
24 mean by "Development of Conservation Biology and  
25 concern for Biodiversity". Perhaps you could  
26 elaborate on that point.

27 DR. RIDDELL: Mr. Commissioner, I can certainly do  
28 that. I would refer it to the text that I  
29 provided to supplement the presentation. It does  
30 have more detail. That's where the 25 bullets  
31 were listed, and I condensed it just to five for  
32 this slide. The point you're referring to,  
33 "Conservation Biology", this was an area of  
34 science that literally did begin in 1981 at a  
35 conference in California and formalized into a  
36 society in 1982. And it really did bring the  
37 issue of the value of biodiversity around the  
38 world to the forefront, and the impacts of  
39 development was having on the world's  
40 biodiversity. It certainly did not pertain only  
41 to salmon. It was a very broad concern. There  
42 were issues going on when I arrived from Eastern  
43 Canada to the West that already showed there were  
44 concerns about biodiversity issues in salmon  
45 management, and that. And so it really did  
46 heighten the awareness of some Science Branch  
47 staff at any time about the --

1 Q And why is -- why is biodiversity so important?

2 DR. RIDDELL: Well, biodiversity is really the tie  
3 between the physical, chemical, environmental  
4 conditions with the actual animals, and it's that  
5 diversity of -- in salmon, it's that diversity of  
6 Pacific salmon that allows them to widely utilize  
7 the habitat, it provides both the opportunity for  
8 maximizing production throughout all the habitat,  
9 as well as provide the genetic diversity required  
10 for adaptation through time. That's the  
11 adaptability I referred to, to changing  
12 conditions.

13 Q All right. And so then you've got as a second  
14 point, the "Explosion of genetic research methods  
15 and analyses". What are these genetic methods?  
16 If you could just provide a brief summary, and  
17 perhaps you could tell us when this genetic --  
18 these new genetic methods have been developed,  
19 like temporally in time.

20 DR. RIDDELL: There are a lot of methods, so I don't  
21 know that I can give you a full chronology. I can  
22 identify the major changes that occurred that are  
23 important to salmon.

24 Q That would be helpful, and that's perhaps as they  
25 relate back to the Wild Salmon Policy as to how  
26 you are going to use these methods to assist you  
27 with the development of the WSP.

28 DR. RIDDELL: Yes. Well, the development of a tool  
29 called electrophoresis, it really was developed in  
30 medical research for identifying genetic  
31 variations, and the -- what are called genetic  
32 variance in particular proteins. And what people  
33 discovered is that you could use these to identify  
34 specific populations, really, down to localized  
35 spawning populations of Pacific salmon. There's  
36 enough genetic diversity in salmon that you can  
37 use the genetic differences between local  
38 populations to identify them in mixtures such as  
39 an ocean fishery.

40 So there was both the combination of  
41 developing the biochemical tools that became  
42 available through electrophoresis, and  
43 mathematical tools in what was called "mixture  
44 analysis", to sample the spawning populations so  
45 you have genetic profiles of all of the individual  
46 spawning groups. And then you take a random  
47 sample in a fishery, as an example, and that is a

1 mixture of many populations. The mixture  
2 analysis, which is just a statistical tool, allows  
3 you to then come up with a best estimate of what  
4 the composition of the catch in that particular  
5 fishery and time really was.

6 Q Okay. And when did this tool become available?

7 DR. RIDDELL: Well, in 1982 I started a Genetics  
8 Program in Science Branch at the Pacific  
9 Biological Station. Our first person we recruited  
10 was Dr. Ruth Withler, who had done her Ph.D. in  
11 the electrophoresis tools at UBC. And we  
12 immediately began applying this in biological  
13 studies, looking at the population structure of  
14 Pacific salmon and looking at the contribution of  
15 populations to specific fisheries.

16 It was not really applied broadly in  
17 fisheries until probably the late 1980s, because  
18 there was sort of a building of trust in the tool,  
19 and how it can be applied, and that the results  
20 were accurate, and so on. It's very widely  
21 applied now.

22 But we've evolved from using protein analysis  
23 with electrophoresis to more of the molecular DNA  
24 analysis, which is much, much higher resolution.  
25 And it's now widely used in fisheries applications  
26 throughout the North Pacific. You can essentially  
27 now in a major hatchery, for example, if you  
28 sampled all of the adults that contributed to the  
29 next generation in a major hatchery, so you're  
30 talking about thousands of adults, you could then  
31 grab an individual fish and identify its parents  
32 just by using molecular DNA analysis. It's  
33 exactly the same as DNA fingerprinting type of  
34 applications, but just for fish.

35 Q And then just for the assistance of the  
36 Commissioner, how does this technology practically  
37 get utilized?

38 DR. RIDDELL: The DNA analysis, we have a very, very  
39 productive lab at the Pacific Biological Station,  
40 now managed by Dr. Terry Beecham and Ruth Withler,  
41 and each year they provide real-time analysis for  
42 the Northern troll fishery to identify a  
43 particular stock of concern, which is the West  
44 Coast Vancouver Island chinook stocks. And  
45 probably more appropriate to the Commission, is  
46 that they do real-time analysis in the summer,  
47 meaning a turnover of about 24 hours to 36 hours.

1 They provide information on all of the southern  
2 B.C. test fisheries for sockeye salmon. And that  
3 information is collected from the test fishing  
4 sites, brought to the Biological Station, and  
5 returned to the -- in this case to the Pacific  
6 Salmon Commission for the Fraser Panel, and used  
7 every week in making decisions about opportunities  
8 for fishing and the status of specific populations  
9 returning.

10 Q So this ties the catch back to the particular  
11 conservation units, is that...

12 DR. RIDDELL: Yes.

13 Q Okay.

14 DR. RIDDELL: You can bring it down to right to the  
15 specific spawning populations which could be one  
16 of several populations within a CU. You can get  
17 it down to the particular stream, really.

18 Q And just for my benefit, when -- when did this  
19 sort of operationally sort of happen  
20 approximately, as a date? I'm not sure exactly  
21 when this became operational.

22 DR. RIDDELL: I'm not -- I'm not sure I know the  
23 precise date, but it has been used for probably 20  
24 years in various forms of electrophoresis,  
25 evolving to molecular DNA.

26 Q Okay.

27 DR. RIDDELL: It's been applied for sockeye salmon  
28 through the Pacific Salmon Commission, probably  
29 back to the late 1980s.

30 Q Okay, thank you. And point 3, I think was clear.  
31 Point 4 you spoke about "Major new agreements  
32 and Pacific Salmon Treaty". Did you want to  
33 briefly -- sorry, Mr. Saunders?

34 MR. SAUNDERS: I wonder if I might make an addition to  
35 what Dr. Riddell just spoke to with the genetics.

36 Q Certainly.

37 MR. SAUNDERS: I would say that in the last -- and Dr.  
38 Riddell's of course correct that it's been, you  
39 know, 20 years that it's been in place, but there  
40 have been huge strides probably in the last three  
41 to five years in terms of the technology  
42 developing in terms of the speed that we can  
43 actually process samples. Dr. Riddell pointed out  
44 that there are 24-hour turnaround, but we now have  
45 robots and technology that allows us to process  
46 samples at a much higher rate and a much lower  
47 cost. So its practicability in terms of

1 application to in-season management is increasing  
2 probably by an order of magnitude in the last  
3 years, so making it as a much more -- the  
4 potential for its application in fisheries  
5 management continues to grow in leaps and bounds.

6 Q Thank you. And perhaps you could describe how the  
7 Pacific Salmon Treaty just briefly - I'm cognizant  
8 of time - but just how the Pacific Salmon Treaty  
9 relates to the WSP development.

10 DR. RIDDELL: Well, the Pacific Salmon Treaty, for  
11 those that are not fully involved in what it does,  
12 it's like the first comprehensive treaty  
13 addressing all salmon populations from about  
14 central Oregon through southeast Alaska. Fish  
15 don't really respect political boundaries very  
16 much, and so a lot of the fish that are caught in  
17 southeast Alaska are from Canada, and a lot of the  
18 fish that Canada catches on the West Coast of  
19 Vancouver Island are from the southern United  
20 States, and the two countries really can't fully  
21 manage their respective resources without dealing  
22 with the other country.

23 Q So just for your assistance, Dr. Riddell, the  
24 Commissioner has heard from -- about the Pacific  
25 Salmon Commission in previous testimony. I'm just  
26 trying to ask for you to draw any linkages.

27 DR. RIDDELL: Okay.

28 Q You can be more -- you can be more detailed in  
29 your response as to how it fits with the WSP.

30 DR. RIDDELL: Well, the WSP is relevant to the treaty  
31 because the stock units that we're trying to  
32 conserve, now the conservation units, and  
33 previously just the major stock programs, they  
34 need to be identified so that we look at the  
35 fisheries that are actually impacting those  
36 particular stocks. Under the Pacific Salmon  
37 Treaty there are particular limitations imposed on  
38 some populations or some groups of fishes that we  
39 need to be able to monitor through time. So what  
40 really happened with the implementation of the  
41 Pacific Salmon Treaty was a requirement for Canada  
42 to suddenly become much more stock-specific in its  
43 consideration for both stock assessment and annual  
44 monitoring.

45 Q And that's the -- now I understand Canada is  
46 developing escapement targets as a requirement.  
47 Does that fit in with the WSP?

1 DR. RIDDELL: Well, it very definitely fits in with --  
2 Canada has always had escapement targets for  
3 particular populations of salmon, but we had what  
4 we would have called now the target reference  
5 points, or in the past it was the optimum  
6 escapement value that they were trying to achieve,  
7 that on average would maximize production through  
8 time. And that the Wild Salmon Policy major  
9 change there was that each conservation unit would  
10 now have two points for management, which  
11 yesterday we called benchmarks.

12 Q Right.

13 DR. RIDDELL: The upper benchmark is typically related  
14 to the target reference point of the past, the  
15 optimum escapement value. But the lower benchmark  
16 is much more precautionary in protecting the  
17 downside risk that you do not let a population  
18 become too depressed through direct actions of  
19 management.

20 Q Okay. Thank you. If we could turn over to pages  
21 -- to the page titled "2. The Value of diversity  
22 in Pacific salmon". A fairly specific question:  
23 You referenced in your examination that in 1939  
24 there was a recognition of "stock concept". What  
25 was that exactly?

26 DR. RIDDELL: Well, the stock concept -- sorry. Mr.  
27 Commissioner, the stock concept really simply  
28 recognizes the diversity or the differences  
29 between all the various different population of  
30 Pacific salmon that people were seeing throughout  
31 the West Coast. And "stock" actually comes from  
32 the old English agricultural use of a lineage of a  
33 particular animal or the stock derivation of that  
34 animal, and that, and that then became applied as  
35 sort of the common usage or terminology. That's  
36 really all that conference did in 1939, because  
37 the genetic basis of the stock concept was really  
38 not proven for about another 30 years.

39 Q Okay. And over two pages we have the "Three  
40 principles emerge from understanding the Stock  
41 Concept". The first point being:

42  
43 Adaptations that exist today reflect the past  
44 ... but evolution is a continuous process.  
45 Maintaining ADAPTABILITY in salmon is  
46 critical for their future.  
47

1           Perhaps you could just as a -- generally how do  
2           you maintain the adaptability then, if it's --  
3           it's critical for the salmon's future. What --  
4           what are the -- why is that so important?

5       DR. RIDDELL: Okay. Mr. Commissioner, the process of  
6       adaptability is the critical element of the Wild  
7       Salmon Policy, where you have to maintain  
8       connectedness between habitats. You need to  
9       maintain the habitat diversity because it's the  
10       process that allows adaptation to occur. You have  
11       to have genetic variation for change to actually  
12       continue, and that. If you only focused on  
13       adaptation of now, it's really the response of the  
14       animal to past pressures that it's lived through,  
15       and that.

16           What we are really concerned about in the  
17       Wild Salmon Policy is maintaining the ability for  
18       the process of adaptability that leads to future  
19       adaptation to continue. And that's really why we  
20       evolved to the conservation unit, looking at a  
21       geographic distribution of the spawning  
22       populations. Not just about the total number of  
23       animals. A large number of animals could come  
24       from a single spawning population. But what we  
25       want to ensure is that we have a wide distribution  
26       of spawning populations throughout the habitat  
27       landscape, and all, to allowing for the ecological  
28       processes to continue, and that. So it's the  
29       process that leads to adaptation that we really  
30       have to protect for the future.

31       Q     Thank you. And over the page we've got a chart  
32       that you've provided, "Managing Diversity in BC's  
33       salmon", and you described the first column with  
34       the number 8,171 stocks in BC salmon. But can you  
35       elaborate what the second, or the third and fourth  
36       columns tell us.

37       DR. RIDDELL: Yes. The middle column really is when  
38       you look at how many of the -- what they call  
39       "stocks", which are really the combinations of a  
40       particular species and a particular stream. Then  
41       they looked at the number of those actually have a  
42       sufficient track or historical record of data that  
43       you could do a credible assessment of. And so  
44       they were identifying that approximately 60  
45       percent of the populations you could do some level  
46       of assessment on.

47       Q     Okay.

1 DR. RIDDELL: The third one is in their definition of  
2 extinct and threatened and then healthy and so on.  
3 They identified 2.1 percent of the 8,171 stocks,  
4 as they referred to them, were no longer in  
5 existence. And then their next category had, I  
6 think the value is 10.2 percent is the number that  
7 were threatened at that time.

8 Q Okay.

9 DR. RIDDELL: But these are individual combinations of  
10 species and particular streams. They are not the  
11 conservation units --

12 Q Okay.

13 DR. RIDDELL: -- and that. And so I use this figure  
14 frequently to show people that we definitely have  
15 problems in particular stocks of concern we're all  
16 aware of, such as Cultus Lake sockeye. But the  
17 very vast majority of the -- salmonid diversity in  
18 British Columbia still exists, and that, and that  
19 we can work from.

20 Q Thank you. And over the page you've provided an  
21 illustration, "Hierarchy of biological diversity".  
22 And I looked at this, and could you explain for us  
23 where you would draw the line of where a  
24 conservation unit fits there.

25 DR. RIDDELL: No, I can't.

26 Q Okay.

27 DR. RIDDELL: And that's why it's not there.

28 Q Okay.

29 DR. RIDDELL: And the reason for this is - not to be  
30 cheeky about it - but there is another diversity  
31 in salmon that there are particular populations  
32 that really are demes. They are individual  
33 localized populations that are demes and they are  
34 conservation units.

35 Q Okay.

36 DR. RIDDELL: The one that's closest to us is the  
37 Harrison River white chinook. This is one of the  
38 largest chinook populations in Canada, it  
39 frequently is the largest, and it is basically a  
40 single population with the exception of moving  
41 some fish to Chilliwack Hatchery, which is a  
42 hatchery-based production we don't include.

43 The majority of the CUs would be including  
44 the demes and the populations. So if you were to  
45 force a line, you would draw a line across the top  
46 of "Populations" to "Biological Races".

47 Q Okay. And so it just depends on each CU as to



1 where the line would be drawn as to the biological  
2 complexity, and of -- and you'd have to look at  
3 the spatial variability geography of it, and then  
4 you have to look at the temporal variability,  
5 that's over time as so that they can evolve. Is  
6 that a fair summary?

7 DR. RIDDELL: Yes, it is. The temporal variation  
8 doesn't really come into the actual definition  
9 right now, but the bounds of the CU could change  
10 through time.

11 Q Right.

12 DR. RIDDELL: Particularly with global warming and  
13 climate change, if it continues.

14 Q Okay. All right, thank you. And then over the  
15 page, the next maps that for pink CUs there's only  
16 13 in all of the Pacific and Yukon, that's what  
17 that says. I'd like to compare that, then, with  
18 the fact that the CUs for the sockeye are 230 in  
19 the lake and 24 in the river. So that's part of  
20 the complexity that you were talking about  
21 yesterday, is that the greater number of CUs for  
22 the sockeye species?

23 DR. RIDDELL: Yes, it gets to the genetic legacy of the  
24 particular species and its distribution through  
25 British Columbia. Pink salmon have very, very  
26 little genetic differentiation in small geographic  
27 scales. You need approximately 500 kilometres  
28 along the coast that leads to differentiation that  
29 you can start detecting readily. The biggest  
30 difference between pink salmon is frequently  
31 within one river, but between the odd-year line  
32 and the even-year line, because there's no genetic  
33 exchange at all between those generations in pink  
34 salmon.

35 The point you're making on sockeye salmon is  
36 what I emphasized yesterday. There is enough  
37 genetic separation which reflects long-term  
38 isolation of those populations that commonly each  
39 lake is a separate conservation unit that we can  
40 -- that we should continue to monitor and protect.

41 Q Okay. So if you could put the next page. This  
42 definition, this is the definition of  
43 "conservation" from the Wild Salmon Policy, is  
44 that not -- that's the same definition?

45 DR. RIDDELL: Yes, that's correct.

46 Q And what is the conservation unit intended to  
47 capture?

1 DR. RIDDELL: Well, it's intended to capture everything  
2 we were just talking about. It's the genetic  
3 diversity between the populations, the  
4 connectedness between populations within  
5 particular geographic landscapes. Because you do  
6 have breaks in climates and geography, the  
7 physical environments and you need to have within  
8 the conservation unit you want to maintain a  
9 distribution of the spawners throughout all the  
10 available habitat. That's the connectedness that  
11 allows processes to continue in that, and it also  
12 provides, call it an insurance, that you can't  
13 guarantee that some spawning population wouldn't  
14 be extirpated possibly by pure -- a landslide, for  
15 example, and that.

16 If you have a healthy conservation unit, with  
17 a network of spawning populations healthy around  
18 there, that is by far the best sort of management  
19 plan to allow re-colonization of that habitat as  
20 it is cleaned up and becomes available again.

21 Q Okay. And so then can you just explain, then,  
22 what's meant by an "acceptable timeframe" in the  
23 definition?

24 DR. RIDDELL: Well, that was incorporated because --  
25 and many times we really don't know populations  
26 are lost, and if you don't do something actively,  
27 then people think, well, it's gone forever, sort  
28 of thing. We want to provide bounds -- and salmon  
29 will not go across some of the boundaries rapidly,  
30 and the greatest example is what I said yesterday  
31 about sockeye salmon. When we've tried to  
32 physically move populations into barren habitat  
33 that's caused for maybe a fishing effect or a dam  
34 effect or a landslide, we are unable to re-  
35 establish sockeye populations when we move those  
36 around. And that's going across these barriers.

37 So really what we're talking about here is we  
38 want to recover the population so we don't have a  
39 long-term loss of production and the best way to  
40 do that is to have these conservations there that  
41 will fill it in, as I just referred to in that  
42 insurance policy.

43 Q All right. Thank you very much. And over the  
44 page you had said about expectations of climate  
45 change. You said that the -- so it's almost a  
46 definition you provided, that the climate changes  
47 when the future does not reflect the past. And

1           could you just elaborate on what you meant by  
2           that?

3       DR. RIDDELL: Well, what we're talking about here is  
4       the uncertainty of the future. We don't know how  
5       extensive climate change will be, or how rapidly  
6       it will occur. If the future is not represented  
7       by the past, the most obvious example for us is in  
8       the application of forecasting. But what we're  
9       talking about here is you want to allow for the  
10      maximum diversity within the conservation unit,  
11      and for that you really want to talk about the  
12      numbers of animals throughout, as well as the  
13      number of spawning populations throughout the  
14      conservation unit. And to allow for the greatest  
15      opportunity for some genetic combinations to be  
16      present to allow the populations to continue in  
17      the future if climate does change. That is the  
18      real value of genetic diversity, is to allow for  
19      future change and the adaptation of the animals.

20      Q       All right. Thank you. And then if you could turn  
21      to the column "Number of CUs by species in BC",  
22      it's about four slides along, Mr. Registrar. That  
23      one there.

24           For the assistance of the Commissioner, could  
25      you contrast the sockeye salmon fishery to, say,  
26      the halibut fishery as to how -- how that relates  
27      to stock concept and this idea of biological  
28      complexities. Trying to from a fisheries  
29      management perspective, we've got these 435 CUs  
30      for the sockeye fishery, and I'd like you to  
31      compare that to another fishery, and I'm picking  
32      out halibut as an example to help explain the --  
33      what's required to manage one as compared to the  
34      other.

35      DR. RIDDELL: I understand the question. I'm just  
36      trying to think of a clear way to answer it. If  
37      we start from the halibut, halibut being a marine  
38      species, they do have spawning aggregations or  
39      locations, if you want, and there are some genetic  
40      differences through large geographic areas of the  
41      Pacific -- well, along the western -- the eastern  
42      Pacific. But really the genetic differences there  
43      are very, very small. The real issue in the  
44      halibut fishery is assessing the biomass of fish  
45      that are currently available, and comparing that  
46      against what they had seen in the past in terms of  
47      what they call the virgin biomass or the original

1 biomass. And then they would look at allowable  
2 harvest rates, how much can be removed from that  
3 to sustain future populations.

4 So you don't really see a great deal of  
5 application of the stock concept in the halibut  
6 fishery. You do see it more in some other marine  
7 fisheries, such as rockfish where you have  
8 multiple species, which is a similar concept but  
9 really are species-specific differences.

10 What happens in Pacific salmon is that there  
11 are very, very few fisheries that don't fish  
12 multiple populations or stocks and now what we're  
13 talking about are conservation units.

14 So the real value, it still looks like a  
15 large number, but when you consider that in the  
16 past people have talked about roughly 8,200 so-  
17 called stocks that we've referred to in that  
18 table, you're now down to a number that's 435,000  
19 in this table across all species. And when you  
20 get down to sockeye salmon, most of our fisheries  
21 still occur in the oceans, and they are on  
22 multiple aggregations.

23 The conservation units are not going to  
24 change our management process fundamentally. All  
25 right. What they are going to do is look at  
26 what's the change in accountability of the  
27 distribution of the spawners when they get back  
28 into fresh water.

29 So now what you need to do is you're looking  
30 at the abundance of fish coming through the  
31 fishing regions outside. That's where I referred  
32 earlier to the test fisheries. The test fisheries  
33 look at the relative catch rates that they've seen  
34 in the past, and they are then used in formulas to  
35 look at what would the projected return biomass be  
36 given that harvest, the number of animals caught  
37 in a test fishery. You then do the DNA analysis  
38 to understand the stock composition, and as the  
39 season progresses you build up this trend in the  
40 return abundance by conservation unit now.

41 This also has to go through time because  
42 there's a run timing curve that occurs. They  
43 don't all come in in a day. They come in through  
44 most of them over about month of the populations  
45 returning to the coast, and that.

46 And so this is the discussion I presume you  
47 had previously with the PSC in terms -- because

1 that's their responsibility for Fraser sockeye is  
2 monitoring all these test fisheries and the return  
3 of the stocks. As they return to the coast, they  
4 then go through the Fraser Panel in the  
5 discussions for the Panel Region about what  
6 allowable harvest would be.

7 So the complication is one of not just  
8 looking at biomass, you're now looking at biomass  
9 for every single CU.

10 Q All right. And so I'm just trying to help  
11 understand, though, the -- so you've described the  
12 management of the Fraser River sockeye and I'm  
13 just trying to put this -- this particular  
14 fisheries management in its context of the other  
15 management models that DFO's doing as to help  
16 understand the -- what the WSP was -- is intending  
17 to do, and how that was different and new at the  
18 time, I'm presuming. I'm just trying to put it in  
19 its context as to when you were developing the  
20 WSP, what you had to learn to make this work.

21 DR. RIDDELL: Well, maybe I should clarify. In  
22 developing the WSP we were looking at conserving  
23 the genetic diversity throughout the freshwater  
24 habitats, protecting the habitats more thoroughly,  
25 monitoring the habitat change, because there's  
26 very poor long-term monitoring of habitat loss and  
27 that, so we wanted to monitor that, we wanted to  
28 incorporate the animal in its habitat within its  
29 ecosystems and respect the ecosystem values that  
30 people refer to, and that. Those are the sort of  
31 interlinked three information strategies that  
32 we've referred to. That's the major change in the  
33 Wild Salmon Policy.

34 The actual in-season management is very  
35 little changed, except that your assessment  
36 criteria now relate to the conservation units.  
37 And that not to a limited number of major stocks.  
38 They will still manage the Fraser sockeye in run  
39 timing, because that is the natural progression of  
40 the animals returning to the coast. They come in  
41 in run timing segments. And the assessment will  
42 now be done, looking at instead of talking about  
43 the stock ID, you might talk about this  
44 conservation unit ID, because that's the level  
45 that we want to look at these days.

46 Q Okay. All right. Well, thank you. Those are all  
47 my questions with respect to your introduction.

1 I'll now do some follow-up questions for the panel  
2 with respect to issues that arose yesterday.

3 If I could have Exhibit 8 brought up, which  
4 is the Wild Salmon Policy, and if we could turn to  
5 page 29.

6 And, Mr. Chamut, yesterday you were  
7 describing concerns with respect to the  
8 Ministerial discretion, and perhaps you could just  
9 explain how the Wild Salmon Policy explains and  
10 deals with the issue of the Ministerial discretion  
11 under the *Fisheries Act*.

12 MR. CHAMUT: I'm assuming that your question is  
13 pertaining directly to the comments that are on  
14 page 29 that do assign some discretion to the  
15 Minister with respect to conservation of  
16 conversation units.

17 Q Exactly.

18 MR. CHAMUT: Okay. In the development of the policy we  
19 were fairly -- I mean, we were very clear on the  
20 need to ensure that we had a policy that protected  
21 the genetic diversity of Pacific salmon. But at  
22 the same time we also recognized that it would be  
23 probably poor public policy to have some -- to  
24 have an instrument like this Policy that would  
25 actually completely tie the Minister's hands with  
26 respect to protection of some CUs in exceptional  
27 circumstances, and I'd like to illustrate that by  
28 just a hypothetical example.

29 In some cases it's easy to conceive of a very  
30 small conservation unit, let's say for sockeye,  
31 for example, and that conservation unit has very  
32 low productivity, there's very low abundance, and  
33 there could be some sort of catastrophe like a  
34 slide or some other event that would essentially  
35 doom that population to extinction. And it would  
36 undoubtedly in a situation like that there would  
37 be an analysis of the problems, what some of the  
38 remedies might be and efforts would be made to  
39 seek a solution to try and prevent the extirpation  
40 of that population. But that analysis may turn  
41 out that costs are excessively high, likelihoods  
42 of success are extremely low, and in those  
43 circumstances the Minister under this policy would  
44 be recognized to have discretionary authority to  
45 be able to say we are not going to expend a large  
46 amount of money and effort to try and prevent that  
47 inevitable extirpation of that population.

1           And in those situations -- and this has been  
2 a very controversial part of the policy, because a  
3 lot of individuals have assumed that this  
4 undermines the commitment of the Department to  
5 conserve conservation units. And that's not the  
6 case. And clearly the Department in putting this  
7 particular proposal together indicated that any  
8 exercise of that Ministerial discretion would be  
9 done in exceptional circumstances. And where such  
10 a circumstance would come up, the policy is very  
11 clear that it would not -- that a decision would  
12 not be taken sort of arbitrarily by -- by a  
13 bureaucrat who would decide on his or her own that  
14 they were not prepared to continue to take efforts  
15 to protect this conservation unit. Rather it  
16 would be something that would be part of a public  
17 consultation process with due input and  
18 consideration from all interests, and a decision  
19 would at the end of the day be rendered by the  
20 Minister, but it would not be done except in  
21 exceptional circumstances, and in my opinion, very  
22 rarely.

23       Q     Thank you. Dr. Riddell, yesterday you were  
24 discussing that there -- that the relationship  
25 between conservation units, the lower benchmark  
26 and the FSC - Food, Social and Ceremonial -  
27 Fisheries, and you commented about that there are  
28 decisions where First Nations want to fish below  
29 the lower benchmark. Could you elaborate on that  
30 statement you made.

31       DR. RIDDELL: Well, the complication comes in here and  
32 when you have a bottom line on what a strict  
33 conservation amount will be. There is a whole  
34 area in the science of conservation biology called  
35 minimum viable populations. And for a number of  
36 years people tried to estimate these very small  
37 populations. And for salmon, many of the  
38 estimates come down to few hundred fish would be a  
39 minimum viable population.

40           The difficulty with those sorts of analyses  
41 are that they very frequently don't take into  
42 account sufficient levels of uncertainty in the  
43 environment and in our management control. Our  
44 ability to recognize a very small population in a  
45 large population -- in a large fishery, sorry, is  
46 extremely difficult. And so the minimum viable  
47 population frequently puts the particular

1 population in a great deal of risk in that.

2 And so the issue for us was that we wanted to  
3 define a minimum population size, which is the  
4 lower benchmark, including an allowance for  
5 uncertainty in the annual returns and in  
6 management control. And that is above what would  
7 be necessarily the valued estimate if you only  
8 looked at the biology of the animal. All right.

9 There are in cases where the conservation  
10 limits where some salmon populations have been  
11 more like the minimum viable population, very,  
12 very small levels, and that, and so if you then  
13 got into a debate about what is the actual  
14 biological conservation level, it will be below  
15 the lower benchmark. Right?

16 And so we really wanted to try to build into  
17 a system that respected that there -- if there's  
18 very limited opportunities to fish, and there are  
19 in some of the Interior First Nations fishing  
20 areas, then they need to have food from particular  
21 conservation units.

