

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.

Thursday, December 2, 2010

Tenue à :

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

le jeudi 2 décembre 2010

APPEARANCES / COMPARUTIONS

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Tim Timberg Geneva Grande-McNeill	Government of Canada
Boris Tyzuk, Q.C. D. Clifton Prowse, Q.C. Tara Callan	Province of British Columbia
No appearance	Pacific Salmon Commission
Chris Buchanan	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	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.")
No appearance	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")
Chris Watson	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
Re-exam by Mr. Timberg (CAN)

Vancouver, B.C. /Vancouver (C.-B.)
December 2, 2010/le 2 decembre 2010

1
2
3
4 THE REGISTRAR: The hearing is now resumed.

5 MR. WALLACE: Good morning, Commissioner Cohen. Brian
6 Wallace, commission counsel. We have the Wild
7 Salmon Policy Development Panel back for re-
8 examination by Mr. Timberg for Canada and by me
9 and I understand that we will be very brief.

10 Oh, and, sorry, Mr. Lowes has one matter he'd
11 like to just put on the record.

12 MR. LOWES: Yes, thank you. Excuse me, Mr. Timberg.
13 Mr. Commissioner, I referred or I read the
14 definition of the resource to Mr. Chamut yesterday
15 and asked for his agreement. What I was reading
16 from was paragraph 41 of the reasons for judgment
17 of the Supreme Court of Canada in **Ward v. Canada**
18 [2002] 1 S.C.R. 569.

19 MR. TIMBERG: Mr. Timberg, T-i-m-b-e-r-g, counsel for
20 Canada.
21

22 RE-EXAMINATION BY MR. TIMBERG:
23

24 Q Mr. Chamut, I have a question for redirect for
25 you. Yesterday counsel for the Conservation
26 Coalition asked that you identify an email, it was
27 Exhibit 15, wherein you set out your reaction to
28 the Conservation Coalition's refusal to endorse
29 the Wild Salmon Policy. This was sent on May
30 13th, 2005; do you recollect that conversation?
31

32 MR. CHAMUT: Yes, I do.

33 Q Mr. Registrar, if you could bring up Tab 14 from
34 the Conservation Coalition's list of documents,
35 it's CAN143383, and Mr. Chamut, this is an email
36 train. At the bottom it appears to have come from
37 your email and it looks like a draft letter in
38 response to the Conservation Coalition. If you
39 could go to the second page, Mr. Registrar, and if
40 you could just highlight that perhaps, the first
41 paragraph.

42 So my understanding is that the first point
43 is the point, there were ten points that the
44 Conservation Coalition raised and then this is --
45 number 1 is their concern that:

46 The Wild Salmon Policy proposes is a radical
47 departure from Ottawa's longstanding

1 commitment to protect British Columbia's
2 salmon fisheries and the diversity and
3 abundance of B.C.'s 9,000-plus salmon runs.
4

5 And then my understanding is that that's your
6 draft response; is that correct?

7 MR. CHAMUT: That is the draft response that the
8 department would make to the assertion that was
9 made by the Marine Conservation Coalition which is
10 item number 1. But I do need to be clear that you
11 referred to this as the development of a response
12 and I want to emphasize that it was not -- there
13 was no -- as far as I'm -- as far as I recall,
14 there was no written response to the Conservation
15 Coalition's document with its ten points. And the
16 reason for that is that I don't think it was ever
17 formally transmitted to the department. The
18 document that I recall was provided to us through
19 the minister's office because the coalition had
20 prepared these ten points and had sent these ten
21 points to members of the B.C. caucus. So it was
22 basically information for Members of Parliament.
23 And the minister's office had asked for a response
24 to these ten points, and so that's basically what
25 you see here.

26 There were -- there was a -- our reaction to
27 the assertions that were being made was provided
28 to the minister's office to provide him with some
29 understanding of the context and the department's
30 reaction to the issues.

31 Q Thank you. And perhaps, Mr. Registrar, we could
32 take us down to the second point in the letter.
33 And so it's at -- again, my understanding that's
34 the first paragraph was one of the ten points and
35 I'd ask for your comments in response to the
36 statements that -- made that:
37

38 The proposed policy is the most significant,
39 dangerous event in at least a quarter century
40 of attempts to address the many complex
41 salmon conservation, salmon fisheries and
42 salmon habitat in British Columbia. It
43 completely undermines and defeats the purpose
44 of efforts to reform the fishery along
45 individual quota lines.
46

47 If you could just perhaps for the benefit of the

1 commissioner, provide your response to this point.
2 MR. CHAMUT: Well, the -- there's two main themes
3 expressed in point number 2, and we've had ample
4 discussion about certainly my opinion and I think
5 the department's opinion about the importance of
6 the Wild Salmon Policy and I found it
7 extraordinary that it would be regarded or it
8 would be cast as a dangerous event, as a dangerous
9 attempt to address conflicts about salmon
10 conservation and salmon habitat in B.C. because we
11 had made a number of changes to the policy to
12 accommodate some of the concerns that were being
13 represented by the environmental community and we
14 felt that we were -- that the policy actually
15 addressed very many of the concerns that the
16 environmental community had been directing at the
17 department, so felt that it was simply erroneous
18 to reflect that it was a dangerous event. We saw
19 it as being something very positive and, in fact,
20 reflecting many of the elements that the
21 environmental community had been asking us to do
22 for many, many years.

23 And the second point is simply -- is not a
24 matter of opinion. It's just simply wrong. Wild
25 Salmon Policy deals with the conservation of the
26 resource and it very clearly and explicitly avoids
27 issues of sharing of the resource between user
28 groups or the management of that resource, for
29 example, of individual quota lines which is a
30 management technique more associated with how you
31 divide the resource up.

32 We recognized early on that if the Wild
33 Salmon Policy attempted to deal with the issue of
34 allocation, it would never, ever be finalized. So
35 we developed a policy that dealt with
36 conservation, which we felt was the most important
37 thing that we could do, and secondly, avoided any
38 reference to sharing of resource between, for
39 example, First Nations and commercial fishermen
40 and sport fishermen. And also we resisted any
41 effort to try and deal with the issue of
42 individual quotas. The policy is absolutely
43 silent on that and, in fact, as this policy was
44 being developed, there were initiatives underway
45 to develop individual quota lines and they would
46 continue quite independently of the adoption of
47 the Wild Salmon Policy, which has no influence or