22 Q Right.

23 DR. RIDDELL: If that occurred on a regular basis, it  
24 could be a problem. If it occurred just very  
25 periodically, then it wouldn't necessarily be, if  
26 there is a limited harvest, and that. But the  
27 lower benchmark needed to take that sort of a  
28 eventuality into account. And that's why one of  
29 the reasons we built in the buffer, and that's  
30 what really involves the sort of conflict I was  
31 referring to.

32 Q All right. Thank you very much. Just for  
33 clarity, Mr. Saunders, could you advise the  
34 Commissioner who was on the development team and  
35 what departments within DFO were part of that.

36 MR. SAUNDERS: Yes, I can. My colleagues can help me  
37 out if I'm missing something, someone. But the  
38 panel that you see here were all part of the  
39 development team for the Wild Salmon Policy. So  
40 Jim -- Dr. Jim Irvine and Dr. Riddell from  
41 Science. We also had from Fisheries Management,  
42 Mr. Sandy Fraser was a Lead Policy Analyst, and  
43 from the Habitat, Oceans and Habitat Group, Sue  
44 Farlinger was a member. And am I missing anybody?  
45 Yes, Andy -- Andrew Thomson represented Fisheries  
46 and Aquaculture Management as the lead from  
47 Aquaculture. And Carol Cross was also involved



1 from Oceans and Habitat. Yeah, that's the group.

2 Q Thank you.

3 MR. SAUNDERS: Sorry, I should -- Pat Chamut,  
4 obviously, as well.

5 Q Dr. Irvine, yesterday you were talking about the  
6 need of the Wild Salmon Policy to acknowledge  
7 uncertainty, and if you could describe for the  
8 assistance of the Commissioner how lessons learned  
9 on how to manage risk and uncertainty.

10 DR. IRVINE: Well, certainly a good -- I think you have  
11 to understand that in environmental sciences, as I  
12 mentioned yesterday, there is always uncertainty.  
13 So we really don't -- it's very difficult to  
14 predict what's going to happen in the future when  
15 it comes to the environment, and it's also  
16 extremely difficult to anticipate precisely how  
17 the fish are going to respond.

18 Now, one of the ways that we did incorporate  
19 uncertainty in the Wild Salmon Policy is, as Dr.  
20 Riddell pointed out, in the identification of the  
21 lower benchmark. And so that benchmark included  
22 the buffer, as Dr. Riddell mentioned, between it  
23 and a point at which a conservation unit might be  
24 considered at risk of endangerment under the  
25 **Species At Risk Act**.

26 But the buffer, or at least the lower  
27 benchmark, also included, as I think Dr. Riddell  
28 mentioned, any uncertainty as might be reflected  
29 in terms of our understanding of management  
30 implications on the stock, as well as the actual  
31 population size. So that we -- we recognized that  
32 there was uncertainty and we wanted to -- it  
33 really links into the precautionary approach. And  
34 so we were really trying to ensure that the lower  
35 benchmark was established in a precautionary way.

36 Q Dr. Irvine, could you explain how the concept of a  
37 conservation unit relates to a designatable unit  
38 under the **Species At Risk Act**. And I know you've  
39 -- I know you have a paper on this. I don't know  
40 if you need that, or if you just --

41 DR. IRVINE: Sure.

42 Q -- can describe the relationship between that, the  
43 designatable unit in the **Species At Risk Act** and a  
44 conservation unit.

45 DR. IRVINE: Sure. And I do have some expertise in  
46 this area, having written the first COSEWIC Report  
47 on the Pacific Salmon, and I have an article in

1 the peer-reviewed literature dealing specifically  
2 with the **Species At Risk Act**, as well as the other  
3 article that you've mentioned.

4 It's quite interesting, because there was an  
5 overlap in the development of the WSP and the  
6 **Species At Risk Act**. So as we described  
7 yesterday, the WSP, the first version was released  
8 in 2000, the final version was released in 2005.  
9 The **Species At Risk Act** went through multiple  
10 iterations in the Canadian Parliament and was  
11 eventually passed in 2003 and fully ratified in --  
12 2002 it was passed, and fully ratified in 2003, or  
13 fully implemented in 2003.

14 So that both the **Species at Risk Act** and the  
15 Wild Salmon Policy acknowledge the importance of  
16 within-species diversity. So that as we've talked  
17 about this morning, sockeye salmon, *Oncorhynchus*  
18 *nerka*, is a taxonomic species. As Dr. Riddell  
19 pointed out, we have over 200 conservation units  
20 within that taxonomic species. So in the WSP we  
21 use the term "conservation units". In the **Species**  
22 **At Risk Act** the term that they use are  
23 "designatable units".

24 Now, in developing the Wild Salmon Policy we  
25 attempted to align the conservation units as much  
26 as practicable with the minimum unit that could be  
27 listed under the **Species At Risk Act**. So the  
28 definition of a species in the **Species At Risk**  
29 **Act**, I don't have it committed to memory, but it  
30 doesn't -- it could be a taxonomic species or it  
31 could be a geographically or genetically distinct  
32 unit or variety within that species. So that  
33 there are -- there are similarities. So there was  
34 sort of an overlap in terms of the chronology of  
35 the development of both the Wild Salmon Policy at  
36 the **Species At Risk Act**. We took that into  
37 consideration as we were developing the Wild  
38 Salmon Policy.

39 So to date, you know, we have identified the  
40 conversation units under the Wild Salmon Policy as  
41 we've seen yesterday.

42 Under **SARA**, under the **Species At Risk Act**,  
43 the designatable units, some of them have been  
44 identified, so initially the way it worked is they  
45 focused in on key units, such as Cultus sockeye,  
46 Sakinaw sockeye, Interior Fraser coho, and  
47 Okanagan chinook, and so they keyed in on those

1 specific designatable units. My understanding is  
2 they're currently right now attempting to formally  
3 identify the designatable units for Pacific  
4 salmon, and time will tell how much they overlap  
5 with the conservation units.

6 Q Okay. And when you say "they" are working on the  
7 designatable unit, who is they?

8 DR. IRVINE: Okay. **Species At Risk Act, SARA**, there's  
9 actually three stages. So the first step within  
10 **SARA** is the identification of the units, and the  
11 second stage is the categorization of the degree  
12 of endangerment, whether or not that species is  
13 actually at risk of extinction. That component is  
14 done -- is carried out by the -- by COSEWIC. So  
15 COSEWIC is the Committee on the Status of  
16 Endangered Wildlife in Canada. That group is --  
17 is not part of the Government of Canada. It's a  
18 -- it's an independent body which is at arm's  
19 length from the Government of Canada. And there  
20 are Fisheries and Oceans scientists that do  
21 participate in the process, and are members of the  
22 -- of the different working groups or  
23 subcommittees within COSEWIC. So the one dealing  
24 with salmon is the Anadromous Fish Commission --  
25 no, Fish Committee, I think, if I've got the right  
26 term? Anyway, there have been several DFO staff  
27 that have participated in that process.

28 So I'll just make one other point, is that it  
29 -- there's some really interesting analogies  
30 between **SARA** and the WSP. And one of the more  
31 important ones, I think, is COSEWIC looks at the  
32 -- essentially categorizes a unit as to its  
33 biological degree, it's -- whether or not it is  
34 endangered or not is determined based on  
35 scientific data. So it's very analogous to what  
36 goes on within Strategy 1 of the Wild Salmon  
37 Policy, where what we do is we identify  
38 conservation units, we identify benchmarks, we  
39 identify whether or not we categorize the status,  
40 based on scientific information.

41 So that -- within **SARA** that is -- that  
42 function is determined or controlled by COSEWIC.  
43 And then it's the recommendations from COSEWIC are  
44 presented to the Government of Canada, and it's  
45 the Government of Canada that actually has the  
46 ability to incorporate social and economic  
47 information in determining whether or not a

1 species that was recommended for listing by  
2 COSEWIC would in fact be legally listed. And  
3 that's in a sense, that's what goes on with  
4 Strategy 4 in the Wild Salmon Policy, because  
5 that's where the social and economic information  
6 come into developing a decision-making process, or  
7 a plan for that particular unit.

8 MR. TIMBERG: That's a very helpful parallel. Thank  
9 you for sharing that.

10 I'm conscious of the time. Is it appropriate  
11 to have a -- or shall we continue for...

12 THE COMMISSIONER: Carry on.

13 MR. TIMBERG: Okay, I'll carry on. Thank you.

14 Q And then if we could have -- we're on the Wild  
15 Salmon Policy. If we could turn to page 8, and,  
16 Dr. Irvine, yesterday you were brought to a draft  
17 of the Wild Salmon Policy back in 2002, and you  
18 were asked questions about the three principles.  
19 Perhaps you could briefly just take the  
20 Commissioner through the four principles that  
21 actually were passed.

22 DR. IRVINE: Okay. The -- as I recall, the primary  
23 difference between in terms of the principles  
24 between the 2002 draft and the 2005 draft, was the  
25 second guiding principle, which is to:

26  
27 Honour obligations to First Nations.

28  
29 And I'm going by memory, but I'm quite sure that  
30 that was not incorporated in the early draft. So  
31 that specific principle came as a result of our  
32 meetings with the First Nations and others.

33 The first principle, the guiding principle:

34  
35 Conservation of wild salmon and their  
36 habitats is the highest priority.

37  
38 That's really the number one principle. And the  
39 first, it essentially stems from this New  
40 Directions document that I mentioned yesterday.

41 Q Right.

42 DR. IRVINE: So the New Directions document which was  
43 released, I believe in 1999, and then there was  
44 four significant policies that came out of it,  
45 including the Wild Salmon Policy, identified that  
46 conservation of wild -- conservation of salmon was  
47 the first priority. So that was kind of our --

1 provided the direction to include that -- that  
2 principle.

3 As we discussed yesterday, the concept of  
4 "Sustainable use", I mean, why are we conserving  
5 these salmon? Well, it is in large part so that  
6 we will have sustainable use, long-term use. And  
7 it was clearly important that -- I think it's very  
8 important in any sort of controversial policy that  
9 you do it in an open and transparent way. Because  
10 you're not going to please everybody, so that it's  
11 far better to put everything out on the table as  
12 much as practicable, so that -- so that people  
13 from all persuasions can see what you're doing.

14 Q And yesterday Commission Counsel stated that there  
15 were no benchmarks and that there were no CU -- no  
16 work was being done on the status of conservations  
17 units being monitored. And I'm wondering, Dr.  
18 Irvine, if you could, and perhaps Mark Saunders,  
19 if you could both answer this question as to  
20 whether in fact there are any benchmarks. What  
21 work is being done on benchmarks under Strategy  
22 1.2.

23 DR. IRVINE: Sure. I'd love to sort of start and then  
24 I'm sure Mark can add to it.

25 First of all, I think with regard to the  
26 second half of the question, whether or not we are  
27 monitoring status, I mean, we've been monitoring  
28 the status of salmon for decades. So it's not as  
29 if we had to wait for the Wild Salmon Policy to  
30 monitor status. So it is true that we have not  
31 formally identified benchmarks for all of the  
32 conservation units. However, there has been a  
33 paper prepared by Dr. Carrie Holt et al, that  
34 basically went through the process by which to  
35 identify benchmarks. So that -- that's a peer-  
36 reviewed document that has been accepted through  
37 the CSAS process, and I think it's in the  
38 documents somewhere.

39 So we have -- we've essentially determined  
40 the process by which benchmarks will be  
41 identified. There was meetings, I think you know,  
42 two weeks ago, in Vancouver or in Nanaimo, where  
43 there were Fraser sockeye were the topic of  
44 conversation, and I think I'll let Mark deal with  
45 that, because I wasn't at the meeting. But I  
46 don't want to leave the impression that we're not  
47 monitoring status. And we've had a very active

1 stock assessment program for a couple of decades  
2 where that's exactly what we do.

3 Q Okay.

4 MR. SAUNDERS: Yes, Mr. Commissioner. I don't have  
5 much to add to what Dr. Irvine said already. But  
6 in fact the Department, as Dr. Riddell's pointed  
7 to, the stock concept, for decades we -- certainly  
8 a decade, we've been managing and taking into  
9 consideration in our Integrated Fisheries  
10 Management Plan, stocks of concern. So the stocks  
11 that we know are in trouble are -- we're now  
12 relating them to CUs, but the managers, as Dr.  
13 Irvine pointed out, were not waiting to have  
14 formal identification of CUs and benchmarks to  
15 know that we need to take management action as  
16 required under the Wild Salmon Policy. So in fact  
17 we have been assessing and managing and dealing  
18 with stocks of concern for quite some -- for a  
19 long time.

20 Q Thank you. And Dr. Carrie Holt will be here for  
21 the second day panel and she can speak to her  
22 work.

23 And with respect to the Implementation Plan,  
24 yesterday there was some conversation that the  
25 Commission, you said it was semantics, that we do  
26 have an implementation plan. And I'd like to take  
27 you to a series of documents to have you identify.  
28 Mr. Registrar, if we could start with -- I'm at  
29 Tab 17, and we'll start with Exhibit Q, or Tab Q.  
30 And I'm not sure who's best positioned to speak to  
31 this. Mr. Saunders, could you -- have you -- are  
32 you familiar with this document?

33 MR. SAUNDERS: Yes, I am.

34 Q And could you describe what it is?

35 A I think yesterday when I referred to semantics,  
36 you know, there was a question about where the  
37 implementation plan was, and I think we -- this  
38 would have been the first cut at an implementation  
39 plan that I was involved in, but it subsequently,  
40 I think, we -- I don't think we carried on -- we  
41 used the "Workplan" phrase to describe more of our  
42 work going forward. So this was a first attempt  
43 at a results-based management framework, which  
44 builds on the Treasury Board of Canada's approach  
45 to managing initiatives within the federal  
46 government. So it follows a fairly standard  
47 framework.

1                   And we developed -- took the resources, the  
2 million dollars that had been agreed in the  
3 announcement that we saw yesterday, and developed  
4 a workplan for each of the strategies. And this  
5 was -- this was the first sort of plan that was  
6 put in place, or that was at least proposed. And  
7 subsequently a lot of the material, the frontend  
8 material on it was dropped in favour of simply  
9 updating the timelines, the diagrams and progress  
10 relative to the objectives that were laid out in  
11 the six strategies.

12 MR. TIMBERG: Mr. Registrar, could this be marked as --  
13 Mr. Commissioner, could this be marked as the next  
14 exhibit.

15 THE REGISTRAR: Exhibit 109.

16  
17                   EXHIBIT 109: Wild Salmon Policy  
18                   Implementation Workplan, Results-based  
19                   Management and Accountability Framework  
20                   Draft, Fisheries and Oceans Canada, September  
21                   20, 2005, Version 1.0  
22

23 MR. TIMBERG:

24 Q     And if we could turn then to Tab N in the same  
25 binder.

26 MR. LUNN: 17-N?

27 MR. TIMBERG: Yes, 17-N. And this, if you could flip  
28 through to page 8 and 9 to show the witnesses.  
29 And then there's one, and there's a Gantt chart.

30 Q     And Mr. Saunders, have you -- are you familiar  
31 with this document?

32 MR. SAUNDERS: Yes, I am.

33 Q     And this is the "*Wild Salmon Policy* Implementation  
34 Workplan 07/08", and if you could just briefly  
35 describe what this contains.

36 MR. SAUNDERS: Well, it's difficult for me to without  
37 -- just looking at this particular page. I think  
38 this was just some of the -- can you maybe back up  
39 so I can see what the...

40 Q     Perhaps page 5 would be of assistance and the top  
41 two paragraphs.

42 MR. SAUNDERS: Right. So there's interest in providing  
43 in addition to just the workplan what we're doing  
44 with respect, so you can see that we're - Item 1,  
45 "Standardized monitoring of wild salmon status" -  
46 talking about the amount of money that would be --  
47 would have been allocated in 2007 and fiscal year

1 07/08, and the activities that we were undertaking  
2 in that year. So "Conservation Units definition",  
3 "development of benchmarks and stock assessment  
4 frameworks". And then further down on page 8,  
5 that would have provided for the -- for our  
6 Steering Committee some issues around the  
7 implementation, the fact around "Costs" through to  
8 "Partnership opportunities".

9 I should say that yesterday we spoke about  
10 the difficulties in the development of the policy  
11 and on this implementation side and the  
12 development of workplans, we've had a lot of very  
13 positive engagement and resources being brought  
14 forward by NGOs and -- and others to assist in the  
15 implementation. So knowing -- there was an  
16 interest in knowing some of that context with  
17 respect to that workplan.

18 MR. TIMBERG: Okay. And, Mr. Commissioner, if this  
19 could be marked as the next exhibit.

20 THE REGISTRAR: Exhibit 110.

21  
22 EXHIBIT 110: *Wild Salmon Policy*  
23 Implementation Workplan, FY 07/08, dated  
24 August 13, 2007  
25

26 MR. TIMBERG: I have three more of the same documents  
27 for each year, which I would like you briefly to  
28 identify. If we could turn to in the same Exhibit  
29 17, Tab J, and this is the 2008/2009 -- I  
30 understand this is the 2008/2009 Workplan, and at  
31 page -- there's also a Gantt chart in here.

32 Q Mr. Saunders, are you familiar with this document?  
33 If you could perhaps, Mr. Registrar, take him  
34 through a couple of the --

35 MR. SAUNDERS: I am not familiar with this document. I  
36 was -- I returned to the Department in February of  
37 -- I was on assignment with the Pacific Salmon  
38 Foundation through to January of -- I came back in  
39 February of 2009.

40 Q Okay. That's fine, then. And I'll leave this for  
41 now. Perhaps we'll have plenty of time to talk  
42 about this during the implementation stage  
43 tomorrow.

44 Perhaps just for the assistance of the  
45 Commissioner you can just briefly outline now an  
46 overview of the steps that -- the organizational  
47 steps that DFO took with respect to



1 implementation.

2 MR. SAUNDERS: With respect to implementation?

3 Q Yes, just to let us know, to clarify, so there's  
4 no uncertainty with respect to this issue.

5 MR. SAUNDERS: Yes, Mr. Commissioner. As that first  
6 document in 2005, I think we followed a very  
7 similar process in subsequent years. The six  
8 strategies really are the implementation plan,  
9 subject to details. What we knew when we built  
10 it, the Wild Salmon Policy, that it would be very  
11 difficult to, even in that first year of  
12 implementation, to fully develop the timeline and  
13 the costs, and what it would really take to  
14 complete the Policy in its fullness. And you  
15 know, knowing that the full implementation was  
16 probably between five and ten years out, we did  
17 lay out each year, we revisited -- we developed an  
18 annual workplan and revisited with our Steering  
19 Committee on, I would say on average, probably  
20 every six months, we, as that last deck was an  
21 update to our Operations Committee, which was  
22 formalized as the Steering Committee for the Wild  
23 Salmon Policy and other initiatives that needed to  
24 be connected in terms of the Change Agenda for the  
25 -- for the Department of Fisheries in the Pacific  
26 Region.

27 So we routinely came back to understand where  
28 -- to allow senior management to understand where  
29 we were, and to understand the workplan and the  
30 resources that we were putting towards it. I  
31 think fair to say that the million dollars has  
32 continued, for the most part, to even the present,  
33 in terms of making resources available within the  
34 Department, and continue to work on it. And that  
35 Workplan Results Framework was applied and -- was  
36 ongoing and applied annually.

37 MR. TIMBERG: Thank you. Mr. Commissioner, I would  
38 like to just now take the -- each of the panel  
39 members through their will-say statement, and then  
40 I will have concluded my examination.

41 Q Perhaps I'll start with Dr. Irvine. And if you  
42 could pull up your will-say statement, it's  
43 Exhibit 103. And, Dr. Irvine, is there -- I'll  
44 just take you through each section. Are there any  
45 comments that you would like to add to your  
46 witness summary with respect to "The development  
47 of the Wild Salmon Policy"?

1 DR. IRVINE: I actually think we've covered this  
2 adequately this morning and yesterday.

3 Q Okay. And with respect to the second section,  
4 "Science-based biological benchmarks versus  
5 management reference points".

6 DR. IRVINE: Yes. And we did cover this somewhat  
7 yesterday. I mean, I might just reiterate that --  
8 that we in Strategy 1, we used the term  
9 "benchmark" rather than "reference point" simply  
10 because reference points are often associated with  
11 societal values. And by using the term  
12 "benchmarks" in Strategy 1, we were not precluding  
13 the use of the terms "target reference points" and  
14 "limit reference points" in Strategy 4. But it's  
15 important to understand that Strategy 1 is about  
16 the biological status of the resource and not --  
17 is not directly linked to changes -- necessarily  
18 to changes in fisheries management.

19 Q Okay. And I note that your witness summary covers  
20 -- you'll be here tomorrow on the day 2 panel, so  
21 at the end of page 2, I won't -- I'll presume that  
22 that will be the line for your -- your testimony  
23 for tomorrow.

24 DR. IRVINE: That's what I've been assuming, too.

25 Q Okay.

26 DR. IRVINE: Thank you.

27 Q And, Mr. Saunders, if you could perhaps pull up  
28 Exhibit 101, Mr. Registrar. My understanding is  
29 that perhaps page 1 to 5 are -- is your testimony  
30 with respect to "Development" and then page 6 it  
31 deals with the "Implementation Team". Do you have  
32 any comments that you would like to add with  
33 respect to your witness summary?

34 MR. SAUNDERS: Mr. Commissioner, I am satisfied --  
35 nothing I would like to add specifically on my  
36 summary of evidence statements, but in the context  
37 of sort of some of my knowledge and understanding  
38 of the development of the Wild Salmon Policy and  
39 some of the discussion that we've had here, I  
40 would appreciate an opportunity to add a statement  
41 around sort of the process of Science, as the Wild  
42 Salmon Policy -- Science, as it informs  
43 Management, how it's changed as it's  
44 transformational in the context of the Wild Salmon  
45 Policy, if I might.

46 Q Yes, please do.

47 MR. SAUNDERS: I wonder if we could bring up the Wild

1 Salmon Policy, and I forget the page that has the  
2 picture of the -- not the house, the  
3 Red/Amber/Green benchmarks, Figure 3.

4 Q It's page 17, I think. Yes, page 17.

5 MR. SAUNDERS: Yeah, I think a lot of the discussion,  
6 Mr. Commissioner, has been around the importance  
7 -- the difference between benchmarks and some of  
8 the limit reference points, and whether or not we  
9 provide enough prescription in going forward. And  
10 Dr. Irvine and Dr. Riddell have talked a lot about  
11 the need to consider social and economic, and  
12 where that takes -- how and where that takes  
13 place. And I think the Wild Salmon Policy, and  
14 unless you sort of -- I think it's difficult to  
15 understand that it may be the subtlety of the  
16 difference that the Wild Salmon Policy is putting  
17 forward.

18 But I think if you look at that -- and Dr.  
19 Riddell has spoken to the lower benchmark, the  
20 fact that it has to consider uncertainty, it's got  
21 a buffer built in there. But really from a  
22 management perspective, there is no limit  
23 reference point in there that says if the status  
24 of a conservation unit hits a particular level in  
25 there, like the Red, something is going to happen.  
26 We're going to stop fishing. We're going to take  
27 some action. The only action that's prescribed in  
28 the Wild Salmon Policy at that lower benchmark is  
29 to say that we will develop a plan to move us out  
30 of that Red Zone. And as Mr. Chamut has pointed  
31 out, that in extreme circumstances you could in  
32 fact decide not to take any -- any action.

33 So I think part of the success of the Policy  
34 and the continued sort of recognition of it, is  
35 that the Minister, as well as all of the interests  
36 that have an interest in salmon, need to have a  
37 say in how -- where you actually set a target  
38 reference point, and that goes beyond assessment  
39 of its status, so you can arrive at any point in  
40 that continuum.

41 And I think Dr. Riddell was pointing out  
42 that, you know, that when asked whether or not  
43 what changes to fisheries management were taking  
44 place with respect to the number of CUs that we  
45 were seeing, and he correctly pointed out that we  
46 will still continue to manage groups of run-timing  
47 groups in mixed stock fisheries, but the Wild

1 Salmon Policy would have us -- have the Department  
2 being accountable within that management scheme  
3 for the -- for each of the CUS that it's  
4 responsible for. So how do you do that? How do  
5 you bring groups together in a way that's going to  
6 meet both social, economic and conservation  
7 objectives.

8 And I'd like to flip forward to Appendix 2,  
9 which is what's proposed as a five-point planning  
10 procedure under the Wild Salmon Policy. It's on  
11 page 45. This is something that's been test-  
12 driven on an initiative known as the Fraser  
13 Sockeye Spawning Initiative, that's taken place  
14 over the last five to eight years.

15 MR. WALLACE: Excuse me. Mr. Commissioner.

16 MR. SAUNDERS: Yes.

17 MR. WALLACE: This strikes me as getting well into the  
18 issue of Strategy 4 and the relationship to  
19 current management, which I think would be more  
20 efficiently dealt with at the second go-round with  
21 the Wild Salmon Policy after Harvest Management  
22 has been heard.

23 MR. TIMBERG: Well, it's my position for this panel as  
24 the Development Panel, and so there has been a  
25 silo created of Strategies 1, 2, 3 and 6, and  
26 we're not to talk about 4 and 5, but for this  
27 panel to explain how they developed the Policy, I  
28 think there should be some latitude to allow them  
29 to explain the whole package, because you can't  
30 really cut it up so easily.

31 MR. WALLACE: I agree with that, Mr. Commissioner, and  
32 I had been conscious of the line between putting  
33 the whole process into context and getting into  
34 this particular step, which I see Appendix 2 is  
35 doing. So I think that this crosses the line.

36 MR. TIMBERG: I'd ask that the witness be permitted to  
37 just describe how this Appendix 2 fits into the  
38 development of the WSP pack.

39 THE COMMISSIONER: Very well. Perhaps before we do  
40 that, this might be an appropriate time to take a  
41 break.

42 MR. TIMBERG: Thank you.

43 THE REGISTRAR: The hearing will now recess for 15  
44 minutes.

45  
46 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)  
47 (PROCEEDINGS RECONVENED)

1 CROSS-EXAMINATION BY MR. TIMBERG, continuing:  
2

3 Q Mr. Saunders, if you could briefly describe, then,  
4 Appendix 2 and how that fits within the overall  
5 framework of the WSP.

6 MR. SAUNDERS: Yes, Mr. Commissioner. I think Appendix  
7 2 is, as I was saying, I think is a critical point  
8 in sort of changing the process around determining  
9 long-term objectives for both biological, social  
10 and economic, and lays out a way to go forward in  
11 doing that.

12 In fact, in developing this, I had some  
13 interaction with the Commissioner of the  
14 Environment and her office around just how this  
15 was being done elsewhere. There were no examples  
16 that they could provide me at that time, despite a  
17 requirement under sustainable development, how to  
18 do it. So I think this was a -- but it was a  
19 critical part of the policy we recognized in terms  
20 of how do you bring people together to set joint  
21 objectives in the absence of including  
22 prescriptive mechanisms within the actual policy,  
23 which we did not want to do. We needed a process  
24 to make that happen.

25 I think later, under the implementation,  
26 we'll talk about how that's progressed. But right  
27 now, I think it's important just to understand  
28 that this is a real change in the way Science and  
29 management would have operated. And even up to  
30 this point, the process within Science is to have  
31 Science produce a paper that describes the status  
32 and tries to encompass all the requirements to go  
33 forward in the context of forecasting, et cetera,  
34 and then it would go into a separate forum to  
35 allow -- and some hard line being drawn in the  
36 sand around conservation, and then it going  
37 forward into another forum where managers and  
38 resource users would try to come to grounds on an  
39 objective.

40 This is a fundamental -- and I think we  
41 talked about some of the tension in the  
42 development of the policy, and that, when this  
43 group, my colleagues, came together in 2003 and  
44 '04. There was a lot of tension that Science was  
45 -- wanted to be involved in setting those hard and  
46 fast lines in the sand, and we evolved to the  
47 point around the benchmarks and another way of

1 doing business. I spoke to Collaboration  
2 yesterday, and I believe that this five-step  
3 process that we put into the policy is about how  
4 do you decide where to put that line on your red,  
5 amber, green, when it's time to set a target for  
6 escapement or other management actions.

7 The heart of it is coming -- really is about  
8 an interest-based process that brings people  
9 together. Step 1 is about identifying the  
10 priorities, so we're all in agreed (sic) about the  
11 state of the conservation units and what the  
12 priorities are. It doesn't necessarily have to be  
13 a conservation unit that's in trouble. It could  
14 be a conservation unit that's in the green.  
15 That's very important that we need to have a plan  
16 and solid objectives and understand those  
17 objectives jointly.

18 If you could just maybe flip down and expose  
19 step 2 and 3?

20 MR. TIMBERG: All right, Mr. Registrar, if -- yes,  
21 thank you.

22 MR. SAUNDERS: Step -- maybe -- so Step 2 would be  
23 around identifying resource management options.  
24 So if something is in the red zone, what are our  
25 options around habitat, around fisheries  
26 management? What levers could we potentially  
27 pull?

28 Then Step 3 is around identifying performance  
29 indicators, so when we're going to evaluate those  
30 management options, what are the -- what are the  
31 social and economic considerations that we need to  
32 think about: socially around First Nations and  
33 ceremonial or economic fisheries. What are the  
34 needs of the recreational sector? What are the  
35 needs of the general public in those areas? Get  
36 those all on the table. Develop some indicators.

37 Step 4 is then to use those indicators and  
38 assess the various options that we've got. So if  
39 we're going to maintain -- set a limit to try and  
40 escape enough fish to keep it in the -- it could  
41 be even in the yellow or in the upper red. What  
42 are the implications? We move around in that  
43 space to try to find, as we talk about under  
44 sustainable development, a net positive result in  
45 all three accounts, ecological, social and  
46 economic. And then we come together to select the  
47 preferred alternative.

1           I think that's a really fundamental way that  
2           we would move forward in developing plans for  
3           habitat, for CU's, and any -- anything related  
4           around the resource management related to meeting  
5           the objectives of the Wild Salmon Policy, a  
6           fundamental change.

7           Q     Okay. Thank you very much. Mr. Saunders, is  
8           there any other comment that you would care to add  
9           to your witness summary?

10          MR. SAUNDERS: No.

11          Q     Okay. Thank you. Mr. Chamut?

12          MR. CHAMUT: No, I had ample opportunity yesterday to  
13               clarify any issues that I wished to, and I'm quite  
14               happy with the statement as it is written.

15          Q     Thank you. Dr. Riddell?

16          DR. RIDDELL: No, I have nothing further to add to my  
17               witness statement.

18          MR. TIMBERG: Thank you very much. Those are all my  
19               questions.

20          MR. WALLACE: Thank you, Mr. Commissioner. I have the  
21               Province of British Columbia next on the list.

22          MR. PROWSE: Yes. D.C. Prowse, Mr. Commissioner, for  
23               the Province of British Columbia.

24

25          CROSS-EXAMINATION BY MR. PROWSE:

26

27          Q     I think many of the interesting aspects of this  
28               will be dealt with by the -- when we get to the  
29               question and implementation. But I note that Dr.  
30               Riddell is not going to be part of that panel.

31               So, Dr. Riddell, I wanted to ask you to turn  
32               to your statement at -- which is Exhibit 99, and  
33               particularly on the second page. So it's the last  
34               bullet under the heading "WSP Development from  
35               2001 to 2005." I don't think this was covered in  
36               your earlier evidence. So the last bullet starts  
37               by saying that the DFO engage the province on WSP  
38               development to a limited extent, and then  
39               continues:

40

41                       He recalls that DFO gave the province two  
42                       advance briefings, but did not invite its  
43                       direct involvement at that drafting stage.

44

45               So, first of all, those two sentences are accurate  
46               to your knowledge?

47

1 (WATER SPILL)  
2

3 MR. LUNN: While you're taking care of that, Mr.  
4 Prowse, I'm not sure where you are in the  
5 document.

6 MR. PROWSE: I'm sorry, it's the second page of -- just  
7 above the "Challenges of WSP Development", so just  
8 above the bottom of the page.

9 MR. LUNN: On the witness summary?

10 MR. PROWSE: Yes. Exhibit 99.

11 MR. LUNN: (Indiscernible - not at microphone).

12 DR. RIDDELL: Sorry, do you need me to wait, or can I  
13 reply to your question, or...?

14 MR. LUNN: If the witness is able to do it without the  
15 document in front of him, I'd...

16 MR. PROWSE:

17 Q Yes. So in your November 16th statement, I read  
18 you a couple of statements. Are those accurate?

19 DR. RIDDELL: To my recollection, yes, they are.

20 Q All right. It then goes on to say that you will  
21 say that:

22  
23 In your view, the province did not need to be  
24 directly involved with drafting the WSP.  
25

26 Is that accurate?

27 DR. RIDDELL: In my opinion it was, yes, because of the  
28 difference in the species, largely. The policy  
29 explicitly states it does not address the  
30 steelhead or cutthroat trout.

31 Q Right. And so with respect to Fraser River  
32 sockeye, your view was that the province did not  
33 need to be directly involved with respect to those  
34 aspects of the WSP; is that correct?

35 DR. RIDDELL: Well, Mr. Commissioner, the Wild Salmon  
36 Policy is generic. It is not specific to Fraser  
37 sockeye alone, and that level of discussion did  
38 not occur in the writing and the development of  
39 the policy.

40 Q And I'm trying to get at why not, from your point  
41 of view. So why did you think that it wasn't  
42 necessary to get the province involved with  
43 respect to Fraser River sockeye, for example?

44 DR. RIDDELL: Well, it wasn't -- I'm sorry, Mr.  
45 Commissioner, it was not that we didn't feel that  
46 there was a need to involve the province, and we  
47 certainly were not talking specifically about



1 Fraser sockeye salmon when we're writing the  
2 general policy.

3 The important involvement of the province is  
4 in the implementation of the policy, particularly  
5 under Strategies 2 and 3. Many of the databases  
6 for habitat change, for example, are managed by  
7 the Province of British Columbia. There were  
8 talks amongst technical experts about what data  
9 was available with the province and whether they  
10 could be involved -- if the policy was  
11 implemented, would they participate in the  
12 development of joint databases, for example, and  
13 there are memorandums of understanding between the  
14 federal government and provincial government on  
15 data management and data exchange.

16 So there were mechanisms to involve them in  
17 the implementation already. The comment I was  
18 making here really was in the sense of we were  
19 looking at a long-term policy for the federal  
20 responsibilities to protect the genetic diversity  
21 of the Pacific salmon.

22 Q All right. And so the -- when it came -- and your  
23 statement goes on to say that the province's  
24 participation is needed in implementation, and  
25 you've just stated that with respect to Strategies  
26 2 and 3, why you felt that, and you referred  
27 particularly to databases and some technical  
28 discussions about accessing that kind of  
29 information for those two strategies.

30 DR. RIDDELL: Yes.

31 Q You also refer to Strategy 4 and why, in your  
32 view, was the province -- did you see a need for  
33 the province -- for involvement in Strategy 4?

34 DR. RIDDELL: Thank you for introducing that question,  
35 because I think that's really an important point.  
36 Strategy 4, looking at it in the broader sense is  
37 really about ecosystem-based management and  
38 developing harvesting plans within that context.  
39 Many of the elements of ecosystem-based management  
40 are outside the purview of the Department of  
41 Fisheries and Oceans. But we have to have the  
42 habitat issues and the **Fisheries Act** when many of  
43 them are reactionary or they seem to react after  
44 the effect.

45 Strategy 4 is to provide opportunity for  
46 long-term planning, and it would include issues of  
47 water management and land development and

1 utilization there for flood control and this sort  
2 of thing. Many of the things that pertain to  
3 water management and land development are under  
4 the responsibility of the provincial government,  
5 and that, and so would be impossible to really  
6 talk about long-term watershed conservation plans  
7 and particularly involving salmon, with  
8 involvement of the province and the municipal  
9 governments, First Nations and other community  
10 groups.

11 Q But in terms of the drafting process up to the  
12 year 2005, in your view, the province and -- the  
13 province did not need to be involved in the  
14 drafting process. In your view, those  
15 responsibilities would be dealt with after 2005 in  
16 the implementation status; is that correct?

17 DR. RIDDELL: Correct, in the implementation. But, as  
18 I did say, there were a couple of meetings and  
19 they were arranged at the Regional Director  
20 General level, sort of senior government/senior  
21 government. And then there would be briefings on  
22 the reason that we developed the policy in  
23 particular ways, and there was dialogue back and  
24 forth.

25 I don't really even recall any real requests  
26 from the provincial government to directly be  
27 involved in writing, and furthermore, they seldom  
28 participated in the multi-stakeholder  
29 consultations, and that, but the dialogue always  
30 was one of involvement during implementation.

31 Q So, from your point of view, they weren't  
32 necessary in the drafting process of the Wild  
33 Salmon Policy itself?

34 DR. RIDDELL: That's my opinion, yes.

35 MR. PROWSE: Thank you. Those are my questions, Mr.  
36 Commissioner.

37 MR. WALLACE: Thank you. Next on my list is the B.C.  
38 Salmon Farmers Association.

39 MR. HOPKINS-UTTER: Good morning Mr. Commissioner,  
40 panel, Shane Hopkins-Utter, H-o-p-k-i-n-s-hyphen-  
41 U-t-t-e-r for the B.C. Salmon Farmers Association.

42 My co-counsel, Alan Blair, suggested that I  
43 start out with a joke as he does. Unfortunately I  
44 didn't write one in my notes, so you'll forgive me  
45 if I just proceed.

46 I wanted to -- I just wanted to start out by  
47 having a quick discussion as to some of the points

1 that I hope to raise in my questions, so feel free  
2 to jump in. This is largely based on some of the  
3 evidence that you've already given yesterday and  
4 today. If I signal a particular person, if you  
5 have comments, please just let me know.  
6

7 CROSS-EXAMINATION BY MR. HOPKINS-UTTER:  
8

9 Q My first point, Dr. Irvine, is that the Wild  
10 Salmon Policy, as we've acknowledged, refers to  
11 the Aquaculture Policy Framework expressly and the  
12 mitigation of risks by citing considerations under  
13 the CEAA. Would you agree with that?

14 If you'd prefer to go directly to the page, I  
15 can --

16 DR. IRVINE: If you could -- page 31?

17 Q Absolutely, absolutely.

18 MR. HOPKINS-UTTER: Mr. Lunn, this Wild Salmon Policy,  
19 Exhibit 8. This would be page --

20 MR. LUNN: Thirty-one.

21 MR. HOPKINS-UTTER: -- 31. That's the paper. Yeah,  
22 there we are.

23 DR. IRVINE: Yes, there's a section in the policy on  
24 each of aquaculture enhancement and, I believe,  
25 habitat development.

26 MR. HOPKINS-UTTER:

27 Q Okay.

28 DR. IRVINE: And fisheries management, I believe.

29 Q Of course. And this is a general question to Dr.  
30 Irvine and Mr. Chamut. There was mention of  
31 interim guidelines, preliminary guidelines for  
32 setting of aquaculture operations that had existed  
33 at the time that the Wild Salmon Policy was in  
34 fact being developed, although I understand from  
35 the comments that those were -- were they not  
36 further developed? Have they actually been  
37 abandoned, or are they still generally there as  
38 guidance?

39 DR. IRVINE: No, in 2002, we made some progress in the  
40 development of the implementation guidelines for  
41 various activities, including aquaculture. But  
42 after, I believe, 2003, there was no further  
43 development of them so they were incomplete at  
44 that stage.

45 Q Thank you. And you'd generally agree the DFO is  
46 -- well, shall we say, committed to sustainable  
47 development as a sustainable Resources Management

1 Department?

2 DR. IRVINE: Yes. I'm not really a spokesperson for  
3 DFO, but certainly for the Wild Salmon Policy,  
4 sustainable development is one of the important  
5 principles of the policy.

6 Q And, Mr. Chamut, I believe you had made some  
7 comments on the Wild Salmon Policy acknowledging  
8 that while the conservation is a primary  
9 consideration, that decisions are not necessarily  
10 made without considering the sustainable use  
11 elements of social and economic considerations.  
12 Is that a true statement, or generally correct?

13 MR. CHAMUT: Well, I'd like to kind of restate it.

14 Q Of course.

15 MR. CHAMUT: I think what I said in testimony  
16 yesterday, the obvious priority within the Wild  
17 Salmon Policy is conservation of genetic diversity  
18 of wild salmon. But there is a process by which  
19 decisions are made. They're not necessarily going  
20 to be based just on biological considerations, and  
21 there is a process by which social and economic  
22 considerations can be made when we're talking  
23 about plans to protect or rebuild or conserve a  
24 particular CU.

25 But I also went on to say that there's --  
26 there's a continuum of concern. If you're dealing  
27 with a conservation unit that is at very low  
28 abundance and it's in that so-called red zone that  
29 was discussed this morning by Dr. Irvine, then the  
30 primary considerations that will be made about  
31 what to do with that CU will most often be  
32 biological.

33 As you move up into greater degrees of  
34 abundance and the much less risk that -- or much  
35 less threats to the well-being of the conservation  
36 unit, then increasingly biological -- sorry,  
37 social and economic considerations will be an  
38 important part of whatever decision is taken. So  
39 there is this continuum.

40 The intent of the policy that biological  
41 factors are going to be the primary considerations  
42 when the stock is at risk, with the one exception  
43 which I talked about this morning: The exception  
44 of circumstance where there may be some sort of  
45 extenuating circumstances where it will make it  
46 extraordinarily difficult to be able to conserve a  
47 conservation unit, or if it's -- if efforts to

1 conserve it are going to fail or be excessively  
2 costly. That's then a matter that would be  
3 considered for a decision by the Minister after  
4 consultation in a full and open process that  
5 looked at the issue of the biological status, the  
6 costs and consequences of the decision.

7 So it would be done in an open and  
8 transparent manner. But I think it's really  
9 important that when the stock or the conservation  
10 unit is at low levels, the policy clearly  
11 indicates that biological factors are going to be  
12 the primary consideration in decisions.

13 MR. HOPKINS-UTTER: Thank you. And, Mr. Lunn, if you  
14 can take us to page 16, middle left of the page.  
15 This is Principle 3 of the Wild Salmon Policy. If  
16 you could just enlarge the second paragraph under  
17 that?

18 Q So, Mr. Chamut, your comments then would fit in  
19 that -- fit into this particular principle that,  
20 in fact, conservation is the number one goal, but  
21 decisions cannot be -- I'm reading now:

22  
23 Conservation decisions cannot be based solely  
24 on biological information.  
25

26 So at that point, as you say, as we move up the  
27 scale away from red at that point, the sustainable  
28 development and sustainable use, then, becomes a  
29 greater consideration in the decision-making?

30 MR. CHAMUT: I think that's correct, yes.

31 Q Would you agree with me that the Wild Salmon  
32 Policy, as well as the Aquaculture Policy  
33 Framework generally recognized that pressures of  
34 human activity put on natural resources, including  
35 pressures on wild stocks for food purposes, those  
36 run counter to conservation in the strict sense of  
37 non-use?

38 To rephrase it, then, would you agree that  
39 both of those policies, Wild Salmon Policy and the  
40 Aquaculture Policy Framework do in fact recognize  
41 human pressures on natural resources such as wild  
42 salmon?

43 MR. CHAMUT: I'm not absolutely sure that this will  
44 answer your question, but, I mean, clearly the  
45 Wild Salmon Policy is in place to provide policy  
46 guidance as to how the Department will approach  
47 the conservation and management of wild Pacific

1 salmon.

2 The Aquaculture Policy Framework, which I  
3 have not looked at since I had the good fortune to  
4 be retired five years, as I recall it talks about  
5 aquaculture as a sustainable human activity. It  
6 recognizes that there can be adverse consequences  
7 to habitat and to wild resources, and that it  
8 needs -- it needs to be managed properly so that  
9 things like siting of a farm does not adversely  
10 affect important habitat, or there's -- making  
11 sure that there's disease control.

12 So -- and a variety of other things that are  
13 recognized as potential threats to wild salmon.  
14 But the Aquaculture Policy Framework essentially  
15 assumes that aquaculture can be a sustainable and  
16 good industry provided that it operates in accord  
17 with requirements of SEA (phonetic) and the  
18 habitat policy of the Department of Fisheries and  
19 Oceans, and probably other bits of legislation  
20 too.

21 Q I'll be taking you through these in some detail in  
22 just a few minutes so, don't worry, I'll make sure  
23 that we cover those off in greater detail.

24 I will put to you, and maybe you can agree or  
25 disagree or just feel free to say that you don't  
26 remember. As I say, I'll be coming back to this,  
27 but you are familiar with the Aquaculture Policy  
28 Framework. Do you recall, to the best of your  
29 knowledge, the discussion around aquaculture being  
30 a sustainable -- a sustainable industry -- was  
31 primarily with respect to its food production,  
32 that -- and the --

33 MR. WALLACE: Mr. Commissioner, I'm unsure how an  
34 investigation of the Aquaculture Policy Framework  
35 relates to the Wild Salmon Policy.

36 MR. HOPKINS-UTTER: Mr. Commissioner, at this point  
37 maybe I should get directly into my examination of  
38 the documents and I will, in fact, develop this.  
39 I should say -- I should have prefaced the fact  
40 that all of this is to say what was the knowledge  
41 of the Department of Fisheries and Oceans? What  
42 were the policies in place? What were the  
43 guidelines? What was the regulatory framework  
44 that existed at the time that the Wild Salmon  
45 Policy was in fact being developed?

46 So the fact that the Aquaculture Policy  
47 Framework existed as of 2002 or 2003 would be

1           germane to the fact that it was referred to  
2           expressly in Wild Salmon Policy.

3   THE COMMISSIONER: It might be helpful if you got to  
4           your specific questions rather than just these  
5           general questions that seem to be eliciting some  
6           confusion.

7   MR. HOPKINS-UTTER: Absolutely. I apologize.

8           Mr. Lunn, if you could take us to the bottom  
9           left of page 10.

10   Q   The Wild Salmon Policy identifies a number of  
11           pressures on wild salmon such as habitat  
12           pressures, including human use of land and water  
13           for:

14                           ...non-fishery uses, such as urban  
15                           development, forestry, agriculture, and other  
16                           industries.

17  
18  
19           And it notes:

20                           Habitat pressures will continue to grow as  
21                           human populations increase and, with them,  
22                           demands for space, food, and livelihood.

23  
24  
25           I think we've gone onto the right part of the  
26           page. If you could just focus on the right part  
27           of the page, Mr. Lunn?

28   MR. SAUNDERS: I think page 10 in the -- isn't -- yeah.

29   MR. HOPKINS-UTTER: Oh, the electronic page. I  
30           apologize.

31   MR. LUNN: Oh, sorry, I thought you were referring to  
32           the electronic version. So we're on page 10  
33           (indiscernible - not at microphone).

34   MR. HOPKINS-UTTER: Paper version page 3, electronic  
35           version, page 10. If you just focus generally on  
36           the bottom of the page.

37   MR. LUNN: That's where we were before.

38   MR. HOPKINS-UTTER: Yes. Oh, sorry, the right bottom  
39           paragraph there

40  
41                           Habitat pressures will continue to grow as  
42                           human populations increase and, with them,  
43                           demands for space, food and livelihood.

44  
45           Furthermore, if you look at page 37, the  
46           electronic page 37 in the middle of the page, this  
47           is on "Enhancement of Wild Salmon Policy." Over-

1 exploitation is actually only mentioned once in  
2 the Wild Salmon Policy in relation to the  
3 potential adverse effects on enhancement on wild  
4 salmon.

5 Would you agree, then, that the Wild Salmon  
6 Policy perhaps implicitly recognizes the risk of  
7 over-exploitation in terms of its goal for  
8 conserving wild stocks? Is that -- is that an  
9 unstated risk that the Wild Salmon Policy is --

10 MR. CHAMUT: Well, I would -- I would have to answer by  
11 saying I hope not. I hope it's explicit. I mean,  
12 one of the challenges that the Department has in  
13 managing the fishery is setting appropriate  
14 regulations on harvest and making sure that  
15 harvest of the -- of the wild stock does not  
16 exceed its acceptable levels.

17 I would assume that the document is explicit  
18 about the need to properly regulate harvesting so  
19 as to meet escapement objectives or other targets  
20 that are set. I mean, that's -- clearly  
21 unregulated fishing can have very adverse effects  
22 on the wild stocks.

23 Q And, Mr. Chamut, yesterday you mentioned the  
24 relationship between conservation and sustainable  
25 use, and this is something that has come up quite  
26 a lot.

27 MR. HOPKINS-UTTER: Mr. Lunn, at page 15 in the blue  
28 bar on the left. The WSP specifically  
29 distinguishes between these two principles. It  
30 reads:

31  
32 Conservation is the protection, maintenance,  
33 and rehabilitation of genetic diversity,  
34 species, and ecosystems to sustain  
35 biodiversity and the continuance of  
36 evolutionary and natural production  
37 processes.

38  
39 And noting:

40  
41 ...the primacy of conservation overuse.

42  
43 It then reads:

44  
45 Sustainable Use is the use of biological  
46 resources in a way and at a rate that does  
47 not lead to their long term decline, thereby



1 maintaining the potential for future  
2 generations to meet their needs and  
3 aspirations. As a resource management  
4 agency, DFO is committed to the sustainable  
5 use of wild salmon resources.  
6

7 Now, at this point, I'll turn the question  
8 over to Dr. Irvine as this was noted in your  
9 Exhibit 96, the paper that we saw yesterday. The  
10 Principle 3, which I've already made mention to,  
11 that decisions can really be made on conservation  
12 without considering the sustainable aspects, do  
13 you have anything to add on that particular  
14 distinction between conservation and sustainable  
15 use that Mr. Chamut has not already elaborated on?

16 DR. IRVINE: Well, not really, except that without  
17 conservation, you can't have sustainable use. So  
18 you need to conserve the resource so that you can  
19 use it in the future.

20 MR. HOPKINS-UTTER: Mr. Lunn, at page 38, electronic  
21 page 38 of the Wild Salmon Policy, paragraph 2.  
22

23 The Department's role, as the lead federal  
24 agency for aquaculture, is to manage  
25 aquaculture so that it is environmentally  
26 sustainable, socially responsible, and  
27 economically viable. In 2002 the Department  
28 released the Aquaculture Policy Framework  
29 (APF)22 to guide the Department's actions  
30 with respect to aquaculture. The first  
31 principle of the APF directs the Department  
32 to support aquaculture development in a  
33 manner consistent with its commitments to  
34 ecosystem-based and integrated management, as  
35 set out in Departmental legislation,  
36 regulations and policies. This principle  
37 reflects the Department's mandate for the  
38 conservation of marine resources.  
39

40 Q Do I understand, then, that the Wild Salmon Policy  
41 actually recognizes the Aquaculture Policy  
42 Framework's first principle is conservation?

43 MR. CHAMUT: I wonder if there is a way to rephrase  
44 that particular question. It's not -- it's not  
45 clear to me. I think that it probably needs some  
46 -- maybe some additional massaging because it's  
47 just, unfortunately, going right over my head,

1           which is probably not that difficult, but I'm  
2           sorry, I can't offer an answer at this point.

3       MR. WALLACE: Again, Mr. Commissioner, I see that there  
4           is a section in the Wild Salmon Policy where  
5           aquaculture is referred to and the reference is  
6           made to the Framework. But these questions seem  
7           to be going to the Department's recognition of  
8           matters under the Framework, rather than any  
9           development of the Wild Salmon Policy, and I -- we  
10          have limited time and we will be dealing with  
11          aquaculture in a discrete period dedicated to  
12          that. I'm not sure this is an effective use of  
13          time.

14       MR. HOPKINS-UTTER: Mr. Commissioner -- thank you, Mr.  
15          Wallace for that feedback. I would say, however,  
16          that this panel has already identified the  
17          relatively late addition of aquaculture to the  
18          Wild Salmon Policy. I believe that -- it's my  
19          understanding that it was added late or at the  
20          suggestion of feedback in the process of  
21          developing the Wild Salmon Policy.

22                 Furthermore, the explicit reference to the  
23          Aquaculture Policy Framework and one of the  
24          guiding principles in the Aquaculture Policy  
25          Framework does in fact inform the development of  
26          the salmon policy as it pertains to aquaculture.

27                 We have this entire page dedicated to what  
28          the aquaculture position is of the Department,  
29          including the Aquaculture Policy Framework as well  
30          as a separate blue bar a few pages later,  
31          specifically referring to aquaculture. So the  
32          reason that we're -- the reason that I'm asking  
33          these questions are in fact to get to the point  
34          where the Aquaculture Policy Framework, if you'll  
35          permit me to bring that up in this hearing,  
36          actually shows that conservation is one of the  
37          primary considerations of the Aquaculture Policy  
38          Framework, and this is in fact consistent with the  
39          development of the Wild Salmon Policy, which is  
40          why it's explicitly referred to in this document.

41       THE COMMISSIONER: I think now I'm in Mr. Chamut's  
42          camp. I'm not sure I understand what you just  
43          said. But to the extent that the Aquaculture  
44          Framework that you're discussing goes to the issue  
45          of the process for the evolution of the Wild  
46          Salmon Policy, I think any questions you have in  
47          that arena would be very appropriate. It's not

1 clear to me whether you're asking about the  
2 Aquaculture Policy Framework, or you're asking  
3 about how that framework, during the course of the  
4 evolution of the policy, found its way into the  
5 policy and what the considerations were for doing  
6 that.

7 So if you could be bit more clear and  
8 specific in your questions relating to the  
9 process, I think that would be helpful.

10 MR. HOPKINS-UTTER: Thank you.

11 MR. CHAMUT: I hope I'm not out of order here, but I  
12 would like to respond to something that you did  
13 discuss in your last -- in your most recent  
14 comments that I think does need clarification.

15 You'd indicated that the page that you'd  
16 referred to on aquaculture which, in my document,  
17 as the hard copy, is page 31.

18 MR. HOPKINS-UTTER:

19 Q Yes.

20 MR. CHAMUT: It's a stand-alone discussion about  
21 aquaculture, and you made the comment that it was  
22 a late addition to the policy. That's what I  
23 really wanted to address. It is not a late  
24 addition to the policy. It's not something that  
25 came in at the last minute.

26 If you go back to the very first drafts of  
27 the Wild Salmon Policy in 2000 and 2002, there was  
28 always discussion about aquaculture. In the  
29 document that was released for public consultation  
30 in December of 2004, there was -- there was  
31 discussion of aquaculture in that document at that  
32 time, not in a prescriptive way, but along the  
33 lines of what you see on that page dealing with  
34 aquaculture and the policy that was finally  
35 adopted.

36 There was a lot of discussion about  
37 aquaculture and how to deal with it during the  
38 genesis of the policy during 2004. The Department  
39 did have a lot of comments about aquaculture, and  
40 we tried to reflect in the policy some of the  
41 issues associated with aquaculture, some of the  
42 concerns, and the way that they're being addressed  
43 in a general way. That's where the reference to  
44 the aboriginal -- the Aquaculture Policy Framework  
45 comes in, because it does make reference to  
46 adherence to SEA guidelines and habitat  
47 guidelines, stuff of that nature.

1           But it really, as I said yesterday, the  
2           drafting team concluded in probably early 2003 or  
3           in 2003 in the spring, that there would not be any  
4           prescriptive treatment of aquaculture along the  
5           lines of what had initially been anticipated. The  
6           rationale for that was that aquaculture was a  
7           human activity that could affect habitat along  
8           with a whole host of others that I mentioned  
9           yesterday like mining and forestry and road  
10          building and municipal development and fishing and  
11          all the rest of those things.

12          But aquaculture is here, it's a flag that  
13          this is something that the Department is aware of,  
14          that there are issues associated with it, but  
15          they're being addressed in certain ways. And  
16          that's all that this is. I'd be really rocked --  
17          and I don't think any one of the witnesses here  
18          would be in a position to speak either  
19          knowledgeably or in an informed way about the  
20          Aquaculture Policy Framework.

21          In my case, I remember it, but I would  
22          certainly not want to ask or answer detailed  
23          questions on it because it's really become a fond  
24          memory rather than anything that sort of stuck  
25          with me.

26          Q       Thank you. Judging from your comment, then, would  
27          you say that those two policies were generally in  
28          development simultaneously, and due to the delays  
29          in finalizing the Wild Salmon Policy, it's likely  
30          that the Aquaculture Policy Framework just  
31          happened to be the one that was finalized earlier?  
32          Would that be a fair statement? I see Dr. Riddell  
33          shaking his head.

34          MR. CHAMUT: None of the other panellists I think would  
35          have been involved in the Aquaculture Policy  
36          Framework. But I was peripherally involved 'cause  
37          at the time that it was -- it was being  
38          considered, I was the Assistant Deputy Minister in  
39          Ottawa for Fisheries Management, so I was involved  
40          in some of the work, or at least looking at some  
41          of the earliest draft.

42          So the answer to your question is that the  
43          APF and the Wild Salmon Policy did overlap in  
44          terms of time. Wild Salmon Policy starting around  
45          2000. I don't know when the APF started. Wild  
46          Salmon Policy concluded in 2005, and I would guess  
47          by the fact that we're referring to it here, it

1 was concluded in, what, 2003? That's just a  
2 guess. It might be 2004.

3 So there was overlap, but I don't think that  
4 there was an awful lot of detailed consideration  
5 of them in any sort of parallel sense.

6 Q I'll move on, in that case, sir.

7 MR. HOPKINS-UTTER: Just at page 22 of the Wild Salmon  
8 Policy, then, Mr. Lunn, third paragraph.

9 Q This is on the precautionary approach adopted by  
10 the Wild Salmon Policy. It expressly refers to  
11 the document, a framework for the application of  
12 precaution in science-based decision-making about  
13 risk - which I believe is our Exhibit number 51 -  
14 as the guiding document on the precautionary  
15 approach and I'll quote here.

16  
17 It identifies important considerations for  
18 management, acknowledgment of uncertainty and  
19 information and future impacts on the need  
20 for decision-making in the absence of full  
21 information.

22

23 And that it:

24

25 ...implies a reversal in the burden of proof  
26 and the need for longer term outlooks in  
27 conservation of resources.

28

29 You were talking about longer term, Dr.  
30 Riddell, and I was just wondering in the context  
31 of the Wild Salmon Policy, generally does this  
32 mean the re-evaluation and consultative mechanisms  
33 that are described in that framework for the  
34 application precaution?