1 effect on a decision to adopt individual quotas.
2 Q Thank you. Mr. Saunders, can you describe whether
3 the Conservation Coalition has maintained this
4 opposition to the WSP?
5 MR. SAUNDERS: I can't really speak probably the last
6 four -- three and a half years, I would say,
7 because I haven't been in a capacity to sort of
8 know first-hand whether that's the case or not.
9 Q Right.
10 MR. SAUNDERS: But I do know from the time in -- since
11 2005 in June when the policy was developed and the
12 time that I was in the coordinator's position,
13 that I would say that -- I would say that that
14 position has not been held. While there -- I
15 think there has been criticism of various aspects
16 of Wild Salmon Policy implementation in general,
17 the majority of the coalition have actually
18 participated actively in the implementation and in
19 fact provided resources in many cases.
20 Q And that would be up until, you say, three years,
21 so approximately 2007? Okay. Thank you.
22 MR. SAUNDERS: Yes.
23 Q Yesterday, Mr. Riddell was asked a question about
24 -- you were asked about what would be needed to
25 move forward with the WSP and one of your
26 statements, Mr. Riddell, was that it would be
27 helpful to have -- for DFO to ensure an open and
28 transparent process by using the website to track
29 the progress of implementation of the Wild Salmon
30 Policy; do you remember that conversation?
31 DR. RIDDELL: Yes, I do.
32 Q And are you aware of whether DFO does, in fact, do
33 that presently?
34 DR. RIDDELL: Well, DFO certainly has websites. We
35 were talking about having a wild salmon specific
36 website to make available publicly a number of the
37 documents developing that, and I don't believe
38 that we ever separated a specific website for the
39 Wild Salmon Policy and that, but we do have
40 communications about the Wild Salmon Policy within
41 the departmental website.
42 Q Okay. Thank you. And a question for -- follow-up
43 question for Dr. Irvine. Yesterday counsel, Mr.
44 Butcher, asked a question suggesting that the
45 motivation to pass the Wild Salmon Policy was to
46 avoid **SARA** designation, and at the time you were
47 raising your hand to comment and you did not have

1 an opportunity to respond to that question, and so
2 I'm wondering if you would like to share your
3 views on that question.

4 DR. IRVINE: Certainly. I don't remember the exact
5 question, but I remember the discussion. And the
6 Wild Salmon Policy was developed during the period
7 that the species at risk legislation was being
8 finalized and what we attempted to do within the
9 Wild Salmon Policy was to try to align the
10 conservation units up with the so-called
11 designateable units as much as possible so that we
12 were aware of what was going on within the COSEWIC
13 arena and the species at risk arena. But the real
14 place that the two overlap is in the designation
15 of the lower benchmark, which was deliberately
16 established at a point above or at a healthier
17 stage than when a population or a CU or a
18 designateable unit would be considered endangered
19 under the **Species at Risk Act**.

20 So it was not possible to have the two
21 completely aligned because they were being
22 developed by different agencies, different
23 individuals, and one is an Act and one is a
24 policy. But we did, as I say, try to align the
25 conservation units up with what might be
26 considered a minimal designateable unit under the
27 **Species at Risk Act**.

28 Q Okay. Thank you very much. And my final question
29 for redirect is yesterday, Dr. Riddell, you were
30 being asked questions by Chris Harvey, counsel for
31 the West Coast Trollers Association and he
32 suggested that the Wild Salmon Policy is not clear
33 in explaining the importance of conservation
34 within a conservation unit, that -- and you
35 answered that you weren't sure of the exact
36 language of the WSP as to clarifying the
37 importance of preserving biodiversity within a CU
38 and the importance of that. So I'd just like to
39 take you to Exhibit 8, the Wild Salmon Policy and
40 pages 10 and 11 and my review of this is that the
41 -- on page 10, if we could take up the one, two,
42 three, the fourth paragraph starting with:

43
44 Over the geographic area of a CU...

45
46 That paragraph, and then also I'll be asking you
47 to -- when perhaps you have a moment to review

1 that. And there's also a section on page 11,
2 which I'll take you to in a moment. And then
3 perhaps we could turn to page 11 and it's the one,
4 two, three, fourth paragraph down starting:

5
6 These networks...

7
8 And so my question is can you clarify whether or
9 not this point is, in fact, already included in
10 the final copy of the Wild Salmon Policy?

11 DR. RIDDELL: Well, I think you've identified a couple
12 of the locations where the particular topic is
13 addressed in the policy, but if the concern was
14 that it wasn't sufficiently clear or emphasized,
15 then that's a matter of opinion of the writing and
16 Mr. Harvey may feel that we didn't emphasize that
17 sufficiently compared to the inter-population or
18 between conservation units, but there isn't any
19 question that the within conservation unit
20 diversity was a major element of the proposal all
21 the time.

22 There were many discussions in local
23 communities about how will you guarantee the
24 protection of my very local stream and that.
25 Those very local streams, we can't identify in
26 most major fisheries, but the entire concept of
27 the conservation units and maintaining the
28 distribution of salmon through the landscape is
29 the only way that you could honestly say that
30 you're managing to maintain the distribution
31 amongst all streams within a conservation unit.
32 So the diversity within the conservation unit is
33 basically fundamental in terms of maintaining
34 genetic diversity and production and the
35 utilization of all habitats as much as we can --

36 Q Right.

37 DR. RIDDELL: -- and that, and so it was fundamental in
38 the program and it's required in the assessments
39 now -- it's required in the assessments because
40 it's not just production. It's now production and
41 distribution between spawning populations within
42 each CU so --

43 MR. TIMBERG: Right. We'll be getting to that point
44 today. Yes. Okay. Well, thank you very much.
45 Those are all my questions.

46 MR. LEADEM: Sorry, Mr. Commissioner, but my learned
47 referred Mr. Chamut to an email that I did not

7
PANEL NO. 6
Re-exam by Mr. Wallace

1 tender into evidence yesterday and I think for the
2 sake of completeness, the entire email ought to be
3 tendered into evidence.

4 MR. TIMBERG: Thank you for clarifying that point. If
5 we could have that document marked as the next
6 exhibit. This is CAN143383.

7 THE REGISTRAR: Exhibit number 124.

8
9 EXHIBIT 124: Email from Mark Saunders to Pat
10 Chamut dated May 17, 2005 Re: ENGO Response
11 May 17, 2005
12

13 MR. WALLACE: Thank you, Mr. Commissioner. Brian
14 Wallace, commission counsel. Before -- I have
15 just a couple of questions on re-examination but I
16 would like just to correct the record on one
17 point. Yesterday Mr. Timberg put a question to
18 Dr. Irvine and Dr. Irvine gave an answer which was
19 an interpretation of law. I don't want to ask the
20 doctor any more questions about his
21 interpretation.

22 I just would like to point out that there may
23 be a misunderstanding about the timing of the
24 implementation of the **Species at Risk Act** and Dr.
25 Irvine made the comment that it was fully
26 implemented in 2003. This is at page 19 of the
27 transcript, lines 9 to 13. I just would like to
28 point out that the order fixing the dates for the
29 coming into force of the **Species at Risk Act** which
30 is PC2003-763 of 29 May 2003 fixes the dates for
31 the coming into force in these words "assented to
32 December 12th, 2002", June 5, 2003 the day in
33 which a large number of sections of the act came
34 into force and June 1, 2004 as the day in which
35 several other sections came into force, so to be
36 carefully accurate, it was not fully brought into
37 force until June of 2004.

38 The other point, without commenting on Dr.
39 Irvine's evidence with respect to the use of the
40 expression "designable units" that expression does
41 not actually appear in the statute, the **Species at**
42 **Risk Act**.

43
44 RE-EXAMINATION BY MR. WALLACE:

45
46 Q I have just a couple of issues I'd like to canvass
47 on re-examination. The first I would ask Mr.