35 DR. RIDDELL: I'm sorry, I'm not sure I understand the  
36 direct question. The precautionary approach was  
37 included because Canada had made stipulations to  
38 apply it in resource management, and we recognized  
39 that we did not have all the information required,  
40 and we've talked about different examples of that.

41 So what we're really talking about here is  
42 that the reversal of burden of proof, as you are  
43 saying, is that it should not always be on the  
44 Government of Canada to have the definitive proof  
45 to stop something, but that the developer, on the  
46 other hand, should have evidence that they can  
47 proceed with a sustainable program and that they

1 provide evidence that it won't have long-term harm  
2 to other natural resources, and that.

3 So it was included here because uncertainty  
4 is very real in all aspects of salmon management,  
5 and the precautionary principle is the natural way  
6 that people were developing how to control the  
7 impact of that uncertainty.

8 Q So then the long-term monitoring and involvement  
9 of stakeholders in performing research, is that  
10 more or less what the Wild Salmon Policy is  
11 getting at, the involvement of stakeholders in  
12 that particular type of resource -- research?

13 DR. RIDDELL: Mr. Commissioner, the Wild Salmon Policy  
14 doesn't commit to anything like that, but that is  
15 certainly an example of the way that you can  
16 control, for long-term uncertainty, improved  
17 monitoring. There's actually a very important  
18 feedback, and that, that if you have very poor  
19 information, you are going to increase your level  
20 of uncertainty, and under risk management, then  
21 you're going to increasingly have effects on  
22 development because you're going to limit  
23 development even more, limit fishing, and that.

24 If you have very good data where you're doing  
25 long-term monitoring, then you can reduce your  
26 degree of uncertainty, and then under a risk  
27 management assessment, it would reduce the impact  
28 on users or developers.

29 MR. HOPKINS-UTTER: Just a few final questions, then,  
30 Mr. Commissioner.

31 Mr. Lunn, could you please take us to Exhibit  
32 51, the "Framework for the Application Precaution  
33 in Science-Based Decision-Making about Risk",  
34 dated 2003 at page 9 under "Section 4.2", the  
35 second bullet. I'll refer this question  
36 specifically to Dr. Irvine.

37 Q It says here at the second bullet:

38  
39 While societal values and public willingness  
40 to accept risk are key in determining the  
41 level of protection, in all cases sound  
42 scientific evidence is a fundamental  
43 prerequisite to applying the precautionary  
44 approach.

45  
46 Yesterday you were saying that societal  
47 values and public willingness to accept risk

1           generally change quickly. Would you agree that  
2           this is one of the primary reasons why sound  
3           scientific information is needed?

4       DR. IRVINE: Yeah, I don't think I said that societal  
5           values and opinions would change quickly, but they  
6           can in fact change.

7           So would you repeat the question? Sorry.

8       Q        Would the -- would the need for credible and --  
9           credible scientific evidence basically be -- I'll  
10          see if I can reframe it.

11          Does this document require sound scientific  
12          evidence to proceed with decisions because of the  
13          potential for changing societal values as a means  
14          of introducing some certainty in making decisions  
15          about risk?

16       DR. IRVINE: No. Strategy 1 deals with the scientific  
17          uncertainty as to the -- uncertainty as to sort of  
18          the -- our understanding of the status of a  
19          particular conservation unit as well as to  
20          uncertainty associated with the management  
21          implications, or different management  
22          implications.

23          The social and societal values, public  
24          willingness to accept risk, that's all about the  
25          identification of target reference points and  
26          limit reference points. And so it's -- you're  
27          getting into Strategy 4 which is where that  
28          information is incorporated.

29       Q        Would you agree --

30       MR. HOPKINS-UTTER: If we turn to page 12, Mr. Lunn,  
31          the last two bullets.

32       Q        Generally does this document -- we'll read here:

33

34                   Domestic or international obligations may  
35                   require some precautionary measures be deemed  
36                   explicitly provisional and subject to re-  
37                   evaluation; they may include obligations  
38                   requiring mechanisms for ongoing monitoring  
39                   reporting.

40

41       The last bullet:

42

43                   Regardless of whether there is a formal  
44                   obligation, follow-up scientific activity  
45                   (e.g. further research and monitoring) should  
46                   be promoted as it can help reduce uncertainty  
47                   and allow improved decisions as the science

1 evolves

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DR. IRVINE: Well, I don't see any disagreement between the -- what's covered in these two bullets and the Wild Salmon Policy. I mean, the first one just seems to be saying that, you know, decisions are sometimes provisional and we certainly need to collect new data, new information and re-evaluate things.

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...follow-up scientific activity should be promoted as it helps to reduce uncertainty and allows improve decision-making.

21

22

23

So I don't see any disagreement between what's in these two bullets and the intent of the policy.

Q Thank you. And one final question.

MR. HOPKINS-UTTER: Mr. Lunn, document 18, if you please. Sorry, BCSFA document 18, our document

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MR. HOPKINS-UTTER: Mr. Lunn, document 18, if you please. Sorry, BCSFA document 18, our document 18, yes.

Q Mr. Saunders, I'm going to ask if you recognize this document.

MR. SAUNDERS: Yes, I do.

MR. HOPKINS-UTTER: And if Mr. Lunn can scroll to the bottom of the page.

Q Is that your name at the bottom left-hand corner?

MR. SAUNDERS: Yes, it is.

Q Can you briefly describe what this document is?

MR. SAUNDERS: This is a strategic assessment, and it's a requirement of any policy that, any national policy, that it go through assessment, and this was -- this was that for the Wild Salmon Policy.

MR. HOPKINS-UTTER: Mr. Commissioner, I'd like to have this marked as an exhibit, if you please.

THE REGISTRAR: Exhibit 111.

EXHIBIT 111: DFO Strategic Environmental Assessment

MR. HOPKINS-UTTER: Mr. Lunn, if you could please take us to page 3 of this document.



1 Q At the very top, under "Description and  
2 Rationale", there's a list of numbers there. At  
3 the bottom of that paragraph under "Description  
4 and Rationale", the last sentence reads:

5  
6 DFO specified three targeted activities in  
7 support of this goal.

8  
9 Being the goal of sustainable programs.

10  
11 And the WSP addresses all three.

12  
13 Mr. Saunders, can you read number (1) from that  
14 list for me, please?

15 MR. SAUNDERS:

16  
17 Developing policies, frameworks, regulations  
18 and responses to ensure the integration and  
19 sustainability of fisheries and aquaculture.

20  
21 Q Thank you. So would you agree at this point that  
22 the Wild Salmon Policy, as well as the Aquaculture  
23 Policy Framework -- I'm sorry, I'm going to catch  
24 myself -- the Wild Salmon Policy and the policies  
25 of the DFO regarding aquaculture were generally  
26 geared towards that type of sustainability? The  
27 "developing policies, frameworks, regulations"  
28 would have likely included the Aquaculture Policy  
29 Framework? Is that possible?

30 MR. SAUNDERS: I'm trying to understand what is being  
31 communicated in the three bullets. If I've got it  
32 correct that they're -- and I haven't looked at  
33 this document for some time. Those are goals for  
34 the Department in the Pacific Region in general,  
35 not just related to the Wild Salmon Policy, so the  
36 linkage of aquaculture and fisheries there, I'm --  
37 I'm not sure that they're being linked  
38 necessarily.

39 Q Okay.

40 MR. SAUNDERS: Yeah. The strategic SD Action Plan  
41 isn't -- while we're required to produce this to  
42 SEA, the SD Action Plan is much broader. Every  
43 government department has to provide how it's to  
44 respond to -- develop an action plan, so these  
45 were bullets that are -- this isn't specifically  
46 about the implementation of the Wild Salmon  
47 Policy, the three goals that you're seeing there.

1 Q Okay. But would you agree that the WSP, in fact,  
2 addressed these bullets, the first one being the  
3 integration and sustainability and fisheries -- of  
4 fisheries and aquaculture?

5 That's okay. I'll retract the question. I  
6 would like to clarify just one of the last points  
7 that you raised. You weren't sure about why  
8 fisheries and aquaculture was in fact put together  
9 in this particular document.

10 MR. HOPKINS-UTTER: Mr. Lunn, if you could look at  
11 BCSFA document 1. This is a document dated 2005,  
12 DFO 2005-2010, "Strategic Plan: Our Waters, Our  
13 Future," final draft.

14 Q Does anyone on the panel recognize this document?

15 MR. SAUNDERS: Yes.

16 MR. HOPKINS-UTTER: And, Mr. Lunn, at page 8, second-  
17 to-last bullet.

18 MR. LUNN: That's page 8.

19 MR. HOPKINS-UTTER: Electronic 8? I'm sorry, did I say  
20 bullet? I mean paragraph [as read].

21  
22 Beginning to reflect the revised departmental  
23 outcomes, DFO implemented a number of  
24 organizational changes. The Department  
25 merged its fisheries and aquaculture programs  
26 to strengthen the linkages between the  
27 management of wild and farmed fisheries.

28  
29 Q Does that -- Mr. Saunders, does that bring back to  
30 your recollection as to why those fisheries and  
31 aquaculture were merged in your strategic  
32 assessment?

33 MR. SAUNDERS: No, I wouldn't have made that  
34 connection. I mean, what we were doing at the  
35 time is we were demonstrating in that document  
36 that there was no harm -- you know, it's a risk  
37 management -- with the policy, and typically that  
38 goes for other things, not just policies, capital  
39 items. So if I'm going to build a building, I  
40 need to get that approval and I've got to  
41 demonstrate that I've managed the -- sort of the  
42 environmental impacts.

43 So really, that -- my understanding of the  
44 intent was that was to show that there was no --  
45 there was no damage to -- environmental damage to  
46 result -- or that we had planned for as a result  
47 of the policy.

1                   So I don't recall explicitly considering the  
2                   connection between aquaculture and the policy in  
3                   the development of that document.

4                   MR. HOPKINS-UTTER: Very last question, then. Mr.  
5                   Lunn, page 13, last paragraph. This is a  
6                   paragraph on sustainable development. The  
7                   document says [as read]:

8  
9                   The Government of Canada --

10  
11                   This is the second sentence, sorry.

12  
13                   The Government of Canada states that  
14                   development is essential to satisfy human  
15                   needs and improve the quality of human life,  
16                   but must be based on the efficient and  
17                   environmentally responsible use of all  
18                   society's scarce resources: natural, human  
19                   and economic.

20  
21                   Would anyone on the panel care to care to agree or  
22                   disagree with that statement generally?

23                   MR. TIMBERG: Mr. Commissioner, I'm just questioning  
24                   whether it's fair to ask them to agree or disagree  
25                   with a document that speaks for itself. I'm not  
26                   sure of the benefit of asking the four panel  
27                   members this question.

28                   MR. HOPKINS-UTTER: I'll retract the question. Can I  
29                   have this marked as an exhibit, if you please?

30                   THE REGISTRAR: Exhibit number 112.

31  
32                   EXHIBIT 112: Document entitled "2005-2010  
33                   Strategic Plan, Our Waters, Our Future"

34  
35                   MR. HOPKINS-UTTER: Thank you, Mr. Commissioner, those  
36                   are my questions.

37                   MR. WALLACE: Thank you. The next on the list, I have  
38                   the Aquaculture Coalition.

39                   MS. GLOWACKI: Lisa Glowacki for the Aquaculture  
40                   Coalition. I, as well, want to canvass the  
41                   development of the position that the Department  
42                   ultimately took in the Wild Salmon Policy related  
43                   to aquaculture. I gather from the evidence, both  
44                   in your witness statements and what you've given  
45                   on the panel, that there was considerable  
46                   discussion and an evolution over time of how  
47                   aquaculture would be dealt with.

1           I have a few questions just relating to how  
2           you arrived at the final position.  
3

4           CROSS-EXAMINATION BY MS. GLOWACKI:  
5

6           Q     Dr. Riddell, I think the first question would best  
7           be addressed to you. It's about the first draft  
8           of the Wild Salmon Policy which is Exhibit 78, if  
9           that could be called up, please.

10           Before we get into this, as a general  
11           statement, when I look at the documents about the  
12           shift in thinking in the Department over time  
13           about aquaculture goes from specifically  
14           identifying aquaculture as one of the few factors  
15           that impacts wild salmon, and the conservation of  
16           wild salmon, and thus, it being something that  
17           should be subject to the application of the  
18           policy. That's the starting point.

19           By the time we get to the final version,  
20           which is Exhibit 8, aquaculture is not identified  
21           as a factor -- not highlighted as a factor and  
22           specifically affects the conservation of wild  
23           salmon, but is characterized as one of many human  
24           activities that could potentially affect wild  
25           salmon, and is no longer subject, specifically to  
26           the application of the policy, but there's a  
27           commitment to regulate it in keeping with the  
28           policy.

29           Is that a fair statement from your  
30           perspective, Dr. Riddell?

31           DR. RIDDELL: Well, Mr. Commissioner, I think that the  
32           answer is sort of a yes and no. I agree your  
33           description of the change from 2000 to 2005,  
34           where, in 2000 we started with, I think, four  
35           specific impacts, and yesterday you spent a  
36           significant amount of time talking about  
37           operational guidelines that would have been  
38           written about those particular four.

39           As we worked internally, and as we talked  
40           with many groups external, it became very clear  
41           that it's dangerous to identify a few groups or a  
42           few impacts, that there are many potential human  
43           developments and impacts that can affect wild  
44           salmon.

45           Wild Salmon Policy is an overriding  
46           management framework that is equally addressed to  
47           all impacts. So the only point I would disagree

1 with you on is that the development in aquaculture  
2 on our west coast is absolutely included under the  
3 Wild Salmon Policy. It is only, if you want,  
4 relegated to the box-type presentation. I point  
5 out that that's equivalent to one of government's  
6 major programs in the salmon enhancement. So it's  
7 not to belittle our concern in any sense. But  
8 it's to put it in the perspective that it's really  
9 not just a matter of three or four major impacts  
10 that the policy pertains to. The policy pertains  
11 to all human activities that can affect wild  
12 salmon conservation.

13 Q All right. Okay. I shouldn't -- I'm not certain  
14 that I was suggesting it was belittling, but that  
15 it be -- no longer became a focus. You were  
16 saying there was the four factors at the  
17 beginning. Perhaps we'll just go to this first  
18 draft, look at those factors, and then we can  
19 better see where we go from there.

20 So could we please go to page 11? And, Dr.  
21 Riddell, you spoke to this document yesterday so  
22 I'm proceeding on the basis that you're familiar  
23 with it.

24 DR. RIDDELL: Yes, I'm sure we all are.

25 Q Yeah, okay. So the heading there, "Factors  
26 Affecting the Conservation of Wild Salmon." In  
27 the introductory paragraphs, it says [as read]:

28  
29 The productivity and long-term viability of  
30 wild Pacific salmon in Canada are affected by  
31 many factors.

32  
33 It continues on and says:

34  
35 Some are under human control and others not.

36  
37 I don't want to spend much time on here, but if  
38 can just flip through, we'll see the different  
39 factors. So there's environmental uncertainty,  
40 habitat -- habitat, just to pause for a second,  
41 habitat becomes one of the subject that will be --  
42 there was planned to be an operational guideline,  
43 correct, Dr. Irvine?

44 DR. RIDDELL: There was a plan to have an operational  
45 guideline. It became a major strategy --

46 A Right.

47 DR. RIDDELL: -- in a sense, so there was --

1 Q Okay.

2 DR. RIDDELL: -- substantial concern about the  
3 inability of the Department to protect habitat  
4 over a long period of time and from many  
5 pressures. It became heightened in the final  
6 policy.

7 Q Right. So it was originally an operational  
8 guideline and, as stated in the final version, as  
9 a major strategy. Okay.

10 The next page, please? So the next factor  
11 that's identified is fisheries, and again, there  
12 was going to be an operational guideline for that,  
13 and that's clearly stated in the Wild Salmon  
14 Policy as a major focus, correct?

15 The next page, please? Here is salmon  
16 cultivation, and within here in that first  
17 paragraph, you'll see there's both salmon  
18 enhancement and salmon aquaculture. The risks  
19 identified with both of those, and the effect on  
20 wild salmon are discussed on this page and the  
21 following page. If you scroll down a bit more,  
22 you'll see there's two paragraphs there.

23 Now, both salmon enhancement and aquaculture  
24 were going to be subject to operational guidelines  
25 as well, right?

26 DR. RIDDELL: Yes.

27 Q Yes, okay. And the operational guidelines were  
28 intended to ensure that each of those major  
29 factors that could affect wild salmon were managed  
30 in a way that was in keeping with the goals of the  
31 Wild Salmon Policy, and I believe, Dr. Irvine, you  
32 would agree to that, given your testimony  
33 yesterday?

34 DR. IRVINE: Yes, that's true.

35 THE COMMISSIONER: Counsel, I note the time. Would  
36 this be a convenient place to adjourn?

37 MS. GLOWACKI: Sure.

38 THE COMMISSIONER: Thank you.

39 THE REGISTRAR: The hearing is now adjourned until 2:00  
40 p.m.

41

42 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

43 (PROCEEDINGS RECONVENED)

44

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

46 MR. WALLACE: Good afternoon, Mr. Commissioner. If I  
47 might just interrupt for a moment, a couple of

1 housekeeping matters. As discussed this morning  
2 with participants before we commenced the hearing,  
3 I've asked people to be a bit flexible with time,  
4 so I hope that people won't be inconvenienced if  
5 we sit beyond the four o'clock this afternoon.

6 The other matter I'd like to deal with is  
7 Exhibit 99 which was incorrectly marked yesterday  
8 and the summary of anticipated evidence of Dr.  
9 Riddell in another capacity was marked as opposed  
10 to the one relating to his evidence and which we  
11 addressed yesterday. So I think everybody was on  
12 the same page. It was just that the exhibit is  
13 incorrectly marked, so just for the record,  
14 Exhibit 99 is the summary of anticipated evidence  
15 of Dr. Brian Riddell with the date 16 November  
16 2010. Thank you.

17 MS. GLOWACKI: Lisa Glowacki for the Aquaculture  
18 Coalition.  
19

20 CROSS-EXAMINATION BY MS. GLOWACKI, continuing:  
21

22 Q Mr. Chamut, yesterday you were discussing the  
23 broader decision to take -- to remove the  
24 operational guidelines as a part of the policy  
25 based on a decision that prescription wasn't  
26 really -- wasn't the right way to go for the  
27 policy, that it would be a broader framework of  
28 principles. But I wanted to just confirm with you  
29 that the decision to not go ahead with the  
30 aquaculture operational guideline was on a  
31 different basis perhaps. It happened before the  
32 other operational guidelines were done away with  
33 and perhaps for a different reason; is that your  
34 understanding?

35 MR. CHAMUT: No, it's not. To be honest, I don't  
36 recall that there was a sequence of decisions.  
37 When I came out to the region in 2004, just at the  
38 beginning, I spent the first amount of my time  
39 just getting acquainted with some of the  
40 literature and talking to some of the staff around  
41 the Pacific Region and the decision that was taken  
42 to -- not to go with operational guidelines --  
43 I'll try to move over. That decision was one that  
44 was taken sometime in the Spring after I had had a  
45 chance to get together and work with the group for  
46 a little bit, but I simply can't recall exactly  
47 when that decision was taken.

1           And similarly, the same applies with  
2           aquaculture. It wasn't as if we decided to do  
3           away with operational guidelines and then, quote,  
4           do away with aquaculture. I think there was --  
5           you know, there was a decision that was taken that  
6           it would be unproductive to try and develop these  
7           sorts of decision rules and in my opinion, as I  
8           said repeatedly yesterday, quite inappropriate and  
9           I think the approach that was taken with the  
10          policy is the right one.

11          With respect to aquaculture, the issue of not  
12          having guidelines on aquaculture was really a  
13          matter of saying okay, what is the logic of  
14          including something specifically on aquaculture  
15          which, as I said yesterday and I think Dr. Riddell  
16          repeated today, it's one of many activities, human  
17          activities, that can adversely affect wild salmon.  
18          And so just from a logic point of view, it seemed  
19          to us as a group that it made -- it made sense to  
20          -- not to have anything prescriptive about  
21          aquaculture but, as I say, I don't remember that  
22          there was a -- any sort of a sequencing. I think  
23          they all kind of, at least in my recollection,  
24          they all kind of come together. But the key thing  
25          for me on the aquaculture was the logic of why  
26          would you single it out and not pay any attention  
27          to things like mining or forestry or road  
28          development or culverts and municipal development  
29          and a host of a hundred other things that could  
30          equally have some consequence for habitat or for  
31          wild salmon.

32          Q     Dr. Irvine, do you recall that the aquaculture  
33          operational guideline was the first to be done  
34          away with?

35          DR. IRVINE: No. My recollection is the same as Pat  
36          Chamut's. There were proposed operational  
37          guidelines for various activities in the 2002  
38          draft and subsequent to that the decision was  
39          made, as Pat Chamut has indicated, to exclude the  
40          operational guidelines. But aquaculture was not  
41          considered out of sequence. It was really whether  
42          or not to have operational guidelines, not  
43          specifically -- so aquaculture was not treated any  
44          differently than any of the other activities.

45          Q     I don't want to belabour this point, but could we  
46          have document number 5, please?

47          MR. LUNN: From the aquaculture list?



1 MS. GLOWACKI: From my aquaculture list please, yeah.  
2 And could we go to page 18?  
3 Q So, you will see on the right first this is  
4 setting out broadly the policy framework. I  
5 should say it's a Wild Salmon Policy Conservation  
6 and Management of Wild Pacific Salmon BCI. I  
7 don't know what BCI refers to, but are any of you  
8 familiar with this document?  
9 MR. SAUNDERS: I'm familiar with it, yes.  
10 Q Okay.  
11 MR. SAUNDERS: I recognize the tacky stripe in the  
12 middle there.  
13 Q Okay. If we could go to page 18 then. So this is  
14 November 5, 2003 and my only point here is on the  
15 right side of the page where there was once four  
16 operational guidelines, there's now three, and  
17 aquaculture is no longer on the list. So to me,  
18 it seems that at some point before that  
19 aquaculture was dropped and before there was a  
20 larger policy decision not to have a prescriptive  
21 approach. Would you agree?  
22 MR. SAUNDERS: I don't have a recollection of -- I  
23 similarly recall things as guidelines in general.  
24 Obviously there would have been a process there.  
25 The BCI that you see on there refers to B.C.  
26 Interior, so this would have been a deck for  
27 perhaps a meeting with B.C. Interior staff, I  
28 think. So it would have been in the middle of  
29 process moving forward, but I don't recall --  
30 sorry?  
31 DR. IRVINE: I might just make one comment on that, if  
32 I might. We quite often use the term  
33 "cultivation", which included both enhancement and  
34 aquaculture. I'm not sure in this case, but I  
35 wonder whether somebody used the word  
36 "enhancement" instead of "cultivation". But I --  
37 I can't recall.  
38 Q Okay. In past versions of the list, there were  
39 enhancement and aquaculture separately.  
40 MS. GLOWACKI: Could we have this document marked as an  
41 exhibit, please?  
42 THE REGISTRAR: Exhibit number 113.

43  
44 EXHIBIT 113: Wild Salmon Policy,  
45 Conservation and Management of Wild Pacific  
46 Salmon BCI, November 5, 2003 - Draft - For  
47 Discussion Purposes Only

1 MS. GLOWACKI:

2 Q Dr. Riddell and Mr. Chamut, you both emphasize  
3 that the thinking was at some point, I think, in  
4 2003 or 2004 that there's no reason -- or -- and I  
5 think Mr. -- or Dr. Riddell, your words were it  
6 would be dangerous to single out aquaculture as an  
7 activity and you've both likened it to other  
8 activities such as forestry and municipal  
9 planning, et cetera, that can affect wild  
10 fisheries, but is there not something different  
11 about aquaculture? Does it not have a sort of  
12 qualitatively different relationship to wild  
13 salmon when you have 500,000-plus fish in several  
14 hectares on a migration route for several years  
15 and they're sharing habitat and food? I'm just  
16 trying to understand the thinking of it as just  
17 another activity. I'm curious.

18 DR. RIDDELL: Well, I think that it was obviously in a  
19 public consultation process there's two sides to  
20 most of these questions and many people felt that  
21 the spatial signature of the farms was fairly  
22 small and you'll recall at the time that this was  
23 being developed that a lot of the debate was  
24 really just picking up momentum and I think most  
25 people did feel that there was no reason to single  
26 out aquaculture as a major threat to wild salmon  
27 that deserved its own principle or anything else.  
28 It was seen as another utilization of the  
29 environment that had risk to wild salmon and it  
30 needed to be managed under its own appropriate  
31 sort of set of guidelines and so on, but that it  
32 was no different than the extent of forest impacts  
33 on salmon throughout British Columbia in a much,  
34 much larger scale and much longer time scales for  
35 recovery and so on. Pollutants, we didn't  
36 identify contaminants or pollutants and that they  
37 have long-lasting impacts and have been in the  
38 environment for many, many years. So not to say  
39 that people are not concerned about aquaculture in  
40 any sense, but you can certainly see that  
41 arguments could be made that aquaculture is just  
42 another one of the long list of impacts that  
43 threaten wild salmon in the future possibly.

44 Q Okay. Was there a decision at some point to  
45 remove aquaculture entirely or it was always the  
46 intention to have it in there in some way over the  
47 course of the discussions or the debate, I think

1           some of you have called it?

2 DR. RIDDELL: Well, I'm -- Mr. Commissioner, I can  
3           address it. I don't recall there was ever any  
4           discussion of removing it. It was putting it in  
5           more of a perspective, I think, is maybe the way  
6           to look at it. And it was always part of the  
7           drafting and I think all the previous documents.  
8           It was identified in the December 2004 and it  
9           continued through to the final document.

10 MS. GLOWACKI: Okay. May I have document number 8 on  
11           the Aquaculture Coalition's list, please?

12 THE REGISTRAR: Exhibit number 114.

13 MS. GLOWACKI: We haven't identified this.

14 THE REGISTRAR: Oh, I'm sorry.

15 MS. GLOWACKI: Yes. Sorry.

16 THE REGISTRAR: I'm sorry. I thought you asked for...

17 MS. GLOWACKI:

18 Q       Mr. Chamut, do you recognize this email as one  
19       written by you?

20 MR. CHAMUT: Yes, I do.

21 Q       And it is dated April 7th, 2004 and addressed to  
22       Susan Farlinger?

23 MR. CHAMUT: Yes, that's correct.

24 Q       Okay. I'd like to go through the text of this and  
25       I think it adds to -- I'm just trying to get at  
26       the development and how we arrived at what the WSP  
27       currently looks like for aquaculture. So you  
28       start:

29  
30           In previous discussion about the content of a  
31           policy on wild salmon we have discussed how  
32           to handle aquaculture. I have argued that we  
33           should not highlight the aquaculture industry  
34           as a key "threat" to wild salmon that  
35           deserves special attention, and have  
36           generally opposed any specific discussion of  
37           aquaculture. I recently attended the annual  
38           meeting of the BC Aboriginal Fisheries  
39           Commission, and my views on how to handle  
40           aquaculture in the WSP context have been  
41           "shaped" by the experience. It has become  
42           clearer that we should not just ignore  
43           aquaculture, but need to address the very  
44           visceral opposition to it by many First  
45           Nations.

46  
47           And you go on:

1           I intend to find a place to include a brief  
2           discussion on aquaculture by describing the  
3           existing policy (ie that aquaculture is a  
4           sustainable industry that if properly sited  
5           and regulated will not have adverse  
6           effects...)

7  
8           So I'm not sure if you have any comments on it.  
9           To me that looks like you, at least, thought that  
10          you shouldn't discuss aquaculture at all, but then  
11          changed your mind in light of the First Nations  
12          comments.

13       MR. CHAMUT: Well, I don't think you can necessarily  
14          infer that I -- that I didn't want to see the word  
15          "aquaculture" appear in the policy. I mean, if  
16          you go back, you'll see that in fact it did occur.  
17          I was very much opposed to having aquaculture  
18          flagged as we discussed because it's really --  
19          it's one of many potential threats to wild salmon.  
20          I don't think you can read into this -- I mean,  
21          the difficulty in these emails are oftentimes  
22          drafted very quickly and, you know, in looking at  
23          them in hindsight you can maybe draw some  
24          inferences that I don't think are necessarily  
25          correct. I didn't mean to say that we would never  
26          discuss aquaculture, but I did intend to say it's  
27          been my position that we would not provide any  
28          particular emphasis on aquaculture as a key  
29          threat.

30          The meeting that was referenced here was one  
31          that I attended in I think it was North Vancouver  
32          and it was the annual B.C. Aboriginal Fisheries  
33          Commission, and I was quite taken by the amount of  
34          animosity that was expressed by First Nation  
35          representatives to aquaculture and I though based  
36          on that that we needed to have some additional  
37          focus on aquaculture, just essentially discussing  
38          aquaculture and how the department views  
39          aquaculture and how it, in fact, regulates  
40          aquaculture. I didn't want it to be something  
41          that was ignored. I wanted to be able to say  
42          here's the issue and here's how the department  
43          views it and here, in fact, is how it's handling  
44          it.

45          So, I mean, as I say, it was a fairly quick  
46          email and one that intended -- I was intending to  
47          try and get some additional information so that we

1 could, in fact, provide some sort of a brief  
2 discussion about aquaculture from the context of  
3 departmental policy that was emerging and the  
4 regulation of that sector by the department, just  
5 to provide some reference to that to deal with  
6 some of the concerns being expressed by First  
7 Nations.

8 Q Would you agree with me that this April 2004 was  
9 the beginning of, I guess, a drafting process  
10 dedicated to the aquaculture section? Do you  
11 recall that?

12 MR. CHAMUT: It was -- once it was flagged, I did get  
13 some -- I believe I got some information from Sue  
14 Farlinger which I used to draft some of the  
15 statements that appear -- actually appeared in the  
16 2004 December version of the policy and I think  
17 some of it survived into the final version. And  
18 it's part of that so-called boxed item that I  
19 think it appeared on page 31 of the final version  
20 of this -- of the policy. So it discussed the  
21 general approach. It referred to the aboriginal  
22 -- aquaculture policy framework and it talked  
23 about CEA and departmental regulations and siting  
24 reviews and the like.

25 Q Thanks. What was Sue Farlinger's position at this  
26 time, do you recall?

27 MR. CHAMUT: I believe at the time she was the director  
28 of a group, was it called Habitat and Aquaculture  
29 or -- Oceans and Habitat Management, and I believe  
30 that part of her responsibility included the  
31 aquaculture file, but I -- I could be wrong on  
32 that recollection, but that was presumably, I  
33 mean, I'm reasonably sure that was why I wrote to  
34 her.

35 Q Okay. Now, I just wanted to go to the second-last  
36 full line:

37  
38 Finally, you owe me one for representing the  
39 interests of the aquaculture sector in your  
40 regrettable absence from the BCAFC meeting.  
41 I can assure you that is a debt not easily  
42 repaid!

43  
44 I gather they gave you a hard time but do you  
45 recall what it meant to represent the interests of  
46 the aquaculture sector at that meeting?

47 MR. CHAMUT: It meant specifically that as a -- I was

1 the senior departmental representative at that  
2 meeting. There was a lot of concerns and  
3 criticisms that were directed at the aquaculture  
4 industry and indeed at the department. I was  
5 probably about the only one there that was -- that  
6 was in any way familiar with what was going on in  
7 -- with respect to the aquaculture policy  
8 framework and so I simply explained what -- how  
9 the aquaculture was regulated and tried to provide  
10 some response to First Nations that were making a  
11 number of claims about aquaculture and how it was  
12 adversely affecting them. I didn't in any way, if  
13 you're suggesting that I defended the aquaculture  
14 industry by touting its value and economic  
15 contribution, I simply was there as a departmental  
16 representative explaining how aquaculture is  
17 managed and regulated and responding to some of  
18 their specific concerns that were being expressed  
19 and that's all that that means.

20 Q And their concerns were that aquaculture was a  
21 threat to the wild salmon, or...?

22 MR. CHAMUT: No, actually, most of it as I recall, and  
23 I -- again, this goes back five years, but I  
24 recall there being a number of concerns about  
25 contaminated shellfish beds, which is of  
26 particular importance to many First Nations  
27 because of the importance of shellfish for their  
28 own food needs. There were concerns about habitat  
29 degradation in the area of farms and I wouldn't be  
30 surprised that there were concerns about  
31 interactions with salmon, but that -- I don't  
32 recall anything particularly focused on salmon.  
33 The one memory that I do have is the large amount  
34 of concern that they expressed about shellfish  
35 beds. That, to me, is the one that I do recall.  
36 But --

37 Q Mm-hmm.

38 MR. CHAMUT: -- if you check the minutes of the meeting  
39 you may -- I mean, you'll find probably there's a  
40 broad range of concerns but that's the one that  
41 particularly stuck with me six years later.

42 Q Okay. I think I took from the fact that you were  
43 affected enough by their visceral reaction to  
44 aquaculture in the context that you would need to  
45 address it in the WSP, that there would be some  
46 concerns regarding its effect on wild salmon,  
47 but...

1 MR. CHAMUT: Well, I knew that First Nations would be  
2 looking for something like -- like at least a  
3 recognition of aquaculture and I felt it would be  
4 very prudent in the policy to include some of the  
5 statements that we did.

6 MS. GLOWACKI: Okay. Thank you. Could you put -- oh,  
7 can we mark that as an exhibit first, please?

8 THE REGISTRAR: Exhibit 114.  
9

10 EXHIBIT 114: Email from Pat Chamut to Susan  
11 Farlinger dated April 7, 2004 Subject:  
12 Sustainable Aquaculture  
13

14 MS. GLOWACKI: Mr. Lunn, could you put up document  
15 number 26 from the aquaculture list, please?

16 Q Mr. Chamut, again this is an email from you  
17 directed to Susan Farlinger and it's dated April  
18 20th, 2004; can you identify that as your email?

19 MR. CHAMUT: Yes, that's mine.

20 Q I don't want to spend very much time here, but I  
21 just want, if you could agree with me that this is  
22 the first draft of what would become the  
23 aquaculture section in the WSP. I can read  
24 through it if you like, but --

25 MR. CHAMUT: Oh, don't -- please don't do that.

26 Q Okay.

27 MR. CHAMUT: No, I -- I drafted something based on some  
28 information that I had received, I think, from  
29 Sue, and what I was doing was trying to put  
30 something together that would be included in the  
31 Wild Salmon Policy and it was -- obviously it went  
32 through a number of iterations but something of  
33 that nature did appear in the policy that was  
34 released in December of 2004.

35 Q Okay. Thanks. And so you agree this is the first  
36 draft?

37 MR. CHAMUT: Yeah.

38 Q Just the first sentence which is directed to Mark  
39 Saunders.  
40

41 We have spoken about the need to have a  
42 reference to aquaculture development in the  
43 WSP and the general consensus seems to be  
44 that it be best be placed...  
45

46 Et cetera, et cetera.  
47

1                   I have drafted something that I hope will be  
2                   useful in deciding what we need to say about  
3                   aquaculture and where to stick it.  
4

5                   From that I take it it's the first draft, right?  
6                   Mr. Chamut? Mr. Chamut, do you agree?

7                   MR. CHAMUT: Oh, I'm sorry.

8                   Q     That's okay.

9                   MR. CHAMUT: I thought it was directed at Mark  
10                  Saunders.

11                  Q     No, I'm sorry.

12                  MR. CHAMUT: Yeah, no that is the first draft, yeah.

13                  Q     Okay. Thank you. And, Mr. Chamut, you refer to a  
14                  drafting process that happened over -- there was  
15                  many iterations over the course of a year. I just  
16                  wanted to go to one or possibly two more moments  
17                  in that drafting process. And I think I will  
18                  direct my question to Dr. Riddell.

19                  Earlier in your examination by Clifton Prowse  
20                  for the province, you said that -- I'm not putting  
21                  words in your mouth but this is generally that in  
22                  the drafting of the policy, the province wasn't  
23                  involved --

24                  MS. GLOWACKI: Pardon me. I've just -- can we mark  
25                  that last email as an exhibit, please?

26                  THE REGISTRAR: One hundred and fifteen.

27                  MS. GLOWACKI: Thank you.

28

29                                 EXHIBIT 115: Email from Pat Chamut to Mark  
30                                 Saunders and Susan Farlinger dated April 20,  
31                                 2004, Subject: Aquaculture Development  
32

33                  MS. GLOWACKI:

34                  Q     Okay. Back to my question, that the province  
35                  wasn't involved in the drafting, but I just wanted  
36                  to be clear that at least in relation to  
37                  aquaculture, the perspective of the province was  
38                  taken into consideration; would you agree with  
39                  that? Dr. Riddell?

40                  DR. RIDDELL: Well, Mr. Commissioner, I'm not sure I  
41                  would because we were drafting it, as I explained  
42                  earlier, really from a higher level, that we were  
43                  looking at what is required to successfully  
44                  sustain wild Pacific salmon in the future under  
45                  all sort of human-induced pressures. And that --  
46                  definitely the province was at that time directly  
47                  involved in the siting and the management and so



1 on, but there was -- since we were really  
2 including aquaculture as we've discussed was one  
3 of the pressures, we didn't get into a great deal  
4 of the detail of the management of aquaculture as  
5 one use of the natural environment.

6 Q Do you or any of the panel members recall the  
7 province's position about the treatment of  
8 aquaculture being to minimize the treatment?

9 DR. RIDDELL: Just for clarification, do you mean  
10 minimize the treatment in the Wild Salmon Policy?

11 Q In the Wild Salmon Policy, yes.

12 DR. RIDDELL: No, I have no personal recollection of  
13 them ever seeking a -- I wasn't part of such a  
14 discussion if it ever occurred.

15 MS. GLOWACKI: Mr. Lunn, could you put document number  
16 16 from my list up, please?

17 Q These are meeting notes from the Pacific Fisheries  
18 and Aquaculture Committee working group meeting of  
19 March 11th, 2005. I put these up recognizing that  
20 none of the panel members were in attendance here,  
21 but I would just like to -- so I'm not going to  
22 ask you to -- well, first I should ask, are any of  
23 you familiar with these meeting minutes?

24  
25 (NO AUDIBLE RESPONSE)

26  
27 MS. GLOWACKI: Okay. Could I go to point number 3,  
28 update on Wild Salmon Policy, please, including  
29 the decisions part. Thanks.

30 Q You've seen the last bullet above "Decision". It  
31 says:

32  
33 B.C. expressed concerns about stakeholder  
34 references to the B.C. Wild Steelhead Policy  
35 and the effects of aquaculture on wild salmon  
36 habitat and it felt that the metric used by  
37 the B.C. Auditor General would be more  
38 appropriate.

39  
40 And then in the decision part it says:

41  
42 DFO will request Wild Salmon Policy drafters  
43 provide a more balanced reference to habitat  
44 impacts, so it does not focus on just  
45 aquaculture.

46  
47 And that's in relation to the Wild Salmon Policy.

1           So am I to understand that none of you were aware  
2           of that?

3       MR. CHAMUT: I certainly don't recall getting any  
4           direction or advice from Murray Hobbs (phonetic)  
5           about how to deal with aquaculture.

6       Q     Nor Sue -- pardon me.

7       MR. CHAMUT: I'm sorry?

8       Q     Sue Farlinger was also at this meeting, so I'm  
9           just wondering if she may have communicated that?

10      MR. CHAMUT: I don't specifically recall. But I would  
11           make one comment. This -- this was dated, you  
12           said, May -- March --

13      UNIDENTIFIED VOICE: 7th, 2005.

14      MR. CHAMUT: 2005?

15      MS. GLOWACKI:

16      Q     March 11th, yes.

17      MR. CHAMUT: Okay. I just want to be clear. It's --  
18           it would not be -- it was not a surprise, or at  
19           least not -- it's not something we were unaware of  
20           that B.C. was obviously interested in aquaculture  
21           and what the Wild Salmon Policy might say or do  
22           about aquaculture, because elsewhere I recall  
23           having in the lead-up to the -- well, actually in  
24           the lead-up to the release of the Wild Salmon  
25           Policy that was out on December 17th, 2004 there  
26           were meetings that were held with various groups  
27           to brief them on the Wild Salmon Policy and I met  
28           with representatives of B.C. before the December  
29           17th release and went through the Wild Salmon  
30           Policy with them and at that point they did take a  
31           look at a couple of particular issues. The  
32           representatives were mostly concerned about  
33           aquaculture, as I recall, and steelhead. And  
34           they, I think, were generally satisfied with the  
35           December 17th draft in terms of how both those  
36           issues were handled.

37           So it was not -- I mean, the fact that B.C.  
38           had an interest in aquaculture was not a big  
39           surprise, and this reference here is not the first  
40           time that that issue would have been -- would have  
41           been raised.

42      MS. GLOWACKI: Thank you. May I have that document  
43           marked as an exhibit, Mr. Commissioner? It hasn't  
44           been identified specifically so I'm not sure how  
45           to proceed here. My alternative suggestion would  
46           be to mark it as an exhibit for identification and  
47           when Sue Farlinger is on the panel to have her

1 identify it.

2 MR. HOPKINS-UTTER: If I may, Mr. Commissioner, I would  
3 have to object to it being identified as an  
4 exhibit at this point and I believe it can be put  
5 to Sue Farlinger as the panellists have said they  
6 have no recollection of this and were not present  
7 at the meeting.

8 THE COMMISSIONER: Yes, thank you. I think it is  
9 appropriate to mark it for identification  
10 purposes. It'll be given the next letter.

11 THE REGISTRAR: P for the next exhibit.

12 THE COMMISSIONER: Thank you.

13  
14 EXHIBIT P FOR IDENTIFICATION: Meeting notes  
15 from the Pacific Fisheries and Aquaculture  
16 Committee working group meeting of March  
17 11th, 2005  
18

19 MS. GLOWACKI: Mr. Lunn, could you put document number  
20 17 on the screen, please?

21 Q So this is shortly after the meeting, it's March  
22 21st, 2005. By me saying it's shortly after, I  
23 don't mean -- I don't suggest that it is a direct  
24 result of that meeting, but it's an email from Dr.  
25 Riddell to various people, including Sue  
26 Farlinger, Pat Chamut, Andrew Thompson, Mark  
27 Saunders.

28 Dr. Riddell, can you identify this email as  
29 written by you?

30 DR. RIDDELL: Yes, I can.

31 Q Okay. So I gather at this point when the email  
32 was written -- we're getting fairly close to the  
33 finalization of the aquaculture statement and the  
34 Wild Policy -- Wild Salmon Policy generally, but  
35 there's still some ongoing discussion about what  
36 to -- the wording, so here you say -- there's talk  
37 of a meeting and you say:

38  
39 Unfortunate that Andy will be away but we  
40 will need to address in early April when Jim  
41 is back also. I think that our initial  
42 approach to aquaculture is the correct  
43 handling, but with some details added. I  
44 still believe that we do not want to profile  
45 (target) aquaculture as it is just another  
46 source of risk to the natural populations. I  
47 think what people may have wanted is...

1 And you list the three elements that you think  
2 should be in the Wild Salmon Policy, a statement  
3 that conservation is first; a regulatory  
4 framework; and an explanation of aquaculture with  
5 CU's.

6 And it's the next line that I just wanted to  
7 go to:  
8

9 Any thing (sic) more would likely not be well  
10 received by the Province of aquaculture  
11 industry.  
12

13 And so I guess here I just want to ask again  
14 whether the position of the province influenced  
15 how DFO drafted this statement. To me, when I  
16 read that, it suggests that it was in your mind.

17 DR. RIDDELL: Well, I'm trying to recall if this was  
18 written after the first full consultation. Yes.  
19 Yes, so now between what you just pointed out  
20 previously and this, we would have had our first  
21 full multi-stakeholder consultation which was two  
22 days of very fulsome discussions and a day before  
23 with First Nations about the current draft and  
24 getting a sentiment back in terms of what the  
25 balance of the overall document was and whether we  
26 had the wording correctly stated. As I say, I  
27 have no recollection of ever being directed within  
28 the department about the weight that we were  
29 putting from the province on aquaculture, so this  
30 would reflect my personal statement at the time.

31 Now, saying that though, you should recognize  
32 that I returned to the government in April 2004  
33 and because of the debate that was in the  
34 Broughton Archipelago at the time, I maintained  
35 responsibility for the effect of aquaculture on  
36 wild salmon within my division, which was Pacific  
37 salmon and freshwater habitats. The intention of  
38 doing that is to protect wild salmon against the  
39 perceived threats that people were talking about  
40 in terms related to open sea-pen aquaculture.  
41 Right? So there's not any surprise to me that we  
42 were aware of the sort of balance we were trying  
43 to deal with in accomplishing the completion of  
44 the policy and that. And as I say, we were trying  
45 to treat all parties fairly at this point in a  
46 national policy document.

47 Q Yesterday, Mr. Chamut, you discussed some

1 outstanding concerns or ongoing concerns  
2 throughout the development of the Wild Salmon  
3 Policy and I believe you agreed that aquaculture  
4 was one concern that was expressed throughout the  
5 period of the development of the policy and it  
6 remained an outstanding concern when the salmon  
7 policy was passed or adopted rather; is that --  
8 would you agree with that summary?

9 MR. CHAMUT: Well, I don't think I can -- I don't think  
10 that it would be appropriate for me to agree fully  
11 because I'm -- you're implying that there was a  
12 large amount of internal dissatisfaction after the  
13 policy was concluded and I don't think that is the  
14 case. Aquaculture -- like, there's a number of  
15 issues in the Wild Salmon Policy that did bounce  
16 around, went back and forth through the course of  
17 the development of that policy. As you've  
18 highlighted, there were -- you know, there were  
19 differing considerations, there were different  
20 efforts to try and put together something that we  
21 felt would be an appropriate approach to  
22 aquaculture that would, you know, be consistent  
23 with what the department was doing and also would  
24 be consistent with what we were trying to do  
25 within the Wild Salmon Policy.

26 And so if you -- I would agree that we did  
27 go, you know, back and forth and around the issue  
28 in various ways to try and put together something  
29 that we felt was the most appropriate balanced and  
30 responsible statement that we could put in about  
31 aquaculture and that was probably crystallized,  
32 oh, probably more -- quite near the end of the  
33 whole development process, and resulted in the  
34 statements that are currently in the policy now.  
35 But I don't think anyone sort of at the end of it  
36 went away feeling that we'd -- that we'd somehow  
37 made a grievous error. I think everyone was  
38 generally satisfied that we'd done a good and  
39 reasonable approach to dealing with that issue.

40 Q When you say everyone, you mean everyone in the  
41 department or...?

42 MR. CHAMUT: I certainly would mean everyone in the  
43 department. I don't mean to imply that -- there  
44 may have been other -- in fact, there were other  
45 groups that felt that a more prescriptive  
46 approach, where aquaculture would have been  
47 treated far differently, there were groups that

1           certainly expressed that and I shouldn't imply  
2           that that wasn't the case, but within the  
3           department, as we went through the process of  
4           finalizing the document and the extensive reviews  
5           that we took both within the region and through  
6           the Departmental Management Committee and  
7           headquarters in Ottawa, there were fine-tunings  
8           and tweaks and, you know, right up to the -- right  
9           up to the end of the -- of the finalization of the  
10          policy and I think at the end of it, I think  
11          everyone within the department was quite  
12          satisfied.

13        MS. GLOWACKI: Could I please mark the last email -  
14           again, I was remiss - as the next exhibit? And  
15           that was the March 21st, 2005 email?

16        THE REGISTRAR: One hundred and sixteen.

17  
18                   EXHIBIT 116: Email from Brian Riddell to  
19                   Andrew Thomson and others dated March 21,  
20                   2005 Re: WSP Meeting Locations Confirmed  
21

22        MS. GLOWACKI: And then finally can you call up Exhibit  
23           94, please, Mr. Lunn?

24        Q        And this is a memo for the minister. Yesterday, I  
25           believe Mr. Saunders you said that you had a hand  
26           in drafting this? Do you recall that?

27        MR. SAUNDERS: I'm not -- can you scroll down a little  
28           further? I -- given the timing on it, I would say  
29           -- yeah, if you can just keep going down to the  
30           bottom. Yeah, I... I may have had -- contributed  
31           to it, but I don't know that it was -- that I was  
32           the lead author or sole author on it.

33        Q        Okay. Do you recognize this document?

34        MR. SAUNDERS: Can you go back up to the top again,  
35           please?

36        Q        My understanding is really the memo to the  
37           minister right before the Wild Salmon Policy was  
38           adopted and the department is recommending to the  
39           minister that it is in final form and ought to be  
40           adopted.

41        MR. SAUNDERS: Honestly, I don't recognize --

42        THE COMMISSIONER: Mr. Timberg?

43        MR. SAUNDERS: -- that as my writing.

44        MR. TIMBERG: I'm just wondering if the -- I note that  
45           the document has a number of other attachments  
46           that go further on. Perhaps the witness could be  
47           provided the opportunity to review that.

1 MS. GLOWACKI: Well, I just -- okay. In the interests  
2 of time, I don't think that we need to go through  
3 -- this has already been entered as an exhibit and  
4 I just want to go to a statement on the first  
5 page.

6 MR. TIMBERG: In the interests of fairness to the  
7 witness, though, I suggest that he should be  
8 entitled to see the entire document.

9 MS. GLOWACKI: Can we go to the sentence that I want to  
10 go to and then if he doesn't think it's fair to  
11 see the whole document then he can go further in?  
12 It's a relatively simple point.

13 Q You'll see the second bullet, it says:

14  
15 Following the consultations in April, three  
16 concerns regarding the policy had not been  
17 addressed. First, many participants were  
18 critical of the approach to the regulation of  
19 aquaculture, and advocated more rigorous  
20 controls be imposed.

21  
22 And we don't need to read the rest of that. And  
23 then the next bullet:

24  
25 The Department has been asked to consider  
26 additional consultation with the ENGO's.  
27 Further consultation is not advisable.

28  
29 And then the final paragraph or bullet is:

30  
31 It is recommended that the Wild Salmon Policy  
32 be adopted...

33  
34 So my only point that I am interested in the  
35 opinion of the panel or the agreement of the panel  
36 is that aquaculture and the desire for more  
37 rigorous control of it was an outstanding issue at  
38 the time the Wild Salmon Policy was passed.

39 Mr. Saunders, would you agree?

40 MR. SAUNDERS: I don't -- I don't recognize this as my  
41 writing. I don't think this would have been  
42 something that would have gone up from my level.  
43 My recollection is that there was -- was mainly  
44 around the prescriptive piece. I don't in  
45 particular remember a statement around  
46 aquaculture.

47 Q So none of the panellists recall that -- whether

1 aquaculture was an outstanding concern? Yes, Mr.  
2 Chamut?

3 MR. CHAMUT: What you've got here is a memo that went  
4 to the minister. There's another one that  
5 preceded this, that as I recall there was -- it  
6 basically did most of the same as what's here.  
7 And at the time, the department was providing  
8 advice to the minister on Wild Salmon Policy. We  
9 had recently concluded the last bits of our  
10 consultation which I think occurred in -- at the  
11 end of April and this memo essentially summarizes  
12 where we ended up at the end of those  
13 consultations and it summarizes in the summary  
14 box, it does indicate that it confirms to the  
15 minister that there was not unanimous approval or  
16 agreement about all of the details of the Wild  
17 Salmon Policy and it indicates that there were  
18 probably three main areas where people were going  
19 to express concern: one was about aquaculture -  
20 that did come up in our consultations; secondly,  
21 particularly the environmental groups thought a  
22 policy that was more prescriptive, and they didn't  
23 like some of the provisions that provided some  
24 discretion to the minister; and thirdly, a number  
25 of groups were concerned about whether the  
26 department had the appropriate resources for  
27 implementation. So that's summarized there.

28 The -- I think the important thing is that  
29 the -- what we had done was gone through a process  
30 and although our objective would have -- it would  
31 have been desirable to have unanimous consent, it  
32 proved to be elusive and we felt that if we were  
33 to make any changes in the policy at that point,  
34 in case -- in the case that you're particularly  
35 interested in with respect to, for example,  
36 aquaculture, then we would have been in  
37 essentially a zero sum game where we might have  
38 accommodated some concerns but we would have  
39 raised a whole host of others. And in the  
40 judgment of the department and on the advice that  
41 was provided to the minister, we felt that the  
42 policy that was put forward had the support of a  
43 large number of groups. Some groups were  
44 concerned and opposed to parts of it, but we felt  
45 on balance if we started to either engage in more  
46 consultation or we tried to find ways to  
47 accommodate the outstanding concerns, that the



1 whole thing was going to unravel. So that's  
2 basically what this memo is about.

3 Q Okay. Thank you. I just have one final question  
4 then. So we end up with a department being  
5 satisfied and I understand that you are each still  
6 satisfied with the approach adopted for the  
7 treatment of aquaculture and that is, if I could  
8 summarize, to describe it as akin to other human  
9 activities that may pose a risk to wild salmon,  
10 and to highlight the department's efforts at  
11 regulating aquaculture and to assure the public  
12 that aquaculture would be regulated, in keeping  
13 with the goals of the Wild Salmon Policy; is that  
14 a fair summary, Dr. -- yes, Dr. Riddell?

15 DR. RIDDELL: Yes, I think that's a fair summary. I  
16 might point out that we've talked a lot about  
17 guidelines and operational advice. I mean,  
18 there's nothing in the Wild Salmon Policy that  
19 prohibits the department from writing more  
20 specific guidelines on any one of these particular  
21 topics we're talking about and that, and I think  
22 that's what's evolved since this time.

23 Q Right.

24 DR. RIDDELL: But within the broad policy.

25 Q Okay. So the regulatory part of it, you'd agree  
26 with me that at the time of the Wild Salmon Policy  
27 being passed, there was no federal aquaculture  
28 regulations, correct?

29 MR. CHAMUT: I may be misspeaking. I'm going back a  
30 number of years. I believe there were regulations  
31 in place dealing with aquaculture, but my  
32 hesitation is just I'm really finding that my  
33 memory is failing on me, and I -- but I would be  
34 quite reluctant to say there were no regulations.  
35 I know that the department did regulate  
36 aquaculture in terms of siting and a variety of  
37 other things that were in place, and I think they  
38 had fish health regulations that would have been  
39 in place at that time, so there were -- there were  
40 regulatory mechanisms in place that the department  
41 had, but I'd be hard-pressed to tell you exactly  
42 what they were.

43 Q All right. So there's nothing on page 31 of  
44 Exhibit 8 that refers to a regulation specifically  
45 directed at aquaculture, maybe that's more  
46 tangible. Are you aware that the federal  
47 government is currently in the process of

1           developing aquaculture regulations for the  
2           province now?

3       MR. CHAMUT: No. I've been retired for six years and  
4           one of the things that I cheerfully left behind  
5           was concern about the regulation of aquaculture  
6           and the status of government efforts to do that.

7       Q     Okay.

8       MR. CHAMUT: Thank you.

9       Q     Has any other panellist?

10      MS. GLOWACKI: I assure you, Mr. Wallace, I am at the  
11           very end of my questioning.

12      MR. WALLACE: Okay.

13      MS. GLOWACKI: I'm trying to get --

14      MR. WALLACE: Well, the question relates to what's  
15           going on now with respect to the regulations of  
16           aquaculture. I don't see how that affects the  
17           development of the Wild Salmon Policy up to 2005.

18      MS. GLOWACKI: Only that Mr. Chamut wasn't clear  
19           whether there was, in fact, aquaculture  
20           regulations at the time the policy was passed.  
21           But that's okay.

22      Q     My understanding, and it's highlighted here, the  
23           one section that's highlighted is Section 35 of  
24           the **Fisheries Act** as the regulatory tool of the  
25           department. Perhaps we could call up Exhibit 8,  
26           page 31, please. In the fourth paragraph:

27  
28                   All fish farm sites must undergo a review for  
29                   potential habitat effects...

30  
31           And I only highlighted that because it appears to  
32           be the actual piece of federal legislation that's  
33           -- Fisheries, DFO legislation, that is referred to  
34           in here and I --

35      MR. WALLACE: Mr. Commissioner, I'm not sure what Ms.  
36           Glowacki is seeking here, but if it's an  
37           interpretation of the statute, I think that would  
38           be an inappropriate question. The Act and the  
39           state of regulations is what it is.

40      MS. GLOWACKI: I guess my line of questioning for the  
41           panel here is that these are the people who  
42           drafted this section and part of it was they  
43           decided to describe it as another activity and one  
44           which was regulated by the department and just  
45           decided just to describe how, in fact, the  
46           department does regulate aquaculture, and so I  
47           wanted their understanding of the effectiveness or

1 the completeness of federal regulation. But I  
2 believe that we can get into that on another day,  
3 so I will leave my questioning there. Thank you.

4 MR. WALLACE: Thank you, Ms. Glowacki. The next  
5 participant on the list is the Conservation  
6 Coalition.

7 MR. LEADEM: Leadem, initial T., appearing on behalf of  
8 the Conservation Coalition.

9

10 CROSS-EXAMINATION BY MR. LEADEM:

11

12 Q I want to begin by addressing an issue about the  
13 internal tension that existed within the  
14 department around the process that led up to the  
15 development and eventual promulgation of this  
16 policy. And I want to do that by examining what  
17 you each had to say about that in your précis of  
18 evidence.

19

I'll start with you, Dr. Riddell. Exhibit  
20 99, please? And page 2 of that, if we have the  
21 right one now, the second bullet down under WSP  
22 development from 2001 to 2005:

23

24 He can generally describe DFO's efforts to  
25 develop operational guidelines to support the  
26 draft WSP. He will say that fisheries  
27 managers were very hesitant and concerned  
28 with implementing the WSP without operational  
29 guidelines.

30

31 Was that your recall of the discussion that you  
32 were privy to at the time, Dr. Riddell?

33 DR. RIDDELL: With the qualification that that section  
34 is referring to the time when I was away and  
35 outside most of the main discussion, the  
36 developing of the policy, and the only sort of  
37 access I had to that was a couple of the public  
38 meetings, a couple of the meetings with ENGO's and  
39 my knowledge of it was a tension within the  
40 department between science and fisheries  
41 management, which I think other panel members  
42 referred to yesterday.

43

44 Q Yes.

45 DR. RIDDELL: And it had to do really with the policy  
46 being a very broad consideration at a pretty high  
47 level, when you're an in-season manager. And so  
people were concerned about what it meant when you

1           actually applied it in-season in managing  
2           fisheries and that. And there was a tension  
3           internally in a sense of managers not wanting to  
4           buy into something they didn't really fully  
5           understand how they would implement.