1 Lunn, please, to bring up a document on the
2 commission's non-Ringtail list number 7, which is
3 a document that we intended to mark today as an
4 exhibit, and I'll just... And this -- this
5 document, which I think is being put in by
6 consent, it's September 27, 2010 email to me from
7 counsel for Canada attaching a chronology of the
8 approval of various CSAC papers and if you can
9 just scroll to the next page, Mr. Lunn.

10 The question was put to Dr. Riddell with
11 respect to the timing of the two papers which are
12 the third and fourth papers on that list, which
13 indicate that the PSARC review date for the Holtby
14 and Ciruna paper was June of 2007 but it was not
15 approved until 2008. Do you have any reason to
16 quibble with that timing, Dr. Riddell?

17 DR. RIDDELL: No. I'm sure that my response is that
18 when we typically refer to a scientific paper, we
19 talk to the date on the published paper which, as
20 you see here, is 2007. The review process
21 subsequently is delayed, of course, by the time we
22 get full publication on the CSAS website.

23 Q And indeed, the publication on that one was not
24 until October of 2008, as it -- does that seem --

25 DR. RIDDELL: That's certainly true. The discussion
26 may have pertained more to when we began
27 implementing some of the activities of that paper.

28 Q I just wanted the record to demonstrate the timing
29 here, because you indicated it was useful to you
30 in 2007 but, in fact, it wasn't published until
31 2008. And that paper goes to the methodology.
32 The next paper, the identification of the CU's and
33 again do you have any reason to differ from the
34 publication dates set out in this exhibit?

35 DR. RIDDELL: No, not at all. I would point out only
36 that the second paper is really a very brief
37 summary of the primary results and a list, the
38 text is literally two or three pages long maximum.
39 And it's really written as a very rapid summary
40 for communication.

41 Q Mr. Chamut, you were -- in fact, the panel was
42 asked yesterday about the tension between
43 fisheries management and science in the
44 development of the Wild Salmon Policy and I wonder
45 if I could ask Mr. Lunn to pull up Exhibits 84 and
46 85, please?

47 Exhibit 84 is an email which is from Steven

1 Wright. Who is Steven Wright?

2 MR. CHAMUT: Steven Wright is a member of the fisheries
3 management sector in Pacific Region. At the time
4 of this email, I really don't know exactly what
5 his role was. I just don't recall. But I know he
6 was part of the fisheries management office in
7 Vancouver.

8 Q And you see, just if I might just read from the
9 first paragraph:

10
11 First, in the transmittal email, Marc states
12 that "there is not consensus among Fisheries
13 Managers on the working group". To date I
14 have accepted the differing positions between
15 Sandy and myself by the fact that Sandy was
16 acting in his capacity of team lead, which
17 required him to try and forge some agreement
18 between the various sectors within his group.
19 As such he was acting in a non-Fisheries
20 Management capacity and therefore not
21 representing the views of our sector.
22 Unfortunately, it is now clear that this is
23 not how his role is perceived and the
24 impression is left that [Fisheries
25 Management] is not of one view on the current
26 draft guidelines. Given our views on the
27 current draft guidelines, I think we need to
28 make it perfectly clear that Pacific Region
29 Fisheries Management does not support the
30 guidelines as currently drafted.
31

32 And then in the next paragraph:

33
34 To make our position clear and to prevent
35 anyone from exploiting this perceived
36 difference of view within [Fisheries
37 Management] I recommend that when you talk to
38 Pat Chamut ... you clarify the position of
39 [Fisheries Management] in Pacific Region.
40

41 And the question was left yesterday with the
42 suggestion that there was a line between science
43 and fisheries management. Reading this email, it
44 suggests that perhaps there was -- it was more
45 individual to individual and that there were
46 differences of view about this that weren't so
47 black and white.

1 MR. CHAMUT: Well, it's difficult to cast my mind back
2 to that time. I know that there was obviously
3 some tension between Mr. Fraser and Mr. Wright.
4 Mr. Fraser was the individual who was actually
5 working on the draft and Mr. Wright, I guess, felt
6 that he was -- he was not reflecting all of the
7 views within fish management. So it's -- there
8 was -- there was division. As we discussed
9 yesterday, I don't recall hearing any other names
10 mentioned other than these two, and I'm really not
11 in a position where I was close enough to some of
12 the technical staff in the region to know exactly
13 what it was that they were debating or where their
14 views were polarized, but I know there was a
15 polarization and a concern and that is very much
16 what's reflected here.

17 Q Yes.

18 MR. CHAMUT: But as you say, it was not every member of
19 fish management being opposed to it. It was --
20 there was obviously some internal disagreements
21 between individuals.

22 Q Mm-hmm. And it appears that you were drawn more
23 directly into the discussion in the exchange which
24 is reflected in Exhibit 85. If I could just refer
25 there. This exchange, if you start at the bottom,
26 starts with an email from Laura Richards to Paul
27 Sprout, who was RDG at the time, I believe,
28 discussing -- and let me just read that:

29
30 During the July 11 --

31
32 This is 2003.

33
34 -- meeting with the Canadian members of the
35 Fraser Panel, Tom Bird made a comment about a
36 "perception of a disconnect" between
37 fisheries management and science. I talked
38 to him after the meeting and asked for
39 clarification. He said that the issue was of
40 "perception" that was "out there".

41
42 There was then response from Paul Sprout on which
43 you were copied and then your remarks are on the
44 large paragraph at the top of the page where you
45 say:

46
47 Paul; I agree with your response. I have

1 spoken to Wendy and Laura about the
2 significant tensions between staff of the two
3 sectors. This is not just a rumour that
4 circulates among members of the industry, and
5 who then dismiss it as something more
6 perception than reality. It has been raised
7 frequently, most recently by members of the
8 industry who met the [Deputy Minister]
9 yesterday. There are differences of view
10 about some fundamental policy issues, and a
11 strong concern that there is a lack of
12 coordinated direction on many issues
13 associated with conservation of the resource.
14 We need to come to ground on issues
15 associated with Wild Salmon Policy, but there
16 are also divisive views on the Precautionary
17 Approach, and how to implement, and on
18 relative roles and responsibilities. A
19 discussion to address differing views is
20 overdue, and cannot be ignored. I think that
21 the session we have discussed for early
22 August to talk about WSP will be a good
23 starting point.
24

25 Again, you reflect on the existence of the
26 tension. Just without getting into long detail,
27 was that coming to -- did that coming to ground
28 take place? Did you have discussions among
29 sectors?

30 MR. CHAMUT: Yeah. We'd -- we did get together as I
31 recall and I don't remember the date but I believe
32 there was a meeting that was held in Vancouver
33 sometime in August where we -- I attended from
34 Ottawa and I believe that Wendy Watson-Wright was
35 there from Ottawa, as well, and we tried to
36 essentially look at where we were in terms of
37 progress and try to lay out an approach to trying
38 to finalize the WSP because this is in August of
39 2003 and recall that there had been many
40 recommendations about expediting the WSP and
41 reports that had recommended that it be finalized
42 by December 31st and it was -- it's clear from
43 this memo you can tell that there's still a lot of
44 disagreement and a long distance to go. And I
45 think -- I know what I was trying to do was
46 understand where the policy was in terms of
47 development at that time and see if we could find

1 ways to move it forward to achieve that deadline
2 of the 31st of December.