6           Q     Right. They wanted to know what the bottom line  
7           was in terms of how the fishery would be operated  
8           from year to year; is that fair to say?

9           DR. RIDDELL: That's fair to say, yes.

10          Q     Mr. Saunders, you characterized this tension this  
11          way, if I can ask you to turn to Exhibit 101 which  
12          is the précis of your evidence and the fourth  
13          bullet down under the heading "Development of the  
14          Wild Salmon Policy Development Team", you say:

15  
16                   In particular, he will say that there was  
17                   tension between Science staff, who wanted a  
18                   more prescriptive policy, and FAM who wanted  
19                   a management framework that was practicable  
20                   and flexible with the ability to consider  
21                   social and economic factors in setting  
22                   management objectives.

23  
24                   FAM stands for Fisheries Aquaculture Management,  
25                   does it not?

26          MR. SAUNDERS: That's correct, yes.

27          Q     And does that accord with your understanding of  
28          the tension that existed at the time?

29          MR. SAUNDERS: Yes, that correctly reflects the tension  
30          when I arrived, at least in my opinion, in April  
31          of 2003.

32          Q     Yeah. And you go on to say in your précis that:

33  
34                   ...some Science staff saw the role of Science  
35                   as identifying conservation limits to harvest  
36                   activities and the role of FAM as  
37                   implementing those limits, without  
38                   integration between the sectors.

39  
40                   And that was the tension between the fisheries  
41                   aquaculture management and the science team at the  
42                   time, was it not?

43          MR. SAUNDERS: Yes. That's how I characterized it,  
44          yes.

45          Q     And finally, Dr. Irvine, if we can turn to Exhibit  
46          103 and the second page the seventh bullet down  
47          beginning with the sentence:

1 He will say that, as of 2002, WSP development  
2 was led jointly by Policy and Science  
3 branches within DFO. He will say that FAM  
4 subsequently expressed concern that  
5 operational guidelines would formalize  
6 decision-making rules.

7  
8 And then:

9  
10 ...in 2003 and 2004, the direction shifted  
11 focus towards avoiding an overly prescriptive  
12 approach to those activities.

13  
14 That accords with your information and knowledge  
15 at the time, does it not?

16 DR. IRVINE: Yes, it does, although perhaps I could  
17 elaborate a little bit. As I indicated yesterday,  
18 it was at about this time that the overall  
19 direction of the policy shifted away from one that  
20 was strictly Science Branch to involving Policy  
21 Branch that took over the lead or at least shared  
22 the lead within Science Branch. It was also at  
23 about this time that we really recognized  
24 internally at least those of us within science  
25 that -- of the importance of non-scientific  
26 factors in the decision-making process. And so it  
27 would be -- you could develop operational  
28 guidelines from a scientific perspective, but as  
29 soon as you have to incorporate social and  
30 economic concerns, then it becomes a far more  
31 complicated issue to deal with, and that, as we  
32 discussed yesterday, is basically why we -- or  
33 part of the reason why we shifted away from this  
34 prescriptive approach with operational guidelines.

35 Q I fully appreciate that's what you came to and  
36 that was -- you put that into a publication,  
37 Exhibit 96 in these proceedings, I believe, but I  
38 suggest to you that if science had its way with  
39 respect to the WSP we would be having more  
40 prescriptions involved, so that we would actually  
41 approach it from a biological perspective; is that  
42 fair to say?

43 DR. IRVINE: Well, science is quite a big term. You  
44 know, it's like law, you know, there's quite a  
45 range of opinion within scientists, as there are  
46 within lawyers, I would imagine, on a variety of  
47 issues. But it's really the separation of, as I

1 said yesterday, natural science and social  
2 science. If one is strictly concerned about the  
3 biological issues pertaining to the status and the  
4 survival of populations, it's relatively easy to  
5 do.

6 However, Fisheries and Oceans Canada is more  
7 than science. We have to manage the resource, we  
8 have to incorporate all these other concerns in  
9 the management of the resource. So I don't think  
10 you can say that science would do it one way, you  
11 know. I think that it's -- if you look at it  
12 strictly from a conservation biology perspective,  
13 you would come up with one set of conclusions, but  
14 our job is more than that.

15 Q And I suppose it comes down to this, that in a  
16 very real sense this tension contributed to some  
17 of the delay in terms of getting this policy out  
18 the door; isn't that right, trying to work through  
19 the process internally?

20 DR. IRVINE: Well, certainly that's true, and I think  
21 the end result was a far more powerful policy.

22 Q But it also strikes me that what gave way in this  
23 case is that the scientists who originated the  
24 policy, who originally said we should have  
25 prescriptive measures taken in order to conserve  
26 the salmon, gave way to the management sector  
27 which said well, wait a minute, we've got to  
28 consider socioeconomic details. And that's what  
29 interests me, how do you resolve that type of  
30 internal conflict?

31 DR. RIDDELL: Mr. Commissioner, maybe I can comment  
32 that I don't think it's accurate to -- you're  
33 probably referring to Science Branch, not so much  
34 as science.

35 Q That's correct. Yes, and the scientists.

36 DR. RIDDELL: And the scientists in the Stock  
37 Assessment Branch with the Salmon Division, but  
38 those people are also experts in sustainable use  
39 and that, so the first mandate, and this came up  
40 earlier today, that you can't have sustainable use  
41 without sustained resources, and conservation  
42 comes first in terms of having a healthy natural  
43 resource base.

44 That's the fundamental -- that's the  
45 fundamental goal of the Wild Salmon Policy, so  
46 that you have a healthy resource base upon which  
47 that you can have multiple uses, not just fishing,

1 but fishing, of course, is one of the prime  
2 assignments of the stock assessment program, as  
3 well. We are, in stock assessment, required to do  
4 the evaluations of the status of the resource and  
5 to make recommendations to management about the  
6 sustainable rate of use that could be applied in a  
7 particular year and that.

8 So I don't think it's fair to say that  
9 scientists were all simply conservation only. It  
10 is about establishing a conservation policy that  
11 will sustain the natural resources, in this case  
12 the Pacific salmon, and at the same time to do  
13 assessments to advise managers on appropriate  
14 rates of harvest and to look at how you would make  
15 judgments because not all populations, or in our  
16 case CU's will be at the same status all the time.

17 And the worst case scenario now we have some  
18 that are very depressed, like Sakinaw sockeye and  
19 Cultus Lake sockeye. We have others that are very  
20 abundant. So how do you limit the harvest rates  
21 so that you can sustain the depressed populations  
22 and still have some level of harvest? All of that  
23 requires science and evaluation. But it's not  
24 true that we are completely removed and only  
25 concerned about conservation.

26 Q No. I appreciate that, Dr. Riddell. But I want  
27 to come back to the focus of my question, which is  
28 more on process than it is on substance. And if  
29 you have internal debate in different sectors of  
30 the department, how do you go about resolving  
31 that? Do you have some mechanism? Do you have  
32 some mechanism such as mediation or some  
33 arbitration mechanism where you can actually knock  
34 heads and come to some resolution prior to just  
35 stretching this out for years until you actually  
36 satisfy the debate by relentlessly going over and  
37 over it again? Mr. Saunders?

38 MR. SAUNDERS: Yeah, I think I spoke to it earlier in  
39 some fashion, but I think the resolution to the  
40 tension comes into collaboration. I think -- it's  
41 been stated here, I mean, fundamentally when --  
42 what I saw the tension was that the scientists  
43 felt they had -- if they were in charge, that it  
44 would be they that would set the conservation  
45 limits but, in fact, science -- scientists provide  
46 - and that's where I spoke earlier about the range  
47 where we eventually landed on benchmark, science

1 -- the Science Branch provides advice and, in  
2 fact, it's not our purview to make those -- make  
3 those decisions.

4 So we had to work through that process and  
5 the mechanism for us to come to understand that, I  
6 think, was fairly unique in that, as I think Dr.  
7 Irvine pointed out, that when the policy was being  
8 developed in 2002, it was largely a science effort  
9 that was being brought to the table and then  
10 commented on by other sectors. As you moved into  
11 the later stages, Policy Branch led it,  
12 recognizing that Policy Branch covered more -- was  
13 more than -- was representing all of the sectors.  
14 But then we put an interdisciplinary team or a  
15 multi-sectoral team to work on it and I would say,  
16 and as I've said in my evidence, I think Pat  
17 Chamut was a big part of being able to put in  
18 place a process.

19 And without hesitation I know that we knew  
20 that Pat carried a very big stick when he came  
21 from the minister's office, but he never had to  
22 wield it because he took the effort and the time  
23 to understand the interests that were around the  
24 table. What was science really trying to say  
25 about biodiversity? What did fisheries management  
26 need to incorporate or need to do their job? And  
27 I think in listening and -- we went back to the  
28 drawing board many times on Pat's request saying  
29 this isn't working. And we would go back and so  
30 it was really a true collaboration across sectors.  
31 I don't think many -- most policies to this point  
32 would have been national policies would have been  
33 a policy of habitat, a policy of science, a policy  
34 of fisheries management. This, I'd say, was one of  
35 the rare policies that was cross-cutting across  
36 all of those sectors and Pat was -- and this group  
37 was -- took the time and was able to work through  
38 in collaborative fashion to get something as  
39 collaboration would demand that we're all happy  
40 with in terms of consensus. Nobody went away  
41 saying this isn't going to work for me.

42 Q No. I fully appreciate that --

43 MR. SAUNDERS: Yeah.

44 Q -- that commentary, Mr. Saunders, and I think the  
45 point I'm just trying to drive home to you and to  
46 see if I can get some agreement from the panel is  
47 that this process was inordinately long in terms



1 of trying to work through the process and I was  
2 wondering if there's some other way that you can  
3 approach it. I mean, yes, you did bring in Mr.  
4 Chamut and eventually you got the policy in place,  
5 but you were five years or plus five years in the  
6 making. So I'm wondering if there's another  
7 process that you can conceive of and I suggested  
8 some facilitation process with either a mediator  
9 or an arbitrator that would help you reach that  
10 consensus in a much more direct fashion. Mr. --  
11 or Dr. Irvine seems to be nodding his head. Maybe  
12 I've found some reception on the panel.

13 DR. IRVINE: Well, no, it's not a bad idea. And  
14 really, the paper that I described yesterday tried  
15 to identify other ways that the process could be  
16 sped up. And -- but you have to recognize this  
17 was a very -- I don't know, evolutionary period  
18 within Fisheries and Oceans, but also within what  
19 was going on internationally in terms of  
20 conservation biology and fisheries management. So  
21 there was a lot that was being learned. We were  
22 -- you know, the **Species at Risk Act** was being  
23 finalized, the Wild Salmon Policy, there's all  
24 sorts of issues going on in the Pacific Northwest  
25 of the United States, so this was not a simple  
26 thing, a simple nut to crack, so, you know, I  
27 appreciate your suggestion about a facilitated  
28 meetings.

29 Now, in fact, that's what the multi-  
30 stakeholder sessions were. So at those two  
31 sessions, you know, there was -- I think the 2nd  
32 or 3rd of March 2005 and 29th and 30th of April  
33 2005, those were professionally facilitated, so we  
34 brought in facilitators. We had break-out groups.  
35 We documented everything and I think certainly  
36 having the professional facilitation at that stage  
37 assisted us with making the final changes and  
38 coming up with a policy that satisfied most of the  
39 participants.

40 Q Mr. Chamut, you had a comment?

41 MR. CHAMUT: Yeah. I would like to just comment on the  
42 notion of mediation. You're dealing with the  
43 Department of Fisheries and Oceans with a number  
44 of different sectors, each sector different  
45 responsibilities, lots of competition for  
46 resources and a whole bunch of other things that  
47 sometimes make the department appear -- the

1 expression was that it operates in stovepipes.  
2 And there's two places in the organization where  
3 those stovepipes get kind of brought together.  
4 And one is at the level of the regional director  
5 general within a region and the second is at the  
6 level of the deputy minister.

7 So I've never heard -- and I don't think it  
8 would be within a hierarchy like a government  
9 department. The idea of mediating between two  
10 sectors, I don't think would ever be considered.  
11 Sometimes people might get a facilitator in to see  
12 whether or not they can bridge some of the  
13 differences, but in my experience you're going to  
14 -- if you have these sorts of disconnects or  
15 conflict between sectors, it's going to get  
16 resolved at one of those two levels that I  
17 mentioned. I mean, the RDG's role is to deal with  
18 the operations within the region and where there  
19 are differences of opinion, to reconcile those, to  
20 knock heads, to put in -- you know, basically give  
21 direction as to how people should be operating  
22 together. And I think that would be, in most  
23 cases, the preferred means by which these sorts of  
24 differences would be reconciled.

25 Where they're not reconciled, you've got a  
26 deputy minister in Ottawa who oftentimes could be  
27 called upon to reconcile these sorts of  
28 differences, and that's the other area or the  
29 other place in which that can occur. And it's  
30 generally much preferred that it be done at the  
31 regional level.

32 I think in the case of Wild Salmon Policy, it  
33 seemed to me from where I was sitting that there  
34 was, and it was obvious that there was disconnects  
35 between fish management and science and I  
36 personally think that there probably needed to be  
37 more direction and maybe more focus from the level  
38 of the regional director general at the time that  
39 this was kind of getting into difficulty.

40 Q You described very much a top-down hierarchical  
41 approach which is what government tends to be, but  
42 the problem that I'm going to put to you is that  
43 within the confines of the Department of Fisheries  
44 and Oceans, and this is a theme that I'm  
45 developing through other testimony, you've got a  
46 lot of competing mandates. And how you address  
47 those competing mandates and how you address those

1 situations is not an easy task. So ultimately  
2 you're going to have to address it from the top  
3 down because that's how you've structured  
4 yourself. But if you thought in terms of  
5 structuring yourself differently or else  
6 dissecting away some of those competing mandates  
7 so you didn't have those internal strifes, you  
8 might be able to get your job done a lot more  
9 better.

10 MR. CHAMUT: Well, you could certainly -- you could  
11 dice and slice things in various ways, but there  
12 are -- in any large organization, I don't care  
13 whether it's government or whether it's business,  
14 you're going to have oftentimes these sorts of  
15 internal conflicts and the department, like any  
16 other organization, has mechanisms to deal with  
17 them. When we talked, and I think some of the  
18 material that's been before the commission has  
19 talked about something called the Policy  
20 Committee, both in the region and in headquarters.  
21 And the Policy Committee in the region is there to  
22 try and identify areas where there may be  
23 disagreement and to reconcile and bring people  
24 together.

25 And the same holds true in Ottawa. Yes,  
26 there are differing points of view, different  
27 mandates and there are mechanisms though to bring  
28 those together. That's oftentimes what a large  
29 part of what Ottawa ends up doing. And I think,  
30 you know, in this case I think the model that we  
31 were able to follow was we did not -- the deputy  
32 did not intervene in saying do this this way. The  
33 deputy clearly indicated that this was important  
34 and he, I think he felt that putting myself into  
35 this particular mix may be serving as a bit of a  
36 mediator to try and identify where the differences  
37 were and try to find a way to bridge them and come  
38 up with a policy that was going to be consistent  
39 with our responsibilities and meet our objectives  
40 with respect to wild salmon management.

41 Q I saw very much that your role was as a  
42 facilitator in this, Mr. Chamut, so to that sense,  
43 perhaps you are in agreement with me, that  
44 sometimes facilitation and mediation can affect  
45 some resolutions to ongoing disputes.

46 MR. LEADEM: Mr. Commissioner, I note the time and I  
47 was wondering if we could take a break.

1 THE REGISTRAR: Hearing will now recess for 15 minutes.

2  
3 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)  
4 (PROCEEDINGS RECONVENED)  
5

6 MR. LEADEM: Leadem, initial T., for the record, Mr.  
7 Commissioner.

8 Mr. Lunn, can you pull up document number 8  
9 from the Commission counsel's list of documents of  
10 potential exhibits, please? It's Canada 023452.  
11

12 CROSS-EXAMINATION BY MR. LEADEM, continuing:  
13

14 Q Dr. Irvine, I'm going to ask you about this  
15 because, of the panel members, you seem to have  
16 the most longevity with respect to working on this  
17 policy. Do you recognize this document? We can  
18 go to some of the pages if it would assist you.

19 DR. IRVINE: I think I do. I should point out that Dr.  
20 Riddell was involved in this stage. I have the  
21 record for continuity rather than longevity.

22 Q Well, I'm not going to quibble who's older amongst  
23 you because I learned long ago not to engage in  
24 those kinds of debates.

25 Dr. Riddell, do you recognize this as well,  
26 this document? It seems to be a policy committee  
27 draft of the Wild Salmon Policy, and from my way  
28 of looking at this from a historical perspective,  
29 it seems to be one of the earlier ones that  
30 contains a lot of the early -- early thinking  
31 about this Wild Salmon Policy.

32 DR. RIDDELL: Well, by the date, I agree with you, but  
33 I have to admit I don't believe I have seen this,  
34 or I simply have forgotten this. It predates the  
35 first release in March 2000, so I think you're  
36 correct.

37 Q Well, my questions to you are going to be  
38 predicated on some of the contents of the  
39 document, and I want to begin by examining, at the  
40 base of page 14 of that document. You should see  
41 at the bottom, "Wild Salmon, Principle 3, Minimum  
42 wild salmon abundance levels will be established."

43 There's a reference there to the  
44 precautionary approach and, in the language of the  
45 precautionary approach, the minimum abundance  
46 level is a limit reference point, LRP, defined as  
47 the minimum abundance that must be maintained to

1 ensure conservation.

2 So is it your understanding that that limited  
3 reference point, and target reference points, are  
4 all derivations from the precautionary principle?  
5 Dr. Irvine or Dr. Riddell?

6 DR. RIDDELL: Are the terminologies derivations from  
7 the precautionary principle?

8 Q Yes.

9 DR. RIDDELL: Is that the question? No, I don't  
10 believe so, but I believe that they evolved  
11 shortly after the development of the precaution  
12 principle and the precautionary approaches, and  
13 they were steps to implement the precautionary  
14 procedure in actual management scenarios.

15 Q Right. So they were prescriptive in nature as  
16 opposed to flexible; is that correct? Do I have  
17 that right?

18 DR. RIDDELL: They would be specific management targets  
19 in that sense, and so it's possible for them to  
20 change if the productivity of the population or  
21 the particular stock of interest changed. But  
22 typically, they would be considered fixed in a  
23 certain time period.

24 Q And if I could ask you now to, in that same  
25 document, go to page 16 at the -- this is under  
26 the heading "Wild Salmon Principle 6".

27  
28 Conservation of wild salmon populations will  
29 take precedence over other production  
30 objectives involving cultivated salmon.

31  
32 The second full paragraph under that heading, the  
33 one beginning:

34  
35 The greatest increases in world salmon  
36 harvest have come from aquaculture.

37  
38 And then it follows through and discusses some  
39 report produced by the Environmental Assessment  
40 Office of British Columbia which concluded that:

41  
42 There is no reason to expect that Atlantic  
43 salmon are having a significant effect on  
44 Pacific salmon at current levels of  
45 abundance.

46  
47 Then it goes on to say:

1                   Should this situation change, the convention  
2                   on biological diversity advises that  
3                   introductions of alien species that threaten  
4                   ecosystems, habitats or species should be  
5                   controlled or eradicated.  
6

7                   So my understanding is, is that Canada is a  
8                   signatory to the convention on biological  
9                   diversity. Is that right, to your knowledge?

10 DR. RIDDELL: That is correct.

11 Q               And so as a signatory, then, if there is a threat  
12               posed to the ecosystem, to species in the  
13               ecosystem through the introduction of alien  
14               species, that convention would call for the  
15               control or eradication of the alien species  
16               introduced; is that not correct?

17 DR. RIDDELL: Yes. To my knowledge, I think that would  
18               be correct.

19 Q               Right. And so that -- that's a biological  
20               principle, not just a principle that is one that  
21               you would recognize from the convention on  
22               biological diversity, is it not? That's an aspect  
23               of conservation biology.

24 DR. RIDDELL: Mr. Commissioner, I think that's actually  
25               correct. There is a large symposia that would  
26               have been in -- it was in the 1990s, I can't  
27               remember the exact date, but the outcome of that  
28               is a very strong statement that invasive exotic  
29               species, the outcome of the -- or the effect of  
30               that in natural ecosystems are highly  
31               unpredictable and almost always negative, in that  
32               they have significant impacts.

33 Q               Right.

34 DR. RIDDELL: And that's across many taxa.

35 Q               So if we look at the situation that engender the  
36               early formulation of the principles that gave rise  
37               to the Wild Salmon Policy, we see at its very  
38               genesis this concept that if you have an alien --  
39               introduction of an alien species, you may have to  
40               control it in order to save the ecosystem.

41               I'm thinking specifically, in this context,  
42               it's aquaculture and the introduction of the  
43               species is the Atlantic salmon in Pacific waters;  
44               isn't that right?

45 DR. RIDDELL: Well, in the particular example you're  
46               talking about, yes, there are not -- there are no  
47               other non-endemic salmon on the west coast in

1 current time. There were, way back in the '20s,  
2 introduction of Atlantic salmon and brown trout to  
3 the Cowichan River, for example, but in recent  
4 years the only importation of an exotic salmon is  
5 the Atlantic salmon for aquaculture.

6 Q So according, then, to the convention, if there  
7 should be some linkage between a threat to the  
8 ecosystem posed by the introduction of an alien  
9 species, then the principles of conservation  
10 biology would call for the eradication of that  
11 particular species; is that not correct?

12 A Well, I don't think it's quite that simple because  
13 it says "control or eradication", right?

14 Q Yes.

15 A So, I mean, we have to recognize that the element  
16 of control is still there. I think that if you  
17 look at the history of the escapes from salmon  
18 farms, for example, it has been reduced majorly  
19 through time. There were very large escapes in  
20 the 1990s and that, so I think right now your  
21 argument would not be as simple as eradication,  
22 but it would have to assess control.

23 MR. WALLACE: Mr. Commissioner, I appreciate that this  
24 line of questioning comes from an early draft  
25 apparently of the Wild Salmon Policy, but we seem  
26 to be getting -- drifting away from the Wild  
27 Salmon Policy and into aquaculture issues which --

28 MR. LEADEM: I was actually just moving from this  
29 topic, Mr. Wallace.

30 MR. WALLACE: I was too slow.

31 MR. LEADEM: Even as you rose. I got the answer that I  
32 was looking for. Thank you, Mr. Commissioner.

33 If I could have Exhibit number 87, please?

34 Oh, sorry, I'm wondering if I could mark that as  
35 an exhibit, Mr. Commissioner.

36 THE REGISTRAR: Exhibit 117.

37

38 EXHIBIT 117: Fisheries and Oceans Canada  
39 Policy Committee Draft, Wild Salmon Policy:  
40 A New Direction, Draft for discussion  
41 purposes only, dated 17/05/99  
42

43 MR. LEADEM: If I could ask now Mr. Lunn to pull up  
44 Exhibit 87. It should be -- and if you can just  
45 scroll down.

46 Q I know they were going through this quite quickly,  
47 gentlemen, but I'm going to ask you if any of you

1 recognize this document? It appears to have been  
2 signed by the Associate Regional -- or the  
3 Assistant Regional Director at the time, Mr.  
4 Macgillivray. Do either -- or does anyone on the  
5 panel recognize that document? It's a response to  
6 the Auditor General's reports.

7 DR. RIDDELL: Mr. Commissioner, I can say that I am not  
8 aware of that document, but I was out of the  
9 Department at that time in 2003.

10 MR. CHAMUT: Similarly, I don't believe I've ever seen  
11 the document. I certainly don't recall it.

12 Q All right. I'll reserve that for Mr. Sprout,  
13 then, who probably will have some information to  
14 share with me on that topic.

15 The thrust of the report -- and maybe I can  
16 ask you this as general question, is that the  
17 Auditor General's expressing some discomfort at  
18 the WSP not being implemented within a certain  
19 time frame and is questioning the Department as to  
20 when they may -- when he might expect or she might  
21 expect the report to be prepared and finalized.

22 Was the Auditor General's material a driver  
23 for the implementation -- or, sorry, for the  
24 passage of the Wild Salmon Policy? In other  
25 words, did it drive it through to some conclusion?

26 MR. CHAMUT: I can offer an opinion on that. It was  
27 one of the -- there was a number of groups that  
28 were calling for Wild Salmon Policy. So obviously  
29 it was -- it was one of the factors. But I would  
30 certainly not say it was the driver. I think that  
31 the Deputy Minister in particular was very keen on  
32 making sure that the Wild Salmon Policy was  
33 finalized. I think a lot of the pressure was  
34 because of the importance that he attached to it,  
35 and of course I'm sure that his impression of  
36 priority was generated by reports such as the  
37 Auditor General.

38 I think there was also comments from the  
39 Commissioner on Environment who also had similarly  
40 had called for the policy to be finalized. So  
41 there was a variety of these sorts of things that  
42 were coming into play around that time.

43 Q Was there also a factor that the MSC process was  
44 percolating along and that it was recognized  
45 generally with the Department that the passage of  
46 the Wild Salmon Policy would assist the MSC  
47 certification process. Was that also a factor in



1 terms of moving the policy along?

2 MR. CHAMUT: Do you have a particular time frame? I  
3 don't particularly recall the MSC certification  
4 being anything that came into -- as a motivator  
5 from the time that preceded the time I was here,  
6 and even after the time when I arrived, I can't  
7 remember MSC certification being one of the things  
8 that lit a fire under us.

9 I think it was one of the events that was --  
10 I think we were all generally aware of, but I  
11 don't recall it being an important driver of  
12 getting the policy completed.

13 Q Dr. Riddell?

14 DR. RIDDELL: Well, I would agree with Pat's comment.  
15 I might add that I think if you look back at the  
16 timing of when MSC certification for sockeye --  
17 and I think we talked about this yesterday -- it  
18 did take about nine years. But if you're going  
19 back to 2003, 2005, it was in the very early going  
20 of the certification. It took quite a bit of time  
21 to get the early documents out. I don't believe  
22 it even really had to review by the time that we  
23 had the Wild Salmon Policy.

24 I think actually, if you looked at the  
25 chronology, you may find that the Wild Salmon  
26 Policy contributed to the review under MSC because  
27 it allowed them to define conditions that would  
28 allow certification if you met the conditions over  
29 the next five-year term. So maybe it's actually  
30 the reverse of it. But I don't think that the  
31 chronology, as such, that it was a major driver  
32 for us.

33 Q All right. So, in other words, you're saying the  
34 converse is true, that the Wild Salmon Policy  
35 assisted the MSC certification process. So it was  
36 more of a -- more of a driver for the MSC process  
37 than the MSC process was a driver for the WSP.  
38 Mr. Saunders?

39 MR. SAUNDERS: I would say there was a synergy between  
40 the two. I don't think one drove the other, but I  
41 think it was recognition that they were both  
42 complementary, they were both heading to the same  
43 place, that MSC certification would assist, you  
44 know, in the implementation of the Wild Salmon  
45 Policy and vice versa.

46 Q I was wondering if we could now turn to a letter  
47 that is in the coalition -- conservation

1 coalition's documents. It's a letter of May 1st  
2 to Mr. Saunders from Mr. Langer. This would be  
3 item 2. This is addressed -- actually it's  
4 addressed to Dr. Saunders. I don't know whether  
5 that would be the same -- is that yourself, Mr.  
6 Saunders, in all probability?

7 MR. SAUNDERS: That's me, but I'm not a doctor.

8 Q Do you recall receiving this?

9 MR. SAUNDERS: Yes, I do.

10 Q And this was written at a time when there had been  
11 ongoing discussions with environmental groups  
12 concerning the various drafts of the Wild Salmon  
13 Policy; is that right?

14 MR. SAUNDERS: That's correct.

15 MR. LEADEM: Could we have this marked as the next  
16 exhibit, please.

17 THE REGISTRAR: Exhibit 118.

18  
19 EXHIBIT 118: Letter dated May 1, 2005, to  
20 Dr. M. Saunders, from Otto E. Langer, David  
21 Suzuki Foundation, Re: Critique of the April  
22 22, 2005 Draft Wild Salmon Policy  
23

24 MR. LEADEM:

25 Q Next to the last page of that document under the  
26 heading "Conclusions", the author says:

27  
28 We will be much more comfortable with the WSP  
29 policy when it clearly indicates that DFO  
30 will close fisheries or take other drastic  
31 actions as necessary for the sake of  
32 conversation.  
33

34 That's what I believe you people have been calling  
35 the "prescriptive approach"; is that right?

36 MR. SAUNDERS: No, I wouldn't say that.

37 Q All right. How would -- well, in terms of closing  
38 the fishery, is it -- will DFO actually ever close  
39 the fishery to protect a conservation unit?

40 MR. SAUNDERS: Well, DFO has already closed fisheries  
41 even before the implementation of the Wild Salmon  
42 Policy to protect what were called or identified  
43 as stocks of concern. So, yeah, no question.  
44 Fisheries will be closed to conserve conservation  
45 units at some point.

46 MR. LEADEM: Could we have Exhibit 94, please?

47 Q This is the document that you just recently saw,

1 and my understanding is that roughly around the  
2 time at the end of May 2005, the draft of the Wild  
3 Salmon Policy was sent to the Minister for  
4 approval for promulgation as a policy. And that,  
5 for various reasons, that time frame got extended  
6 until June. Does that accord with your knowledge  
7 as well, gentlemen?