3 Q And on July -- in July of 2003 you were the ADM of
4 fisheries management.

5 MR. CHAMUT: Yes, that's correct. And if you recall,
6 there was a deck that was done which -- it was
7 determined that it came out -- that I had done it,
8 I'd written it, and it came out of my office. I
9 think as we -- as I recall, it was about mid-June
10 that I wrote it and then was -- I circulated it
11 out to the region for comments and that was -- I
12 think there was an opportunity to use that deck at
13 that meeting that we had in early August, so it
14 tried to -- it was put together to try and
15 crystallize some of the issues and concerns as I
16 understood them and as of June.

17 Q And six months later you were in Vancouver heading
18 up the finalization of it?

19 MR. CHAMUT: Yes, that's correct. But I think there's
20 another point here that's -- that I'd just flag.
21 You'll see in my note I refer to a meeting of
22 industry members with the deputy minister and they
23 did, in fact, flag the issue of Wild Salmon Policy
24 and they expressed their concerns and I think it
25 certainly highlighted for the deputy the need to
26 get on with completing it. It was starting to
27 cause real difficulties between the department and
28 with members of industry, but also within --
29 internally he was made -- the deputy was made
30 aware that there were concerns. And it was one of
31 the things that I think that probably raised the
32 issue on his particular radar screen and may have
33 contributed to him asking me to come out and do
34 some work on this before I retired.

35 MR. WALLACE: Thank you. Mr. Commissioner, I have no
36 further questions for the panel, so I believe that
37 wraps it up, and I would thank you for your
38 attendance.

39 THE COMMISSIONER: Thank you, Mr. Wallace. I too would
40 like to thank Dr. Riddell, Mr. Chamut, Mr.
41 Saunders and Dr. Irvine for making yourselves
42 available for this panel which has gone on longer
43 than I'm sure you were told it would go on and --
44 but we are very grateful that you were willing and
45 cooperative to be part of this and to make
46 yourselves available again this morning. Thank
47 you very, very much for that.

13
PANEL NO. 7
Affirmed

1 Mr. Wallace, are we now moving to the next
2 panel? Is that the...?

3 MR. WALLACE: Yes, Mr. Commissioner. I wonder if we
4 could just stand down for a short break and...

5 THE COMMISSIONER: All right. Thank you.

6 MR. WALLACE: For ten minutes.

7 THE REGISTRAR: We are now recessed for five minutes.

8 MR. WALLACE: Ten, five.

9

10 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

11 (PROCEEDINGS RECONVENED)

12

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

14 MR. WALLACE: Mr. Commissioner, Brian Wallace, for the
15 record.

16 Perhaps we could commence by having this
17 panel affirmed, those who have not already been
18 affirmed.

19 THE REGISTRAR: Good morning. Dr. Irvine and Mr.
20 Saunders (indiscernible - off microphone). The
21 rest of you, do you solemnly affirm that the
22 evidence to be given by you to this hearing shall
23 be the truth, the whole truth and nothing but the
24 truth. Witness number 1?

25 MS. STALBERG: I do.

26 DR. HOLT: I affirm.

27 DR. HYATT: I do.

28 THE REGISTRAR: Thank you. And your full name, please.

29 MS. STALBERG: It's Heather Christine Stalberg.

30 THE REGISTRAR: Thank you.

31 DR. HOLT: Carrie Holt.

32 THE REGISTRAR: Thank you.

33 DR. HYATT: Kim Dennis Hyatt.

34 THE REGISTRAR: Thank you. Counsel.

35 MR. WALLACE: Thank you. The first thing, Mr.
36 Commissioner, I'd like to do in the context of
37 this panel is to mark by consent a list of some
38 exhibits that we have advised the participants of.
39 And, Mr. Lunn, the first is the number 2 on our
40 list of Implementation potential exhibits. Could
41 that be marked as the next exhibit please.

42 THE REGISTRAR: It will be Exhibit number 125.

43

44 EXHIBIT 125: "Assessing status and
45 identifying benchmarks of Conservation Units
46 for the Wild Salmon Policy", Carrie Holt

47

1 MR. WALLACE: Number 6 on that list.

2 THE REGISTRAR: One hundred and twenty-six.

3

4 EXHIBIT 126: Table of Indicator(s), Project,
5 Cost, Effort and Comments

6

7 MR. WALLACE: Number 7.

8 THE REGISTRAR: One hundred and twenty-seven.

9

10 EXHIBIT 127: Table of Single CU or Watershed
11 Indicators Costing

12

13 MR. WALLACE: Number 8.

14 THE REGISTRAR: One hundred and twenty-eight.

15

16 EXHIBIT 128: Habitat Compatibility Model

17

18 MR. WALLACE: The next two documents on the list,
19 numbers 13 and 21 from the list have already been
20 marked as Exhibit 123.

21 THE REGISTRAR: "A" and "B", I believe.

22 MR. WALLACE: Thank you. The next one on the list to
23 be marked, then, is document 15 from the list.

24 THE REGISTRAR: That will be 129.

25

26 EXHIBIT 129: May 16, 2005 e-mail from Jay
27 Hartling to Mary Hobbs

28

29 MR. WALLACE: Sixteen.

30 THE REGISTRAR: One-thirty.

31

32 EXHIBIT 130: June 1, 2005 e-mail from Susan
33 Farlinger to Carol Cross

34

35 MR. WALLACE: Seventeen.

36 THE REGISTRAR: One-thirty-one.

37

38 EXHIBIT 131: June 2, 2005 e-mail from
39 Richard Wex to Susan Farlinger

40

41 MR. WALLACE: Eighteen.

42 THE REGISTRAR: Two, 132.

43

44 EXHIBIT 132: June 3, 2005 e-mail from Susan
45 Farlinger to Pat Chamut

46

47 MR. WALLACE: Twenty.

1 THE REGISTRAR: One-thirty-three.

2
3 EXHIBIT 133: *Wild Salmon Policy* Habitat
4 Strategy Discussion Paper, July 23, 2006

5
6 MR. WALLACE: Twenty-four.

7 THE REGISTRAR: One-thirty-four.

8
9 EXHIBIT 134: Regional Management Committee
10 Meeting of August 09, 2005, Record of
11 Decisions

12
13 MR. WALLACE: Twenty-five.

14 THE REGISTRAR: One-thirty-five.

15
16 EXHIBIT 135: WSP Implementation Workplan,
17 RMC, September 20, 2005

18
19 MR. WALLACE: The next document on the list was marked
20 during the examination yesterday of -- by Mr.
21 Timberg. I don't recall the number.

22 THE REGISTRAR: I'm not sure which one --

23 MR. WALLACE: Exhibit 109, I am advised.

24 THE REGISTRAR: Exhibit 109.

25 MR. WALLACE: Thank you. The next on the list is
26 number 27.

27 THE REGISTRAR: Will be 136.

28
29 EXHIBIT 136: Regional Management Committee
30 Meeting of September 20, 2005, Record of
31 Decisions

32
33 MR. WALLACE: The next, marking them together, are
34 documents 30 and 31.

35 THE REGISTRAR: That will be 137; "A" will be 30, and
36 document 31 will be "B".

37
38 EXHIBIT 137A: Update re WSP Team Meeting to
39 Review First Nations Dialogue Session

40
41 EXHIBIT 137B: Wild Pacific Salmon Policy
42 Forum 3 Summary Report, held December 8, 2005

43
44 MR. WALLACE: Thank you. Thirty-two.

45 THE REGISTRAR: That will be 138.

46
47

1 EXHIBIT 138: "Managing Pacific Salmon for
2 Ecosystem Values: Ecosystem Indicators and
3 the Wild Salmon Policy", March 2006
4

5 MR. WALLACE: Thirty-four.
6 THE REGISTRAR: One-thirty-nine.
7

8 EXHIBIT 139: "Advisory: Implementing the
9 Habitat and Ecosystem Components of DFO's
10 Wild Salmon Policy", October 2006
11

12 MR. WALLACE: Thirty-seven.
13 THE REGISTRAR: One-forty.
14

15 EXHIBIT 140: Letter to Mr. Paul LeBlond from
16 Loyola Hearn
17

18 MR. WALLACE: Thirty-eight.
19 THE REGISTRAR: One-forty-one.
20

21 EXHIBIT 141: Letter to Mr. Bill Wareham from
22 Loyola Hearn
23

24 MR. WALLACE: Forty-one.
25 THE REGISTRAR: One-forty-two.
26

27 EXHIBIT 142: "Refining habitat indicators
28 for Strategy 2 of the Wild Salmon Policy:
29 Practical assessment of indicators", July 20,
30 2007
31

32 MR. WALLACE: Forty-two.
33 THE REGISTRAR: One-forty-three.
34

35 EXHIBIT 143: CSAS Research Document 2007/070
36 "Conservation Units for Pacific Salmon under
37 the Wild Salmon Policy"
38

39 MR. WALLACE: Forty-four.
40 THE REGISTRAR: One-forty-four. How did we do that?
41

42 EXHIBIT 144: February 25, 2008, WSP Habitat
43 Indicators Costing Meeting Draft Meeting
44 Minutes
45

46 MR. WALLACE: The next one seems to be mis-numbered on
47 the list. The next one on the list is also number

1 -- is also on the list as 44, but the second 44 is
2 actually 45.

3 THE REGISTRAR: Okay. Then 44 will be 145.

4
5 EXHIBIT 145: CSAS Proceedings Series
6 2008/013, Proceedings of the Pacific
7 Scientific Advice Review Committee (PSARC)
8 Salmon Subcommittee meeting, June 13-14 2007
9

10 MR. WALLACE: This symmetry won't last. Forty-six.

11 THE REGISTRAR: One-forty-six.

12
13 EXHIBIT 146: 2008-09 WSP Team Meeting
14 Minutes, August 5, 2008
15

16 MR. WALLACE: Forty-seven.

17 THE REGISTRAR: One-forty-seven.

18
19 EXHIBIT 147: Single CU/Watershed Cost
20 Analysis table, August 6, 2008
21

22 MR. WALLACE: Forty-eight.

23 THE REGISTRAR: One-forty-eight.

24
25 EXHIBIT 148: Operations Committee, WSP
26 Strategy 2, Assessment of Habitat Status, Our
27 Progress and Plan, Sept. 23/08
28

29 MR. WALLACE: Forty-nine.

30 THE REGISTRAR: One-forty-nine.

31
32 EXHIBIT 149: Operations Committee Meeting of
33 Sept. 23, 2008, Draft Record of Decisions
34

35 MR. WALLACE: Fifty.

36 THE REGISTRAR: One-fifty.

37
38 EXHIBIT 150: Regional Management Committee
39 Decision Paper Titled "Wild Salmon Policy
40 (WSP) Web Mapping Application", October 8,
41 2008
42

43 MR. WALLACE: Fifty-one.

44 THE REGISTRAR: One-fifty-one.
45
46
47

1 EXHIBIT 151: Regional Management Committee
2 Meeting, October 14, 2008, Record of
3 Decisions
4

5 MR. WALLACE: Fifty-two.
6 THE REGISTRAR: One-fifty-two.
7

8 EXHIBIT 152: Framework for Characterizing
9 Conservation Units of Pacific Salmon
10 (*Onchorhynchus Spp.*) for implementing the
11 Wild Salmon Policy, January 2009
12

13 MR. WALLACE: Fifty-three.
14 THE REGISTRAR: One-fifty-three.
15

16 EXHIBIT 153: CSAS Research Document 2009/068
17 "Indicators of Status and Benchmarks for
18 Conservation Units in Canada's Wild Salmon
19 Policy"
20

21 MR. WALLACE: Fifty-four.
22 THE REGISTRAR: One-fifty-four.
23

24 EXHIBIT 154: CSAS Research Document 2009/069
25 "Evaluation of Benchmarks for Conservation
26 Units in Canada's Wild Salmon Policy:
27 Technical Documentation"
28

29 MR. WALLACE: And you don't think we know how to
30 organize a hearing. The next documents are
31 numbers 61 and 65.
32 THE REGISTRAR: That will be 155A and "B"; 61 is "A",
33 65 is "B".
34

35 EXHIBIT 155A: "Considering ATK in the
36 Implementation of WSP", September 14, 2009
37

38 EXHIBIT 155B: Cover note from Wellsley
39 Hamilton dated October 26, 2009
40

41 MR. WALLACE: Thank you. Sixty-three.
42 THE REGISTRAR: One-fifty-six.
43

44 EXHIBIT 156: "Framework for Implementation
45 of the Wild Salmon Policy: Initial Lists of
46 Conservation Units for British Columbia",
47 October 2009

1 MR. WALLACE: Sixty-four.
2 THE REGISTRAR: One-fifty-seven.

3
4 EXHIBIT 157: Operations Committee Meeting
5 October 8, 2009, Draft Record of Decisions
6

7 MR. WALLACE: Sixty-six.
8 THE REGISTRAR: One-fifty-eight.

9
10 EXHIBIT 158: CSAS Proceedings Series
11 2009/038 Results of a Peer Review Workshop on
12 the Draft Report "Canada's Policy for
13 Conservation of Wild Pacific Salmon: Proposed
14 Stream, Lake, and Estuarine Habitat
15 Indicators", 15-16 January 2009
16

17 MR. WALLACE: Sixty-seven.
18 THE REGISTRAR: One-fifty-nine.

19
20 EXHIBIT 159: Action Plan to Address
21 Conditions for Marine Stewardship
22 Certification of British Columbia Sockeye
23 Fisheries (Fraser River, Barkley Sound, Nass
24 River and Skeena River), December 21, 2009
25

26 MR. WALLACE: Sixty-eight.
27 THE REGISTRAR: One-sixty.

28
29 EXHIBIT 160: CSAS Proceedings Series
30 2009/046 Workshop on methods for assessing
31 status and identifying benchmarks for
32 Conservation Units of the Wild Salmon Policy,
33 January 5-6 2009
34

35 MR. WALLACE: Seventy.
36 THE REGISTRAR: One-sixty-one.

37
38 EXHIBIT 161: "A Review of Metrics of
39 Distribution with Application to Conservation
40 Units under Canada's Wild Salmon Policy, 2010
41