8 MR. CHAMUT: Yes, that's correct.

9 Q All right. And essentially, the Minister did not  
10 sign off on this because he was responding to some  
11 concerns raised by a group called the Marine  
12 Conservation Caucus, and the ten points they had  
13 raised concerning some deficiencies that were  
14 alleged to be within the confines of the WSP; is  
15 that right?

16 MR. CHAMUT: That's correct. My recollection was the  
17 Marine Conservation Caucus had circulated those  
18 ten points to members of the B.C. caucus. And I  
19 think the Department first became aware of those  
20 concerns in about the second week of May. The  
21 Department provided a response to the Minister and  
22 I think that response basically reacted to the ten  
23 points that had been raised and was forwarded to  
24 the Minister prior to this particular memo that  
25 you have up in front of us dated May 27th.

26 MR. LEADEM: Right. If I could ask -- Canada 033249,  
27 please. It's within the coalition conservation  
28 documents. I'm just trying to find the number  
29 here, Mr. Lunn. I believe it's 15.

30 Q There's an email from you, Mr. Chamut, to a Julie  
31 Norris. Did you write this?

32 MR. CHAMUT: Sorry, my mike was not on, so I'll repeat  
33 it. Yes, I did.

34 Q And with respect to the last word in your email,  
35 just so I have it clear who that refers to, you're  
36 referring to the members of the Marine  
37 Conservation Caucus?

38 MR. CHAMUT: That's correct, and if I can just amplify  
39 that, the first point I'd make is that that  
40 obviously reflects -- it's a good example of not  
41 striking the "send" button on your computer when  
42 you're frustrated and more than a little upset.  
43 'Cause I think at this point, I had just seen the  
44 ten points and I was quite disappointed and  
45 frustrated that those points would have been  
46 raised in the way that they did -- in the way that  
47 they were at that particular time. I was

1 particularly unhappy with the way that had been  
2 done. That is obviously reflected in the comment  
3 that you see before you.

4 Q Now, you were concerned from the Minister's  
5 perspective. The Minister basically said that he  
6 would like to see more funding for implementation  
7 as part of the roll-out for the policy and the  
8 eventual promulgation of the policy. Isn't that  
9 fair to say?

10 MR. CHAMUT: I can't answer that, sir. I really don't  
11 know. I don't recall the Minister making his  
12 approval condition on new funding. I simply just  
13 don't remember that.

14 Q All right. Perhaps maybe to assist your memory,  
15 we could go to Tab 16, or item 16 from the  
16 implementation documents, Canada 129031.

17 There is a -- the heading is an email from  
18 Ms. Farlinger to Carol Cross, but if -- there's an  
19 included message and it's from you, Mr. Chamut.  
20 I'll just allow you to read it through.

21 MR. CHAMUT: Okay, that does refresh, but I certainly  
22 didn't recall that.

23 Q Right.

24 MR. CHAMUT: And I'm not sure, in reading it, that the  
25 Minister said, "I'm not going to approve this  
26 unless there's more money." I think what this  
27 says is that if we can get more money, it will  
28 help overcome some of the reservations the  
29 Minister had because of some of the controversy  
30 around the policy, where there was still groups  
31 that were concerned about its -- about its content  
32 and about implementation.

33 Q Right.

34 MR. CHAMUT: Because if you go back to one of the  
35 documents you put up just before this, I  
36 summarized I think there were three main points  
37 that were people that were offside: concerns  
38 about aquaculture, concerns about a non-  
39 prescriptive approach, and thirdly, does the  
40 Department have the money necessary to implement.

41 It was my view, and the way I'm reading this,  
42 is that based on concerns about implementation, if  
43 we were able to provide some money that would go  
44 along with the pronouncement of the policy, then I  
45 was reasonably confident that some of the groups  
46 that were expressing reservations would in fact  
47 come on side.

1 Q And perhaps just as a follow-up to that, if I  
2 could show you document 18 from the implementation  
3 documents from -- that Commission counsel have  
4 provided. Once again, there's now an email chain,  
5 and the second one in that chain is from you to  
6 Ms. Farlinger, Mr. Chamut.  
7 I'll just give you -- it's rather lengthy.  
8 I'll give you a chance to review it, and just --  
9 I'm going to ask you to confirm that that in fact  
10 is an email that you sent.  
11 MR. CHAMUT: Yeah, that would be my memo or email.  
12 MR. LEADEM: Mr. Commissioner, I neglected to have the  
13 previous email, the one dated June 1, 2005,  
14 entered as an exhibit. I'd ask that it be entered  
15 as the next exhibit in these proceedings.  
16 THE COMMISSIONER: I'm sorry, counsel, I --  
17 THE REGISTRAR: Exhibit 119.  
18 THE COMMISSIONER: I apologize, I had in my notes two  
19 emails prior to this one, but perhaps my notes are  
20 incorrect. The one that you're referring to, is  
21 that your document 15?  
22 MR. LEADEM: Yes, I believe I neglected to have that  
23 tendered as an exhibit as well as the next two  
24 emails in sequence.  
25 THE COMMISSIONER: Oh, I see.  
26 MR. LEADEM: I'm backing up on myself and I'm  
27 forgetting to enter these -- or tender these as  
28 exhibits.  
29 THE COMMISSIONER: No, that's fine.  
30 MR. LEADEM: So perhaps we can just go back and clarify  
31 the record now.  
32 THE COMMISSIONER: All right.  
33 MR. LEADEM: So the email of May 13th, 2005, will be  
34 the next exhibit followed by the email of June 1,  
35 2005, followed by the email of June 3, 2005. So  
36 if they can all be then accorded exhibits numbers,  
37 please.  
38 MR. LUNN: I'm sorry, I'm just having trouble following  
39 you here. The email of May 13th?  
40 MR. LEADEM: Yes. The one that was part of the  
41 coalition conservation. I think that was document  
42 15, Mr. Lunn, of the coalition documents.  
43 THE REGISTRAR: May 13th will be marked as Exhibit 119.  
44 MR. LEADEM: I think it was document 16, Mr. Lunn, I'm  
45 not sure. Should be June 1st.  
46 THE REGISTRAR: The June 1st document will be marked as  
47 120.

1 MR. LEADEM: It's document 18, perhaps. Thank you. My  
2 apologies, Mr. Commissioner. I was getting too  
3 far ahead of myself.  
4

5 EXHIBIT 119: Email dated May 13, 2005, from  
6 Julie Norris to Pat Chamut, Subject: Re: Wild  
7 Salmon Policy  
8

9 EXHIBIT 120: Email dated June 1, 2005, from  
10 Susan Farlinger to Carol Cross, Subject: Fw:  
11 The Funding of the WSP  
12

13 THE REGISTRAR: The June 3rd document will be marked as  
14 121.  
15

16 EXHIBIT 121: Email dated June 3, 2005, from  
17 Susan Farlinger to Pat Chamut, Subject:  
18 Announcement of Wild Sockeye Policy  
19

20 MR. TIMBERG: Mr. Commissioner, if I could just clarify  
21 a point, while we're here. These documents are  
22 coming from the Commission's list of documents for  
23 the implementation day, which is to commence  
24 tomorrow, and so these are not -- these documents  
25 are not on Mr. Leadem's list of documents that he  
26 was going to be posing to this panel, today. So I  
27 am remiss, I did not provide these documents to  
28 my panel members to prepare them; I've only  
29 provided them with advance notice of the documents  
30 that the participants gave notice of.

31 So I apologize to Mr. Chamut, but he has been  
32 provided with the documents that Mr. Leadem said  
33 he would be putting to him, and right now Mr.  
34 Leadem is putting to the witnesses e-mails from  
35 2005, that he's never had a chance to review  
36 before. So perhaps it just poses a problem with  
37 respect to the rules as with respect to fair  
38 notice for participants for witnesses as to the  
39 documents that will be put to them.

40 MR. LEADEM: And I do apologize, Mr. Commissioner. If  
41 there were something controversial about it, if it  
42 were something that the witness would truly be  
43 surprised by, I would have given them the  
44 opportunity. I failed to realize that Mr. Chamut  
45 would not be back for the implementation panel,  
46 and these documents were actually put in the

1 implementation documents, so I only came across  
2 them late in the day, and I afforded the witness  
3 an opportunity to review those documents here, and  
4 I apologize for not allowing that to transpire  
5 before now.

6 THE COMMISSIONER: Well, I think, Mr. Timberg, the way  
7 to solve this, if the witness would like more time  
8 to review the document and you would like time to  
9 consider the document, we can stand down to do  
10 that, if there's some issue around that. Mr.  
11 Leadem has explained what's going on here, and you  
12 have, I think, fairly raised your concern. I  
13 think I now have to leave it in the hands of the  
14 witness, who may have some concern, not having  
15 seen it before, or yourself, and that's fair. But  
16 I think, at the moment, I wouldn't stop Mr. Leadem  
17 from asking questions, given that the witness, Mr.  
18 Chamut, is not part of the implementation panel.

19 MR. TIMBERG: Yes, I'm in agreement with that approach.  
20 I just wanted the Commissioner and the witnesses  
21 to be clear as to what documents have been  
22 provided to them and what they have not seen yet  
23 and that they're being shown documents from six  
24 years ago that they had not seen yet.

25 MR. LEADEM: And certainly Mr. Timberg can raise this  
26 on re-examination. I'm simply wanting this to  
27 form part of the record in front of you, Mr.  
28 Commissioner. I'm not going to question Mr.  
29 Chamut as to his recollection of the events, save  
30 and except for the fact that it did trigger his  
31 memory with respect to some of the chasing after  
32 the implementation funds.

33 Q Did it not, Mr. Chamut?

34 MR. CHAMUT: Yeah, it did. I have to apologize, I'm  
35 continually amazed at how much one forgets over a  
36 period of time, because I -- when I first saw the  
37 press release announcing the 1.1 million, which  
38 came earlier in the day, I was wondering, "Where  
39 did that come from?" which is, I guess, indicative  
40 of how much I've forgotten, so I apologize for  
41 that. But I do, having seen the memos, I can  
42 affirm that I did -- obviously I was the author.  
43 I was involved in trying to cobble money together  
44 from various sources, and I think the money that  
45 we were able to pull together was basically from  
46 existing pots of money within the department, and  
47 they were -- they would have, in fact, been what

1 was announced by the minister in June.

2 So I'm sorry for my lack of recollection, but  
3 I'd be reluctant to suggest that we break to spend  
4 more time to study it. I think we should just  
5 simply proceed.

6 MR. LEADEM: All right. And, actually, those are my  
7 questions. I simply wanted to tender those into  
8 evidence, Mr. Commissioner.

9 MR. WALLACE: Thank you, Mr. Leadem. This takes us to  
10 Mr. Rosenbloom for the Area D Salmon Gillnet  
11 Association and Area B Harvest Committee.

12 MR. ROSENBLOOM: Thank you. Gentlemen, my name is Don  
13 Rosenbloom. I appear on behalf of Area D Gillnet,  
14 Area B Seiner. I have a number of questions for  
15 you.  
16

17 CROSS-EXAMINATION BY MR. ROSENBLOOM:  
18

19 Q Firstly, there has been discussion today and  
20 yesterday and, indeed, in the précis of evidence  
21 that has been provided by each of you in respect  
22 to the tension, as it was described today,  
23 internally within DFO between science, the  
24 scientists, and within the managers in respect to  
25 this issue of prescriptive approach or not in the  
26 application or implementation of the WSP.

27 We have heard evidence, given by you, Mr.  
28 Saunders, yesterday, and today for that matter, as  
29 to what you understand to be the resolution to  
30 that, what I'll call, internal debate. What I  
31 want to ask you, to ensure that it is clear on the  
32 record and the commissioner understands this, is  
33 that your comments, given in particular today  
34 wherein you say the prescriptive approach was  
35 really rejected or abandoned - let me put it that  
36 way - and that the approach that will be taken by  
37 DFO is an approach that appreciates the  
38 socioeconomic issues, the societal issues, and  
39 that there will be discretion that will have to be  
40 applied, on occasion, in respect to the  
41 implementation of the program.

42 My question is: What we heard from you  
43 today, Mr. Saunders, is that the consensus within  
44 DFO as you proceed forward from this point  
45 onwards? In other words, not simply your personal  
46 opinion, but can we rely on your comments as being  
47 DFO's position as we move or proceed forward?



1 MR. SAUNDERS: I don't know that my words -- to the  
2 letter for, you know, could be used to describe  
3 the DFO position, but the words that I've used,  
4 and I think the words that Mr. Chamut and others  
5 have used to describe how the department will move  
6 forward are reflected in the Wild Salmon Policy,  
7 and so I don't know how to answer you other than  
8 that those are still my personal -- my personal  
9 interpretation of what's in the policy.

10 Q Okay. But can I assume that there is not an  
11 ongoing tension or debate within DFO in respect to  
12 that very critical question?

13 MR. SAUNDERS: I don't know -- I mean, I think within  
14 the department there's still -- we're still in the  
15 process of implementation, so how that process  
16 that I described today about collaboration and  
17 consideration of social and economic, the actual  
18 on the ground reality of how those -- that process  
19 is realized is still a subject -- I don't -- I  
20 wouldn't use the word "debate", but just a subject  
21 of -- it's in a process -- it's in process, a  
22 process of development. And so I think the  
23 overall intent that I've described, absolutely,  
24 but actually how it material -- what it looks like  
25 on the ground, I can't describe it.

26 Q But I know Dr. -- Mr. Chamut wants to speak, but  
27 just before going to Mr. Chamut, what I'm trying  
28 to establish is, is there a continuing discourse  
29 over that very issue, what we called earlier today  
30 the tension, or is it a matter that, from your  
31 perspective, has been resolved?

32 MR. WALLACE: Mr. Commissioner, this line of  
33 questioning seems to be more appropriate to put to  
34 the implementation panel, of which Mr. Saunders  
35 and Dr. Irvine will be a part. And also I would  
36 remind participants that the current regional  
37 director general, Ms. Farlinger, and her  
38 predecessor, Mr. Sprout, are also scheduled to  
39 speak to this topic.

40 MR. ROSENBLOOM: Well, in fairness to my friend, Mr.  
41 Wallace, this matter has come up with this panel,  
42 it has been discussed with this panel, and there  
43 are members of this panel that will not be part of  
44 the subsequent panels that are struck in respect  
45 of this issue. So I have trouble understanding  
46 why there would be a restriction of asking this  
47 question when there's been testimony already in

1 respect to this question. My question is very  
2 simple: I simply want to know, for the record,  
3 whether the issue that was the subject of tension,  
4 as we described it earlier today, is, indeed,  
5 resolved in the minds of the current managers  
6 within DFO; in other words, the two of you that  
7 are present today?

8 In fairness, I do know that Mr. Chamut does  
9 want to make comment. Why don't you go ahead,  
10 first, sir?

11 MR. CHAMUT: Thank you, sir. With all respect to my  
12 colleagues here, I think it's a very difficult  
13 question that you're asking them to answer. And I  
14 think it's an inappropriate question to this  
15 group. It really -- the panel is here and will be  
16 quite delighted and able to answer questions about  
17 the policy and the process that we went through in  
18 developing it, and can explain the policy, but  
19 you're basically asking a question that would be  
20 most appropriately addressed by senior managers,  
21 and I think you're putting people here on the spot  
22 to speak on behalf of issues that really are not  
23 their purview.

24 Q Are there comments from you, Mr. Saunders, about  
25 it, or do you agree with what Mr. Chamut just  
26 said?

27 MR. TIMBERG: If I could just speak for a moment? I  
28 support the position of the Commission counsel  
29 that this is a matter that is more appropriately  
30 addressed to the RDG panel that's coming up in two  
31 days.

32 THE COMMISSIONER: Well, let me see, I think Mr.  
33 Rosenbloom should be allowed to ask the question.  
34 If the witnesses feel that there is somebody else  
35 within the DFO that's more appropriate to answer  
36 it, they can say so, but I think he's entitled to  
37 ask the question.

38 MR. ROSENBLOOM:

39 Q Your response, Mr. Saunders?

40 MR. SAUNDERS: Yes, in my current position I spend some  
41 time on the -- I'm a member of the implementation  
42 team. I haven't been privy to or involved in  
43 discussions around the Wild Salmon Policy at the  
44 table -- at the operations committee table where  
45 tensions like that would be realized and  
46 discussed. To my -- I don't have enough  
47 experienced in the last year and a half with what

1 -- and, in fact, beyond that, to know exactly what  
2 the state of play is with that tension among  
3 sectors right now.

4 Q And can one assume that the question I'm raising  
5 should be directed to Ms. Farlinger?

6 MR. SAUNDERS: I think that would be appropriate.

7 Q And when you testified earlier today of your  
8 perception of where things stood right now in  
9 terms of the approach for future implementation  
10 and the trade-offs, the economic issues, social  
11 issues and so on, one assumes that you founded  
12 your comments upon what was your understanding, or  
13 is your understanding of DFO positions at this  
14 point in time; is that fair to say?

15 MR. SAUNDERS: It was founded on my experience to date  
16 within DFO, yes.

17 Q Yes. And I'm intrigued by an exchange of e-mails  
18 between Mr. Chamut - and I will be directing this  
19 to Mr. Chamut - and Dr. Riddell, and it's an  
20 e-mail in particular of November the 15th, 2004,  
21 and it is document number 1 in our list, and I  
22 believe Mr. Lunn will have it before you in a  
23 moment.

24 Dealing with this very controversy -- if I  
25 can put it as controversy over how -- what  
26 direction DFO should take in interpreting future  
27 implementation of the Wild Salmon stock -- Wild  
28 Salmon Policy, and I want to read from Mr.  
29 Chamut's reply to Dr. Riddell, and you'll see that  
30 just under, "Brian", Subject: Concern for final  
31 versions", and I'm going to be asking you, Mr.  
32 Chamut, after I read this out into the record,  
33 whether you still subscribe to this, and I then  
34 will be asking Mr. Saunders whether you subscribe  
35 to what was Mr. Chamut's perspective back in 2004.

36 Mr. Chamut said, at that time:

37

38 Brian: I am not surprised that this issue is  
39 arising as it is the most contentious and  
40 controversial choice that we have to confront  
41 with this policy. I am also not surprised  
42 that there are concerns that we have not got  
43 it right. If all we had to do was conserve  
44 the resource, our job would be easy. We  
45 would eliminate the fishery or restrict it in  
46 such a rigorous way that risks would be  
47 virtually eliminated. Our job is not that

1 easy. We also have a responsibility to  
2 provide access to a valuable public resource  
3 that provides income and economic opportunity  
4 for individuals and communities. These two  
5 obligations are often in conflict and finding  
6 the right balance between the two is the  
7 policy issue that we have to confront in the  
8 WSP.  
9

10 Mr. Chamut goes on:

11  
12 The policy says that we are going to conserve  
13 conservation units, but acknowledges that  
14 some populations within a CU may disappear.  
15 I think most, but not all, would accept that  
16 as a reasonable trade-off, given that  
17 restoration of the population from straying  
18 within the CU is likely. The situation where  
19 we have a CU that consists of a single  
20 population presents a different policy  
21 challenge. Should the policy affirm that  
22 every CU will be maintained in every  
23 situation? It is my view that it would be  
24 poor public policy for the government to  
25 commit to maintaining every CU in every  
26 situation. I can foresee that there will be  
27 situations where there is a small population  
28 of sockeye which qualifies as a CU. The  
29 feasibility of rebuilding is very low. The  
30 cost of doing so are excessively costly. In  
31 my view, it is quite appropriate for  
32 governments to make a choice to forego the  
33 usual range of measures to rebuild that  
34 stock, and I think, as well, that we need to  
35 be honest about that intent in our policy. I  
36 know that this notion is going to elicit  
37 opposition, but my recommendation is that it  
38 needs to be reflected in the policy.  
39

40 Now, let me stop there for moment. Mr.  
41 Chamut, do you still adopt your viewpoint as  
42 expressed back in 2004?

43 MR. CHAMUT: Well, if you go into the policy, you will  
44 see that there is, in fact, provision made, and  
45 I've discussed it on two or three occasions at  
46 this hearing, that there is provision for the  
47 minister to exercise some discretion with a CU in

1 particularly extenuating circumstances, I think is  
2 what the policy talks about.

3 This basically is described in my e-mail,  
4 that we have a CU, which is a single population,  
5 and I think generally we're probably talking about  
6 sockeye. It's in a situation where it's at low  
7 abundance, it's unlikely to rebuild, even in  
8 situations where you might close a fishery down.  
9 The likelihood that you could take measures to  
10 effectively close it to be rebuilt, the measures  
11 are expensive, unlikely to be successful, and in  
12 those situations I think it make sense to provide  
13 the minister with the responsibility to decide  
14 whether or not that conservation unit will be  
15 preserved.

16 This is included in the policy. But let me  
17 be really, really clear: it's not something where  
18 the minister is going to just arbitrarily decide  
19 to cast off CU's as they get into a red zone. The  
20 purpose of the policy is to rebuild them. But we  
21 do simply recognize that there are situations  
22 where it would be an unsuccessful attempt, it  
23 would be extremely expensive, and I think it makes  
24 sense to be clear that in these situations the  
25 minister may exercise that discretion, because it  
26 is a fundamental issue, and as I say, I think it's  
27 just a part of prudent public policy to have that  
28 provision in there and to be explicit about it.  
29 And that has been included in the policy, and I  
30 think it is an important part of it.

31 Q Indeed, it is a fundamental issue. And my  
32 question to you was: Do you, firstly, do you  
33 still adopt this viewpoint as expressed in this  
34 e-mail?

35 MR. CHAMUT: Yeah, I do, but again, the e-mail doesn't  
36 necessarily cover everything. I just want to be  
37 really clear that this is not something that would  
38 be done in a cavalier manner; it would be  
39 extremely rare and it would be something that  
40 would be in only very extenuating circumstances.

41 Q That is very clear, from your evidence. My next  
42 question is: Do you believe that the viewpoint,  
43 as expressed in this e-mail, is reflected in the  
44 Wild Salmon Policy document?

45 MR. CHAMUT: Yes.

46 Q Thank you. You go on and say, in this very  
47 document in the next paragraph, three lines down,

1 including a statement like point 9 in the  
2 snapshot, "It is my intention" -- excuse me, it  
3 starts:

4  
5 It is my intention to be clear that there  
6 could be circumstances where we would assess  
7 costs and biological feasibility and choose  
8 not to maintain or rebuild a CU.  
9

10 Again, that's consistent with what you are  
11 saying today; is it not?

12 MR. CHAMUT: Yes, it is.

13 Q And consistent with, as you interpreted, the WSP?

14 MR. CHAMUT: Yes.

15 Q Thank you. Now, turning to Mr. Saunders, having  
16 heard what I have just read out of this e-mail of  
17 Mr. Chamut, is this also very consistent with the  
18 evidence that you have been giving in these  
19 proceedings of your viewpoint of where DFO is  
20 moving in terms of direction with the  
21 implementation?

22 MR. SAUNDERS: Mr. Commissioner, I would hesitate to  
23 say that I adopt verbatim what is in Mr. Chamut's  
24 e-mail, but in the testimony that we just heard, I  
25 mean, I would agree that the -- what I believe to  
26 be the intent of that e-mail, Mr. Chamut has  
27 pointed out is in the document, and I would stand  
28 by what is in the document in terms of this  
29 situation of letting -- of not maintaining or  
30 restoring a conservation unit in extreme  
31 circumstances. I would add that I believe that  
32 that is a fundamental part of what I spoke to  
33 earlier in the day about having a process where  
34 social and economic -- the full -- when we set  
35 objectives, biological, social, economic, that the  
36 full array of possible options need to be on the  
37 table for those around the table to make a  
38 decision based on it.

39 Q I'm glad you raised that, because in your  
40 testimony today, I believe, you spoke of the  
41 processes that you imagined would transpire if the  
42 matter went to the minister for review. And if I  
43 heard your evidence correctly, you spoke of a  
44 consultative process that would take place in  
45 advance of a ministerial direction or order based  
46 upon WSP; is that correct? Have I heard you  
47 correctly?

1 MR. SAUNDERS: Yes.

2 Q Is that consultative process documented in the  
3 WSP, or is it something that you take for granted  
4 would take place?

5 MR. SAUNDERS: I don't recall if it's explicit in the  
6 WSP.

7 Q All right. Assuming for a moment that it isn't in  
8 the WSP, can I have reason to believe you have  
9 some confidence that that would be the *modus*  
10 *operandi* if, indeed, the matter was moving towards  
11 the minister's office?

12 MR. SAUNDERS: I think in almost all of our decision-  
13 making, that we are all, you know, there's an  
14 extensive consultative process around any  
15 decisions relating to resource management, so I,  
16 yes, I would believe there would be a consultative  
17 process.

18 Q And Mr. Chamut wants to say something.

19 MR. CHAMUT: Yeah, I would. This is fairly clearly  
20 expressed in the policy. There's a statement on  
21 page 29 that does reflect that in certain  
22 circumstances the minister retains this particular  
23 discretion. But I would also - as you scurry for  
24 page 29 - let me just direct you to the first page  
25 of the policy. It's called "The Wild Salmon  
26 Policy - a Snapshot". It's on the back page of  
27 the cover. Oh, you don't have it.

28 If you go to a hard copy, it's called the  
29 snapshot, and look at item number -- the next --  
30 the penultimate bullet.

31 Q Yes.

32 MR. CHAMUT: It talks about this particular issue:

33  
34 The policy aims to maintain CU's but  
35 recognizes there will be exceptional  
36 circumstances where it is not feasible or  
37 reasonable to fully address all risks.

38  
39 And then it goes down and talks about the  
40 discretion of the minister of Fisheries and  
41 Oceans, and the last sentence says:

42  
43 Such a decision will be made openly and  
44 transparently.

45  
46 And I think you can take from that that it  
47 will involve consultation and the minister will be

1 making sure that it's not done with the stroke of  
2 a pen, it'll be done in an open, transparent  
3 manner, and I would have no hesitation in saying  
4 that there will be consultation.

5 Q Can I assume, in the same theme, that in the event  
6 that a matter doesn't go the minister but that  
7 there is a, what I'll call, radical decision made  
8 by DFO, for example, to close a fishery because of  
9 reaching certain benchmark -- below certain  
10 benchmark thresholds, that there would also be a  
11 consultative process in advance of that decision  
12 being made by DFO managers?

13 MR. CHAMUT: In the situation that you're referring to,  
14 there would be, as a first step, there would be  
15 what's called an integrated fisheries management  
16 plan that would be developed. As part of that  
17 plan, it would outline simply the department's  
18 proposals or intent to manage a particular fishery  
19 and a particular CU, and the process for  
20 developing an IFMP is very, very consultative.  
21 And as part of that, if there was a decision being  
22 made -- oh, sorry, if there was a proposal being  
23 made to close a fishery, it would be the basis of  
24 consultation with a whole host of interested  
25 groups, First Nations, recreational fishers, other  
26 interested parties, commercial fishermen, and that  
27 would be part of the integrated fisheries  
28 management plan, which is always sent to the  
29 minister for approval, and the minister has the  
30 responsibility for approving all of those plans.

31 So it would be done -- it would not be done  
32 by a local manager based on, you know, something  
33 that was seen as a whim, if I'm reading your -- if  
34 I'm interpreting your question correctly; it would  
35 be part of an IFMP, lots of consultation, final  
36 decision by the minister.

37 Q Well, I may be the only one in this room that  
38 missed that. I didn't appreciate that when  
39 decisions were made under WSP that all matters  
40 would go to the minister for decision-making, and  
41 I obviously learn that from your evidence, now,  
42 and in the process of getting ministerial review  
43 and decision there would be consultation in all  
44 respects, in all cases, correct?

45 MR. CHAMUT: Yes, sir. And if you have been involved  
46 with the commercial fisherman, I think you'll know  
47 that consultation with the department is one of



1 the activities that keeps them very, very busy  
2 during the winter, spring, fall and summer, and  
3 there's virtually no time for fishing these days,  
4 so --

5 Q Right.

6 MR. CHAMUT: -- there is a lot of consultation.

7 Q Believe me, I've heard that complaint from my  
8 clients, how time consuming that is. But I am, of  
9 course, speaking totally in the context of  
10 implementation of the WSP, as I raise these  
11 questions with you, I think you'll appreciate  
12 that.

13 For Dr. Riddell, in your précis of evidence,  
14 Exhibit 99, I believe, at page 3, you say, and  
15 I'll just summarize it, and please, if you don't  
16 recognize what I'm speaking of, I'm happy to lead  
17 you right to that document, but you say that if  
18 the WSP is not a policy to protect biodiversity at  
19 all costs, but a practical policy to ensure  
20 biodiversity, then my question to you is this:  
21 Then why does the science backup for this not  
22 include explicit analysis of the trade-off  
23 relationships between use, rate - in other words,  
24 harvest - and expected biodiversity loss, instead  
25 of just specifying a set of benchmarks or targets  
26 for conservation units? Do you understand my  
27 question?

28 DR. RIDDELL: Well, I think I understand your question,  
29 but your question really pertains to a very  
30 specific situation that would be taken into  
31 account in the management planning for how to  
32 manage those resources, and they could be between  
33 CU's, they could be between different species of  
34 CU's and that, and so within the broad national  
35 policy like this, we were trying to specify what  
36 would constitute a forward-thinking and  
37 precautionary approach to conserving genetic  
38 diversity in the long term.