42 MR. WALLACE: Seventy-two.
43 THE REGISTRAR: One-sixty-two.

44
45 EXHIBIT 162: Record of Meeting dated April
46 15, 2010, WSP Implementation Team
47

1 MR. WALLACE: Seventy-three.

2 THE REGISTRAR: One-sixty-three.

3

4 EXHIBIT 163: Record of Meeting dated May 20,
5 2010 Regional WSP Implementation Team

6

7 MR. WALLACE: Document 74 and something else. Let's
8 mark 74 as...

9 THE REGISTRAR: One-sixty-four "A".

10 MR. WALLACE: And we'll come back to the other.

11 THE REGISTRAR: And the other document will be 164B.

12 MR. WALLACE: Whatever the number is.

13 THE REGISTRAR: Whatever that will be.

14

15 EXHIBIT 164A: Media Lines, Wild Salmon
16 Policy Review, June 3, 2010

17

18 EXHIBIT 164B: Cover note from Lisa Wilson,
19 June 4, 2010

20

21 All right. So documents 74 and 75 will become 164A and
22 "B", and document 76 is the next one. Yes.

23 THE REGISTRAR: Okay. So that will be -- 76 will be
24 165.

25

26 EXHIBIT 165: Media Lines, Wild Salmon Policy
27 Review, June 8, 2010

28

29 MR. WALLACE: Thank you. And 78.

30 THE REGISTRAR: One-sixty-six.

31

32 EXHIBIT 166: Summary Notes, Workshop on
33 Identifying Benchmarks and Assessing status
34 of Conservation Units under Strategy 1 of the
35 Wild Salmon Policy, June 17-18, 2010

36

37 MR. WALLACE: Seventy-nine.

38 THE REGISTRAR: One-sixty-seven.

39

40 EXHIBIT 167: Media Lines, Wild Salmon Policy
41 Review, June 22, 2010

42

43 MR. WALLACE: Eighty-two.

44 THE REGISTRAR: One-sixty-eight.

45

46

47

1 EXHIBIT 168: Wild Salmon Policy
2 Implementation Team Terms of Reference,
3 Draft, September 3, 2010
4

5 MR. WALLACE: Those are the documents from the Ringtail
6 disclosure. Others that have been previously
7 circulated, described as follows: A copy of all
8 briefings given to the Pacific Salmon Commission
9 or its Panels regarding Canada's Wild Salmon
10 Policy. Could that be marked as the next exhibit,
11 please.

12 THE REGISTRAR: That will be 169.
13

14 EXHIBIT 169: A copy of all briefings given
15 to the Pacific Salmon Commission or its
16 Panels regarding Canada's Wild Salmon Policy
17

18 MR. WALLACE: Thank you. Next, the presentation to the
19 Regional Management Committee entitled "WSP
20 Implementation Strategy, August 9, 2005".

21 THE REGISTRAR: That will be 170.

22 MR. WALLACE: That's the colour version.
23

24 EXHIBIT 170: Presentation to Regional
25 Management Committee entitled "WSP
26 Implementation Strategy, August 9, 2005"
27 colour version
28

29 MR. WALLACE: The next one was a document that I put to
30 Dr. Riddell this morning, which is a table
31 containing the dates on which the Wild Salmon
32 Policy-related scientific papers were reviewed by
33 PSARC, and approved and posted.

34 THE REGISTRAR: That will be 171.
35

36 EXHIBIT 171: Table of dates on which Wild
37 Salmon Policy-related scientific papers were
38 reviewed by PSARC, approved and posted
39

40 MR. WALLACE: Then we have two lists, two documents
41 from Canada's list, the first being number 63 on
42 Canada's list, a draft Fall 2006 Consultation
43 Staff List, Version B of September 25, 2006.

44 THE REGISTRAR: Will be Exhibit 172.

45 MR. WALLACE: Sorry, Version 8.

46 THE REGISTRAR: That will be Exhibit 172.
47

1 EXHIBIT 172: Draft Fall 2006 Consultation
2 Staff List, Version 8, September 25, 2006
3

4 MR. WALLACE: Thank you. Also from Canada's list,
5 number 78, the October 1, 2010 e-mail from Tom
6 Robbins, attaching revised Media Lines.

7 THE REGISTRAR: One hundred and seventy-three.
8

9 EXHIBIT 173: October 1, 2010 e-mail from Tom
10 Robbins attaching revised Media Lines
11

12 MR. WALLACE: And finally we have two additional --
13 additional documents from the Ringtail disclosure,
14 being a November 3rd, 2005 e-mail from Judy Gwynn
15 to DFO Officials with three attachments.

16 THE REGISTRAR: That will be 174.
17

18 EXHIBIT 174: November 3, 2005 e-mail from
19 Judy Gwynn to DFO Officials with three
20 attachments
21

22 MR. WALLACE: Thank you. And finally Ringtail document
23 Stalberg et al "Canada's Policy for Conservation
24 of Wild Pacific Salmon: Stream, Lake and Estuarine
25 Habitat Indicators".

26 THE REGISTRAR: That will be 175.
27

28 EXHIBIT 175: Stalberg et al "Canada's Policy
29 for Conservation of Wild Pacific Salmon:
30 Stream, Lake and Estuarine Habitat
31 Indicators"
32

33 MR. WALLACE: Next I would like to mark the c.v.s of
34 the members of the panel. The first I would mark
35 is that of Heather Stalberg.

36 THE REGISTRAR: One-seventy-six.
37

38 EXHIBIT 176: *Curriculum vitae* of Heather
39 Stalberg
40

41 MR. WALLACE: Dr. J.R. Irvine.

42 THE REGISTRAR: One-seventy-seven.
43

44 EXHIBIT 177: *Curriculum vitae* of Dr. J.R.
45 Irvine
46

47 MR. WALLACE: The *curriculum vitae* of Carrie Holt.

23
PANEL NO. 7
In chief by Mr. Wallace

1 THE REGISTRAR: One-seventy-eight.

2
3 EXHIBIT 178: *Curriculum vitae* of Carrie Holt

4
5 MR. WALLACE: And the *curriculum vitae* of Kim Hyatt.

6 THE REGISTRAR: One-seventy-nine.

7
8 EXHIBIT 179: *Curriculum vitae* of Kim Hyatt

9
10 MR. WALLACE: And finally we have a *curriculum vitae*
11 for Mark Saunders.

12 THE REGISTRAR: One-eighty.

13
14 EXHIBIT 180: *Curriculum vitae* of Mark
15 Saunders

16
17 MR. WALLACE: If I might now take you, take the
18 panellists to their -- the summaries of evidence
19 that we have provided them, and which they
20 returned to us and have been provided. Let me
21 start with Ms. Stalberg.

22
23 EXAMINATION IN CHIEF BY MR. WALLACE:

24
25 Q Ms. Stalberg, you have reviewed the summary of
26 evidence that we provided to you?

27 MS. STALBERG: I have, yes.

28 Q Now, in the course of the next day or so I will be
29 asking questions about that evidence and asking
30 you to elaborate on it and to comment on things in
31 which you don't give explicit evidence in the
32 summary. But subject to the oral evidence that
33 you'll give here, do you adopt that summary as
34 being correct?

35 MS. STALBERG: Mr. Commissioner, I'd like to make a
36 number of corrections or clarifications in the
37 document before I can adopt it. Thank you.

38 MR. WALLACE: Yes.

39 MR. TIMBERG: Mr. Commissioner, just for the benefit of
40 the witness, you can actually swing that
41 microphone, it will -- there you go.

42 MR. WALLACE:

43 Q Yes, Ms. Stalberg. Do you wish to comment on your
44 summary of evidence?

45 MS. STALBERG: Yes, please. If it's easier to follow,
46 we could start at the very beginning and move
47 through the document.

1 Q Yes, please.

2 MS. STALBERG: The section is "The role of the WSP
3 Habitat Working Group and WSP Habitat
4 Coordinator". In the first bullet it notes that:

5
6 Ms. Stalberg will explain her contribution to
7 the implementation of Strategy 2 of the Wild
8 Salmon Policy from November 2005 to January
9 2009.

10
11 And I was on the implementation team from
12 September 2005.

13 If we move down to the third bullet, again
14 it's a similar change where it says that:

15
16 ...as well as being a member of the WSP
17 Implementation Team from November 2005 to
18 January 2009.

19
20 "November" should be changed to "September",
21 please. And as well in that same bullet, it
22 notes:

23
24 She will say that the OHEB Regional Director
25 Rebecca Reid had planned to sunset this
26 position in March 2009.

27
28 "This position" being the Habitat Working Group
29 Coordinator position.

30 If we can move to the second page of the
31 document under "Action Step 2.1", the third bullet
32 it notes:

33
34 She will say that she contributed to the
35 development of the template for habitat
36 status reports, in consultation with members
37 of the Wild Salmon Policy Implementation team
38 and stock assessment staff.

39
40 And including "and the Habitat Working Group" as
41 well, please.

42 And the fifth bullet down it notes:

43
44 With reference to Slide 21 of her September
45 23rd, 2008 presentation, she will say that,
46 as of --
47

1 - and it notes "March 2009", however, my position
2 did end in January 2009 -
3

4 -- the only Fraser River sockeye conservation
5 units that she believed to have partial
6 habitat status reports were Trembleur Lake
7 sockeye and Cultus Lake sockeye.
8

9 And I note here that the -- there was not a
10 habitat status report generated for Cultus Lake
11 sockeye.

12 In the seventh bullet down, it notes:
13

14 She will bring any Cultus Lake sockeye
15 partial habitat status report to the hearing.
16

17 There was a Cultus Lake sockeye overview report,
18 and I have brought that to the hearing. If you
19 would like the hardcopy, I have it here.

20 In the next bullet it notes:
21

22 With reference to the habitat status reports
23 for the Harrison River Watershed CU's
24 (CAN185605), which include three separate
25 Fraser River sockeye CU's, she was not aware
26 of these as of March 2009.
27

28 Again, I left the position in January 2009.

29 And I'd like to provide some context for the
30 status reports and overview reports, and perhaps
31 we can provide more detail during the session.
32 There were originally 11 habitat status reports
33 requested. We gained seven from this early pilot,
34 and then two additional unrequested habitat status
35 reports were generated and there were five
36 overview reports.

37 In "Action Step 2.2" it notes:
38

39 Ms. Stalberg will describe DFO's work under
40 Action Step 2.2 of Strategy 2.
41

42 I can describe DFO's Habitat Working Group work
43 under Action Step 2.2 as Strategy 2, as the
44 coordinator from July '06 to January '09, and as
45 an Implementation Team member from September '05
46 to January '09. But there are likely others in
47 the Department well more positioned to describe

1 events preceding and post my tenure.

2 On page 4 of the document and the fifth
3 bullet down, it notes:

4
5 In discussing a monitoring framework, she may
6 refer to her briefing note entitled "WSP
7 Strategy 2 Monitoring Framework"...which
8 captures the deliberations of the WSP
9 Implementation Team and Carol Cross.

10
11 And "Implementation Team" should be replaced with
12 "Habitat Working Group".

13 Under "Action Step 2.4", the ninth bullet, it
14 says:

15
16 She will say that annual funding support of
17 the web-mapping application development had
18 been committed to by all branches.

19
20 And "annual" should be struck such that it reads:

21
22 She will say that funding support of the web-
23 mapping application development had been
24 committed to by all branches.

25
26 Please.

27 In the next bullet it notes:

28
29 She will say that the Operations Committee
30 received a request for long-term funding from
31 multiple sectors for technical support of the
32 web-mapping application at its...
33

34 And "September 23rd, 2008" needs to be replaced
35 with "October 14th, 2008".

36 And on the last page, page 6, the third
37 bullet:

38
39 She will say that Strategy 2 implementation
40 got ahead of Strategy 3 implementation and
41 that this is referred to in September 23rd,
42 2008 Ops Committee Deck, slide 17. Before
43 Ms. Stalberg departed in January 2009, Ms.
44 Reid told her that a rationale for Ms. Reid's
45 decision to slow down Strategy 2
46 implementation was to let Strategy 3 catch
47 up.

1 And I would correct that, in that the conversation
2 with Ms. Reid happened prior to the Implementation
3 Team meeting.

4 With that, those are all of my changes to the
5 document. I would note that this is a response
6 specific to answers or questions posed to me
7 during the interview and there is more context and
8 information that will hopefully explain a more
9 fuller story about Strategy 2.

10 Q Thank you. It will have been, I trust by the time
11 we're done, it will have been covered. In the
12 last correction, with respect to the timing of
13 your conversation with Ms. Reid, do you recall
14 when that conversation took place?

15 MS. STALBERG: No. And it probably wasn't a single
16 conversation as I had meetings with Ms. Reid on a
17 regular basis.

18 Q Thank you. Mr. Saunders, your summary of evidence
19 included both evidence with respect to the
20 Development Panel and this panel, and I don't
21 think I differentiated between the two when I
22 asked you previously. So just to confirm, that am
23 I correct that you adopt the subject of the issue
24 of further elaboration here, that as your
25 evidence?

26 MR. SAUNDERS: Yes.

27 Q Thank you. And, Dr. Irvine, the same, I think,
28 also that I didn't differentiate between the two
29 pieces of your summary of evidence. Do you, with
30 the caveats, adopt that as your evidence?

31 DR. IRVINE: Yes, that's fine.

32 Q Thank you. Ms. Holt, you've had an opportunity to
33 review your summary of evidence?

34 DR. HOLT: Yes.

35 Q And can you accept that as your evidence? Sorry,
36 Dr. Holt.

37 DR. HOLT: I'd like to make several corrections and
38 clarifications.

39 Q Thank you.

40 DR. HOLT: In the fourth bullet on the first page under
41 "Conservation Unit benchmarks generally under the
42 Wild Salmon Policy", in the second sentence I am
43 -- it's a point about the differences between
44 benchmarks and reference points, and the use of
45 reference points in harvest control rules. The
46 second sentence says:
47

1 She will say that while harvest control rules
2 may be common in other marine fisheries...

3
4 I'd just like to say, change that, that they're
5 not -- I would argue that they're not common but
6 do occur in other marine fisheries.