39 Bu the trade-off that you're talking about  
40 are more appropriately considered within the  
41 specific confines of what the problem really is.  
42 It would be a very different outcome depending on  
43 how different the status of the conservation units  
44 that were involved were, what the differences in  
45 their productivities were, what your opportunities  
46 for implementing management change were, and that  
47 if you were down to a single management group,

1 then you have very limited options in doing  
2 anything through fishing. You might have to do  
3 something through enhancement or habitat  
4 alteration.

5 So, I mean, there is such a combination of  
6 possible scenarios in any of these examples that  
7 you couldn't really build them in. But it is --  
8 what you're saying is clearly what would be done  
9 in the development of a management plan.

10 Q Right. So it wouldn't be focused upon by the  
11 scientist, but it would be focused upon in the  
12 next phase where the managers had to grapple with  
13 the issue of reaching benchmark thresholds?

14 DR. RIDDELL: That's correct. The science is  
15 describing how you define the spatial units, the  
16 conservation units, what are the benchmarks,  
17 establishing the assessment framework so that you  
18 have the data upon which to do the analysis,  
19 looking at the habitat and ecosystem issues, and  
20 really what you're referring to is when we start  
21 talking about wild salmon, too, I think is the  
22 phrase you're using, for Strategy 4, that is where  
23 we recognize that for ecosystem-based management  
24 and to really incorporate the interests and  
25 concerns of a particular community, you must have  
26 a more inclusive process. That's the intention  
27 of, I think it's, figure 8 in the document, to  
28 show that -- Mark actually described it as  
29 managing for egg to egg and that.

30 So you have the three information inputs that  
31 are largely scientific and that, not just from  
32 scientists, for from communities and a science  
33 background and, you know, historical data and  
34 that, but the actual consideration of all these  
35 trade-offs has to be within this particular  
36 management framework and the problem at hand.

37 Q And so you would expect the managers to carry out  
38 the explicit analysis of the trade-off  
39 relationships?

40 DR. RIDDELL: With the advice of science, because we  
41 would develop many of the --

42 Q Yes.

43 DR. RIDDELL: -- well, not me anymore, but science  
44 would develop many of the models and they would  
45 provide advice on what type of models are  
46 appropriate for the trade-offs. An expert in that  
47 is going to talk to you later, probably, Dr. Carl

1 Walters, on that.

2 Q Thank you.

3 MR. WALLACE: I'm not sure, Mr. Rosenbloom, if you can  
4 -- it's hard, sometimes, for me to find the line  
5 between the issues of management. Dr. Riddell  
6 pointed it out here. I'm not sure if your  
7 questions continue to go along the management and  
8 the integration of the policy and the management,  
9 but that really is the subject matter of the  
10 Strategy 4, which we'll deal with later.

11 MR. ROSENBLOOM: Well, I've concluded that question and  
12 gotten my answer. I don't believe that I violate  
13 Mr. Wallace's concerns in the next series of  
14 questions I have. In any event, I see it is 4:30.  
15 It may be an appropriate time to adjourn.

16 MR. WALLACE: Mr. Commissioner, I'm concerned about  
17 time. I'm not sure how much longer Mr. Rosenbloom  
18 intends to go, but I would -- I've asked the  
19 participants if they'd be available until 5:00  
20 today, and I would --

21 MR. ROSENBLOOM: Oh, 5:00?

22 MR. WALLACE: -- prefer to carry on, if we may?

23 MR. ROSENBLOOM: I'm sorry, I thought it was 4:30. I'm  
24 happy to carry on. Thank you.

25 Q Dr. Riddell, let me ask you this: The sockeye  
26 fishery that, of course, is the focus of this  
27 inquiry, would you agree that that fishery is  
28 largely dependent on a relatively small number of  
29 large stocks? That's my first question.

30 DR. RIDDELL: The abundance is definitely dependent on  
31 a relatively small group of large stocks, yes.

32 Q Secondly, isn't it true that some of the small  
33 stocks that are the main concern for sockeye  
34 biodiversity loss in the Fraser rear in smaller  
35 lakes, like Cultus, that have no potential for  
36 ever replacing losses if anything bad should  
37 happen to the larger stocks; do you agree with  
38 that?

39 DR. RIDDELL: Well, yes and no.

40 MR. WALLACE: Mr. Commissioner, this strikes me very  
41 much as harvest management and, subsequently,  
42 Strategy 4 series of questions. The questions --  
43 we're talking here about the development of the  
44 policy, the science that goes into protecting  
45 biodiversity, the identification of CU's, the  
46 identification of benchmarks in those CU's, and  
47 just what the structure is. In my submission, Mr.

1           Rosenbloom's questions are much better directed at  
2           later panels and later topics in this inquiry.

3           MR. ROSENBLOOM: Will Mr. Wallace refresh my memory:  
4           Is Dr. Riddell present for the harvest management?

5           MR. WALLACE: I don't know the answer to that.

6           MR. ROSENBLOOM: Well, I take the position Dr. Riddell  
7           has been testifying about these very matters.

8           Q        Maybe, Dr. Riddell, do you know whether you are a  
9           prospective panellist for the harvest management  
10          panel?

11          DR. RIDDELL: The harvest management panel is  
12          immediately after Christmas? Is that that --  
13          following? I do not believe that I am on that  
14          list, at this time.

15          MR. ROSENBLOOM: Well, that being the case, Mr.  
16          Commissioner, and in the context of the evidence  
17          we've already heard from Dr. Riddell about  
18          biodiversity, I don't quite understand why it's  
19          inappropriate to ask this question of him, and  
20          appreciating his background and his experience.

21          THE COMMISSIONER: Mr. Rosenbloom, if your questions  
22          arise out of testimony that Dr. Riddell has given  
23          so far, I think it's appropriate for you to pursue  
24          in your cross-examination those answers to those  
25          questions. To the extent that it opens up new  
26          avenues which have not been testified upon, then I  
27          think that's a different matter. So if your  
28          questions do flow from testimony we've heard in  
29          the proceedings here yesterday and today, I think  
30          you're entitled to pursue those.

31          MR. ROSENBLOOM: Well, I don't want to belabour this,  
32          and I don't want to take up a lot of time of the  
33          Commission, but Dr. Riddell has been testifying  
34          about biodiversity, the importance of preserving  
35          biodiversity, we've been speaking of SAR's and  
36          COSEWIC and so on and so forth. I would have  
37          thought that this line of questioning was very  
38          relevant to the issue of biodiversity and the  
39          nature of the stock of the west coast and whether  
40          it is of value to seek protection of all stock  
41          within the Pacific sockeye community. SO I would  
42          have thought it was very relevant and that we'd  
43          been talking about biodiversity for the last two  
44          days.

45          THE COMMISSIONER: I don't think I was denying you your  
46          opportunity to ask the question, Mr. Rosenbloom.

47          MR. ROSENBLOOM: No.

1 THE COMMISSIONER: So I think you should put your  
2 question to Dr. Riddell. I'm sorry, I didn't make  
3 a note of the last question you asked. Mr.  
4 Wallace got up to object and I didn't make a note  
5 of it, but --

6 MR. ROSENBLUM: Right.

7 THE COMMISSIONER: -- if you want to put your question  
8 to him again?

9 MR. ROSENBLUM: Yes, I would.

10 THE COMMISSIONER: Thank you.

11 MR. ROSENBLUM: Thank you.

12 Q Dr. Riddell, isn't it true that some of the small  
13 stocks that are the main concern for sockeye  
14 biodiversity loss in the Fraser rear and smaller  
15 lakes, like Cultus, that have no potential for  
16 ever replacing losses if something bad should  
17 happen to the larger stocks?

18 MR. WALLACE: Mr. Commissioner, the question will be --  
19 these questions will be appropriate for other  
20 panels. We will be dealing specifically with the  
21 Cultus Lake situation. We will be dealing with  
22 the application of harvesting plans under Strategy  
23 4 and under the harvest management sections. This  
24 goes way beyond the development of the policy and,  
25 in my submission, this panel is not the place to  
26 put those questions. If it's imperative that Dr.  
27 Riddell be back, I would listen to why that might  
28 be, but the Commission counsel has put together  
29 the people they think are the appropriate  
30 witnesses for these panels and have invited  
31 participants to suggest others for those panels  
32 where it would be more appropriate than this one.

33 MR. ROSENBLUM: I'm in your hands, Mr. Commissioner.

34 THE COMMISSIONER: Mr. Rosenbloom, what I would  
35 suggest, to get on with it - we're going to lose  
36 the next 20 minutes in this debate - is for you to  
37 reserve the questions that you had intended to ask  
38 on this particular point. I will hear from you if  
39 Mr. Wallace and you cannot agree on whether or not  
40 Dr. Riddell should be recalled to answer your  
41 questions in the context of another panel that's  
42 dealing more specifically with the area in which  
43 you wish to pursue your questions. So if it's  
44 convenient for you, now, to move onto another  
45 topic, I would certainly not like to forget this  
46 line of questions that you want to pose, but ask  
47 you to move on at this stage.

- 1 MR. ROSENBLOOM: Yes, I will concede to you, Mr.  
2 Commissioner. I don't think Dr. Riddell is the  
3 only scientist that is coming before this tribunal  
4 that is able to answer the question, I just wanted  
5 to pick the brains of Dr. Riddell, who is  
6 obviously respected in the field and very, very  
7 experienced, and that's why I was directing the  
8 question to him, especially, when I learn that we  
9 may not see him again. But in any event, we will  
10 leave it for Mr. Wallace and I to talk out and  
11 possibly to recall Dr. Riddell. I'm sure that's  
12 great news for you, Dr. Riddell, but we may see  
13 you again, after all.
- 14 Q Yesterday, Mr. Saunders, I believe that you made  
15 some comment about the holistic approach to  
16 ecologically-based management, and you spoke, in  
17 particular, that implementation of the policy  
18 requires DFO to consider how many salmon is  
19 necessary to support the ecosystem; the bears, the  
20 eagles, et cetera - this isn't verbatim - you  
21 recall that portion of your evidence?
- 22 MR. SAUNDERS: Yes, I do.
- 23 Q I'm a little intrigued by that. Tell me this:  
24 How much -- when you say "as much as we understand  
25 it", surely this suggests that "we" as a society  
26 and "you" as DFO and the scientists, really don't  
27 understand much at all when it comes to that issue  
28 of feeding the ecological system in terms of bears  
29 and eagles, and so on, with salmon carcass?
- 30 MR. SAUNDERS: I would say that we're in early days in  
31 sort of understanding. There's a lot to learn  
32 around structure and function of ecosystems.
- 33 Q And you would agree with me in terms of eagles and  
34 bears and so on, there are huge, vast tracks of  
35 land in British Columbia where bears and eagles  
36 inhabit that aren't anywhere near salmon-rearing  
37 streams? Obviously?
- 38 MR. SAUNDERS: I'm not sure that's obvious.
- 39 Q Really?
- 40 MR. SAUNDERS: I would say the larger proportion of the  
41 land mass has salmon in streams.
- 42 Q Yes, where there are streams, but the point I'm  
43 also making is that the feeding that does take  
44 place is obviously in a window of, whatever, six  
45 weeks, seven weeks, annually, obviously?
- 46 MR. SAUNDERS: I'm uncomfortable with going -- I'm --  
47 in my current position, I'm not an active research

1 scientist --

2 Q Right.

3 MR. SAUNDERS: -- in the area of this. There are other  
4 panellists, perhaps, and others that are in front  
5 of this commission, that can speak to it. I'm not  
6 sure where you're going with the question, but...

7 Q I'm sorry, and Dr. Irvine does want to say  
8 something. Yes?

9 DR. IRVINE: Well, I'll just make the comment that it  
10 isn't, you know, the benefit of nutrients that  
11 salmon bring into the watershed are not only  
12 utilized in a six-week period. I mean, they  
13 contribute to the food chain, and so they really  
14 contribute right through an extended period of  
15 time.

16 Q Yes.

17 DR. IRVINE: So it's not like they're only feeding on  
18 the salmon. They feed on the organisms that feed  
19 on the salmon.

20 Q But you do both agree, as you have said already,  
21 Mr. Saunders, that we're at an early stage of  
22 understanding that dynamic?

23 MR. SAUNDERS: I'm probably not a good person to state  
24 how early or how much we know, but it is reality  
25 resource management going forward that we need to  
26 consider the requirements of ecosystems.

27 Q Dr. Irvine, you state in your précis, which is  
28 Exhibit 103, in part you say that you will say at  
29 this hearing that you had not seen -- you have not  
30 seen any draft operational guidelines through the  
31 WSP implementation team or Strategy 1 team.  
32 You're familiar with what I'm referring to?

33 DR. IRVINE: Yeah, I'm just trying to find it on the  
34 page so I can see it in context.

35 Q Yes, I'm referring to Exhibit 103, page 4, bottom  
36 of page 4, the last bullet. The last line of that  
37 paragraph, which reads:

38  
39 He will say that he has not seen any draft  
40 operational guidelines through the WSP  
41 Implementation Team or Strategy 1 Team.

42  
43 You see that, now, sir?

44 DR. IRVINE: Okay, so what we're talking about, here,  
45 is a different set of operational guidelines.

46 Q Yes.

47 DR. IRVINE: The operational guidelines that we've been

1 talking about over the last two days were really  
2 the prescriptive measures that were -- that we  
3 intended to develop in the early stages of the  
4 WSP. There is, within the policy, a mention of --  
5 probably an unfortunate use of the words  
6 "operational guidelines", so we use that term  
7 again, and as I recall, it was basically to  
8 determine the process by which that buffer would  
9 be specifically identified. So this is the buffer  
10 between the CU lower benchmark and the point at  
11 which a CU might be considered at risk of  
12 extirpation.

13 Q And in respect of that matter, you have not seen  
14 the operational guidelines?

15 DR. IRVINE: I have not seen, to my recollection,  
16 guidelines through the WSP implementation team, or  
17 Strategy 1 team, about the specific delineation of  
18 that buffer, that's true.

19 MR. WALLACE: The doctor will be back to speak to this  
20 on the implementation of that.

21 MR. ROSENBLOOM: Thank you very much.

22 Q I want to turn, now, to the whole issue of funding  
23 and implementation, and without moving directly  
24 into implementation, but rather into the mindset  
25 of all of you who participated in the development  
26 of the WSP, as I read the précis of evidence of  
27 the four of you, one common theme, I suggest to  
28 you, is that there has been a real squeeze,  
29 financially, in respect to implementation or  
30 working towards implementation of this program  
31 and, in fact, even you, Mr. Chamut, in your  
32 evidence this afternoon, spoke of cobbling money  
33 together.

34 Now, this is a pretty critical issue for the  
35 long-term viability of this policy. Might I first  
36 ask you, and maybe to keep order here, I'll direct  
37 it, first, to Dr. Riddell, during your  
38 participation. What I don't see in my review of  
39 documents - and believe me, I'm not suggesting  
40 I've seen everything that's in the body of  
41 documents that have been provided to us - was  
42 there a point in time in the earlier stages of  
43 this initiative, where the minister was informed  
44 of what you believe you believed - "you", meaning  
45 you, collectively with DFO - believed to be the  
46 cost of putting this program together and  
47 implementing the program?



1 DR. RIDDELL: Well, I think it's probably more  
2 appropriate that Pat comment on interaction with  
3 ministers, because I was a working scientist  
4 advising the west coast, and I seldom spoke  
5 directly to him. As an active scientist at the  
6 time, though, we did put active work plans  
7 together. You saw the memo where there was  
8 400,000 from science, 200,000 from habitat, and so  
9 on, and at one point that accumulated to 1.1  
10 million dollars directed to implementation of the  
11 Wild Salmon Policy.

12 What you may not understand in the way it was  
13 presented is they were internal funds reallocated  
14 to do work specific to the policy implementation,  
15 and that, so I really can't speak to information  
16 to the minister; I can only speak to what we had  
17 to work with. And it was not just money, per se,  
18 because we were developing new methodologies, and  
19 I would have to honestly say that a couple of us  
20 probably underestimated the time it was going to  
21 take, particularly for the conservation units. We  
22 had to actually do some of the raw map work, for  
23 example, which we had not been informed of until  
24 we implemented and that, but for the investment we  
25 had, I can't really comment any more on whether  
26 the minister was made directly aware.

27 Q Yes. To move, then, to Mr. Chamut, then, and  
28 yesterday you said, and possibly a little bit in  
29 jest, you said, I think, 30, 40 million dollars,  
30 and then Mr. Wallace suggested to you that maybe  
31 it was facetious, but it sounded to me, from your  
32 evidence yesterday, that you are approaching --  
33 you believe that this is going to be a very costly  
34 initiative to be fully implemented and effectively  
35 implemented; is that fair to say?

36 MR. CHAMUT: Well, I think you're putting words in my  
37 mouth, to some extent. Can I come back to that  
38 point, because I want to deal with what you  
39 raised, first?

40 Q By all means.

41 MR. CHAMUT: I think the simple answer to your question  
42 is, no, the minister was not advised about  
43 implementation costs early on. Like when I was  
44 asked to come out here, there was never any  
45 discussion about the cost of implementing the Wild  
46 Salmon Policy. And, in fact, I recall very  
47 specifically that the discussions that I had had

1 with others, the deputy regional, DG, my mandate  
2 in coming out here was not to come out and develop  
3 a policy that was going to require a large amount  
4 of incremental funds, because things are tight.

5 The intent was that we would be developing a  
6 policy that would be implemented using existing  
7 funds. And in my discussions, you'll see it in  
8 the witness statement that you referred to, my  
9 understanding is we went through this in talking  
10 to the colleagues that are, in fact, are here on  
11 this panel, was that there was adequate amount of  
12 resources to be able to implement the policy in a  
13 phase manner over about a five-year period. And  
14 it was understood that it was not going to be done  
15 quickly, and it was equally understood that if  
16 there was lots of money it would be done much more  
17 quickly with additional resources, additional  
18 people, that it would obviously speed things up.  
19 But the minister was not given any suggestion that  
20 it was going to take a large investment of money  
21 and, in fact, quite the reverse; it was expected  
22 the policy would be implemented with existing  
23 funds.

24 Now, I felt quite -- obviously I was  
25 surprised to recall the extent of work that I had  
26 done to try and develop some support for funding  
27 at the last -- at the end of the process, because  
28 that was done possibly the day before I retired,  
29 and so it was an effort to try and get a hold of  
30 colleagues in Ottawa and get them to provide money  
31 from their internal budgets, which I was able to  
32 do. And it is money that obviously helped  
33 implement the policy. To the extent that it has  
34 been implemented at this point, that money has  
35 been very important. I think if there was more  
36 money, we can do more, and if the intent is to try  
37 and accelerate the implementation, then I think  
38 money would definitely be something that should be  
39 considered.

40 I have no idea of how much money would be  
41 required, because I've been too long out of the  
42 system and I'm really not sure how much is -- has  
43 been dedicated, what the staff capability is, and  
44 how much more would be required. That would be  
45 something that is probably more appropriately  
46 answered by the RDG's.

47 Q I appreciate that. But is it fair to say, from

1           your response, that clearly in seeking money or  
2           obtaining money from the department you're  
3           actually robbing other programs of what otherwise  
4           would be their funding?

5       MR. CHAMUT: No, I don't think so. At the time, and  
6           this is, again, is very difficult, because my  
7           recollection is reasonably fresh, just having seen  
8           the memos again this afternoon. But I seem to  
9           recall that the money that was -- that I called  
10          "cobbled together", there had been some new funds  
11          that had been given to the department, and some of  
12          those monies had been distributed amongst the  
13          sectors, and so that money was not necessarily  
14          robbing Peter to pay Paul; it was money that was  
15          available, and I just wanted to make sure that it  
16          was dedicated to the Pacific region to implement  
17          the policy, and there was small amounts --  
18          relatively small amounts from each of the sectors  
19          that went into it, and I'm reasonably certain that  
20          there was a source of money that had come into the  
21          department for, I can't remember exactly what the  
22          submission was about, but I think that that was  
23          the origin of the money.

24       Q       I will be corrected by the current panel members  
25           -- excuse me, the panel members who are currently  
26           working within DFO, but I believe that the deputy  
27           minister, Claire Dansereau, in her testimony at  
28           this proceeding, indicated that the upcoming  
29           fiscal year the department is being directed to  
30           draft a budget with a 10 percent reduction in  
31           their operating expenses. Firstly, I don't want  
32           to mislead the commission about that. Is that the  
33           understanding, for example, of you -- either of  
34           you that are currently with DFO?

35       MR. SAUNDERS: There's a departmental review that goes  
36           across all government departments, is my  
37           understanding. I thought the number was five  
38           percent, but I could be wrong on that.

39       Q       All right. I believe I'll let the record speak  
40           for itself whether it was five or 10 percent, but  
41           the deputy minister spoke of this reduction. This  
42           surely imposes a greater squeeze than ever in  
43           terms of implementation of this program; is that  
44           fair to say?

45       MR. SAUNDERS: It's not clear where -- I mean, I think,  
46           as Mr. Chamut pointed out, that at that time, as  
47           it is now, there are extreme pressures, budgetary

- 1 pressures, on all of us, every department, and  
2 certainly every sector within DFO. Where we have  
3 no understanding and need to, as I understand it,  
4 there is no -- there are no -- the only time we  
5 will understand where the cuts will be visited and  
6 how they will be done will be in the budget when  
7 budget is released in February. So we don't know  
8 how those -- that five percent will be visited on  
9 the department.
- 10 Q But it -- obviously, the implementation of this  
11 program imposes an additional financial burden on  
12 what are all the multitude of other  
13 responsibilities that DFO carries out? No?
- 14 MR. SAUNDERS: Can you say that again, please? Repeat  
15 the question?
- 16 Q Yes. Simply that by -- that the implementation of  
17 this program, the WSP, is obviously imposing  
18 greater stress on the budget of DFO in terms of  
19 the multitude of other responsibilities it carries  
20 out?
- 21 MR. SAUNDERS: Well, I think, at this point, we're  
22 still operating within the resources that Mr.  
23 Chamut reported, you know, roughly a million  
24 dollars that we are utilizing for the  
25 implementation of the policy. And we'll get into  
26 this in the implementation, but we learn as we go  
27 in terms of the number of conservation units, what  
28 it's going to take to assess them, developing  
29 business plans to go forward, so I don't know that  
30 I would answer -- I wouldn't say an unequivocal  
31 yes to your question.
- 32 Q You'll agree that your department needs greater  
33 funding to do a full implementation of this  
34 program? It's being stalled, in part, by a  
35 financial limitation; is that not correct?
- 36 MR. SAUNDERS: No. I would agree with Mr. -- you know,  
37 with the points that were made earlier, that it  
38 was always agreed that this would be a phased  
39 approach, that it could move faster. I think that  
40 your suggestion that it is stalled, I wouldn't  
41 agree with that.
- 42 Q Dr. Riddell, do you agree with what you just  
43 heard? I appreciate you're no longer with the  
44 department, but from your perspective?
- 45 DR. RIDDELL: I'm still playing with the department hat  
46 on, on this panel, I believe, so...
- 47 MR. WALLACE: Yeah. I invite you to ask that specific

1 question to Dr. Riddell when he comes back with  
2 his other hat on, which is --

3 DR. RIDDELL: Now I'm coming back, see.

4 MR. WALLACE: But only on the impression of how it  
5 looks from today, from the outside.

6 MR. ROSENBLOOM: I'm happy to direct that question to  
7 Dr. Riddell when I see you again, but I do want  
8 you to reflect upon the evidence you just heard  
9 from Mr. Saunders, whether or not the program is  
10 amply funded to this point in time and into the  
11 future, all right? I'll be asking you that  
12 question.

13 Q Mr. Chamut, yesterday you gave some testimony that  
14 I was also intrigued by, and it is found in the  
15 transcript, yesterday's transcript - I appreciate  
16 obviously you have not seen that, but Mr. Lunn  
17 will put it before you on your screen right now -  
18 and it relates to your comment, which is really  
19 "une passion", that there was an obvious need for  
20 funding for the WSP, but you spoke in a passionate  
21 way that you felt there was an incredible need  
22 within DFO for further funding in what you called  
23 ocean research, the marine environment and so on,  
24 and at line 31 at page 75 of that transcript,  
25 you're speaking generally there of how you feel  
26 there's a need for more money for stock assessment  
27 in the marine environment. And you spoke of the  
28 need for more forecasting to give an accurate  
29 picture of the number of fish that are coming  
30 back.

31 And if Mr. Wallace is again about to  
32 interject, let me make this point before Mr.  
33 Wallace makes his point: This is my last  
34 opportunity, I believe, to ask you, Mr. Chamut,  
35 about this question. You raise a question about a  
36 critical for funding for research that relates to  
37 the salmon of the Pacific coast, and if I don't  
38 ask this question of you now, I don't know when  
39 the record will ever be able to provide your  
40 opinion in amplification of what you said  
41 yesterday. Thank you.

42 MR. WALLACE: Mr. Commissioner, Mr. Chamut is not  
43 coming back, as far as we currently plan, that's  
44 true, but there will be discussions, again, on  
45 ocean research. We have a scientific paper on the  
46 subject. Maybe it's quicker to allow the question  
47 to be answered.

1 THE COMMISSIONER: I think so, Mr. Wallace. Go ahead,  
2 Mr. Rosenbloom, you may proceed with your  
3 question.

4 MR. ROSENBLOOM: Thank you. I would ask, Mr. Lunn,  
5 enlarge line 31, around line 31.

6 Q You say, in part, Mr. Chamut, at line 31:

7  
8 So if there was one thing that I think the  
9 commission needs to get some expert focus on  
10 is what I would call ocean research. And to  
11 really understand what's happening in the  
12 ocean, it would give, I think, as much --  
13 have as much value to understand that as  
14 implementing the Wild Salmon Policy, in my  
15 opinion, and I hope that's something that's  
16 not going to be -- I'm sure it won't be  
17 overlooked, but I really think it's one of  
18 the key needs --

19  
20 Because this is our only opportunity to  
21 elicit information from you, obviously this, in  
22 your opinion, is an important initiative that DFO  
23 should embark upon, assuming funds are available  
24 and, as you put it, you feel it is as important as  
25 the implementation of WSP; is that fair to say?

26 MR. CHAMUT: Yeah, I'm not going to repeat what's here,  
27 because it's very incoherent, but my main point is  
28 that ocean research is something that is very  
29 important to enhance our understanding of what  
30 happens to salmon, because once they leave the  
31 natal rivers they're basically gone for a period  
32 of time, and we really have a very poor ability to  
33 understand what's happening to them, where they're  
34 going and how many of them are actually going to  
35 be coming back, and it results in all sorts of  
36 surprises.

37 And I do know that the department has lost  
38 ship capability and, to some extent, research  
39 capability to be able to operate out in the North  
40 Pacific for periods of time. And I just -- I  
41 really wanted to flag it for the commissioner,  
42 it's something I feel very strongly about, and I  
43 was very cheered to hear that this would be done  
44 with a panel of experts, because I'm not an expert  
45 but I've been around the business long enough to  
46 know that this is one of the major kind of black  
47 holes that needs to be filled, and I know the

1 department is simply incapable of doing the work,  
2 now, because of the lack of resources. And I  
3 think the lack of adequate vessels, although I did  
4 see that some new research vessels are being  
5 built. Hopefully, one of them will come to the  
6 Pacific. But I just wanted to flag it, because I  
7 do think it is important.

8 Q And so did I, by drawing your evidence of  
9 yesterday back to the attention of the commission  
10 today. It would be a costly initiative, wouldn't  
11 it?

12 MR. CHAMUT: Yes, it's not inexpensive to operate large  
13 vessels in the North Pacific over a period of  
14 time, and I think that's what's required, and it  
15 -- but it is -- I think the cost would be worth  
16 the -- the investment would give you a good  
17 return.

18 Q As equal a return as the implementation of WSP?

19 MR. CHAMUT: I think, yes.

20 MR. ROSENBLOOM: Thank you. I obviously have more  
21 questions, but I see it's five o'clock, thank you.

22 MR. WALLACE: Mr. Commissioner, I wonder if we could  
23 start again tomorrow morning at 9:30 and  
24 anticipate being here until 5:00?

25 THE COMMISSIONER: We can start at 9:45, tomorrow  
26 morning, Mr. Wallace, if that's agreeable.

27 MR. WALLACE: Thank you.

28 THE COMMISSIONER: And Mr. Timberg, were you going to  
29 add something?

30 MR. TIMBERG: I'll speak to Mr. Wallace about when I  
31 should have the witnesses for our second panel  
32 available tomorrow.

33 THE COMMISSIONER: All right. Well, I'll let you and  
34 Mr. Wallace sort that out. Thank you very much.

35 THE REGISTRAR: The hearing is now adjourned until 9:45  
36 tomorrow morning.

37  
38 (PROCEEDINGS ADJOURNED TO DECEMBER 1, 2010,  
39 AT 9:45 A.M.)  
40  
41  
42  
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1 I HEREBY CERTIFY the foregoing to be a  
2 true and accurate transcript of the  
3 evidence recorded on a sound recording  
4 apparatus, transcribed to the best of my  
5 skill and ability, and in accordance  
6 with applicable standards.  
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11 Pat Neumann  
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35 Susan Osborne  
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47 Karen Hefferland