7 The last bullet in that section states that:

8
9 She will be asked about the requirement in
10 Strategy 1, Step 1.2 of the Wild Salmon
11 Policy that DFO prepare and publish
12 operational guidelines regarding the level
13 within the "red zone" where a CU is at risk
14 of extirpation. ... She has not been involved
15 in preparing any such operational guidelines.

16
17 I'd like to explain here how Dr. Blair Holtby has
18 been working on a synoptic assessment framework
19 that uses conservation thresholds that are within
20 that Red Zone, which delineate a level that can be
21 considered high risk of extirpation, that are in
22 line with COSEWIC thresholds. So his, Dr. Blair
23 Holtby's work, would be in line with that
24 requirement in the Wild Salmon Policy. So I'm not
25 involved with it, but it is happening within DFO.

26 Q Thank you.

27 DR. HOLT: On page 3 on the section "Efforts to
28 implement Action Step 1.2 by determining
29 benchmarks for specific CU's". The last point
30 says:

31
32 She does not believe the reason benchmark
33 estimation has been stalled is a technical
34 issue, as other areas like the West Coast of
35 Vancouver Island, led by Diana Dobson, have
36 had no difficulty implementing provisional
37 benchmarks.

38
39 Q Sorry, Dr. Holt, can you direct me to where you...

40 DR. HOLT: The last -- oh, it might -- different
41 version. It's the -- it's in the section "Efforts
42 to Implement Action Step 1.2".

43 Q Yes.

44 DR. HOLT: That's -- that is -- it's the first bullet
45 on page 4.

46 Q Thank you. "She does not believe the reason"?

47 DR. HOLT: Exactly. I would say that there are

1 technical difficulties that have stalled the
2 implementation, and I've described some of them on
3 the next page. Those haven't stalled the West
4 Coast of Vancouver Island and Diana Dobson's work,
5 but there are several technical difficulties. One
6 of the technical difficulties that is not
7 mentioned here is assigning data to conservation
8 units where data such as spawner data or
9 recruitment data has typically been assigned to
10 larger stock aggregates. So delimiting CU-
11 specific data is one of the technical challenges
12 that has delayed or postponed the implementation,
13 and that's not listed here.

14 Q Thank you.

15 DR. HOLT: And that was the final change.

16 Q Thank you very much, and subject to that, you
17 accept that as your evidence?

18 DR. HOLT: Yes, I do.

19 Q Dr. Hyatt, the same question to you. You have had
20 a chance to review the summary of anticipated
21 evidence?

22 DR. HYATT: I have.

23 Q Can you accept that as your evidence?

24 DR. HYATT: Subject to several corrections as with
25 previous respondents.

26 Under the heading "WSP Implementation issues
27 generally", this is the tenth bullet down that
28 begins:

29
30 He will say that Strategies 1 and 2 must
31 precede...

32
33 This needs to be more precisely worded, that:

34
35 He will say that definitions of CU's, salmon
36 habitat and associated indicators in
37 Strategies 1 and 2 must precede...

38
39 Have you managed to find that?

40 UNIDENTIFIED SPEAKER: Can you repeat that?

41 DR. HYATT: It's the -- under "WSP implementation
42 issues generally", right, page 2, the tenth bullet
43 down it currently reads:

44
45 He will say that Strategies 1 and 2 must
46 precede...

1 But to make it more precise, it isn't all elements
2 of Strategies 1 and 2, but rather:

3
4 He will say that definitions of CU's, salmon
5 habitat and associated indicators in
6 Strategies 1 and 2 must precede...

7
8 MR. WALLACE:

9 Q Thank you.

10 DR. HYATT: The next bullet, there is just a one-word
11 change. It currently reads:

12
13 He will also say that as WSP implementation
14 progresses, an ever-increasing level of
15 integration is required among the strategies
16 due to their...

17
18 "Independence" is what it currently reads. It
19 needs to say "interdependence" to avoid conflict
20 with the statement made previously above. I think
21 that was just a transcription error.

22 Now, under "Implementation of Strategy 3 to
23 date", the next page, and it's -- it gets
24 complicated to track these. It's the fourteenth
25 bullet down, which starts with:

26
27 He will say that over the course of 2007 and
28 into 2008...

29
30 Have you -- have you found that?

31 Q Yes, I have, thank you, Dr. Hyatt.

32 DR. HYATT: Thank you. Well into that paragraph:

33
34 He will say that they did not consult with
35 DFO sectors...

36
37 There's a one-word modifier:

38
39 ...they did not systematically consult...

40
41 That's important, because we're -- we continuously
42 consult. We're quite linked to other personnel in
43 the Department much of the time, so there's a
44 distinction between --

45 Q I understand.

46 DR. HYATT: Thank you. Bullet 17, so three more
47 bullets down:

1 He will say that Barkley Sound is currently
2 the only WSP pilot in which Strategies 1 -
3 3 --

4
5 - and this is just a modifier -

6
7 -- may all be quickly advanced to inform
8 Strategy 4.

9

10 Q Thank you.

11 DR. HYATT: The next major heading, "The independent
12 five year review required under Strategy 6, Action
13 Step 6.2", just the first bullet. "Initiated"
14 should really say "re-initiated" because this is a
15 cyclical discussion.

16 The next major heading, "Challenges to and
17 progress on WSP implementation, particularly for
18 Strategy 3", the third bullet down there's a
19 paragraph that begins:

20

21 He will say that, in his experience, National
22 Headquarters (NHQ) is committed to the
23 principle of ecosystem approaches to
24 fisheries, but not necessarily to doing this
25 through the WSP.

26

27 Next sentence:

28

29 In his experience, including from attending
30 DFO science workshops in Ottawa, NHQ
31 officials understand ecosystem-based
32 approaches to fisheries...

33

34 And here's where the language changes a little:

35

36 ...focused on marine ecosystems through an
37 international lens, but not on marine and
38 freshwater ecosystems as required by the WSP.

39

40 It's simply for clarification of the essence of
41 the difference between WSP requirements for
42 ecosystem-based management and those normally
43 worked on by headquarters. So I think that
44 language will help us discuss this.

45

46 Q Dr. Hyatt, on a slightly different point on this
47 paragraph while you're there, you attribute this
 to your experience with National Headquarters and

1 with officials there. Can you be more specific,
2 as in...

3 DR. HYATT: As to who those officials...

4 Q Who they are, and...

5 DR. HYATT: The major interactions that I've had there
6 were with the group under Dr. Jake Rice who were
7 looking at ecosystem approaches to fisheries
8 management in general at kind of a national level.
9 This is a national initiative, to respond to
10 various international calls for ecosystem
11 approaches to fisheries, to the management of all
12 fisheries. So this included the management of
13 ground fish stocks and marine invertebrates, as
14 well as elements of the establishment of marine
15 protected areas. So that's been a major thrust of
16 the -- of the national approach to this. And Wild
17 Salmon Policy, as a specific policy that has a
18 requirement for ecosystem-based management, shares
19 some things in common with this international
20 requirement, but also because of the nature of
21 anadromous salmon has some, you know, particular
22 characteristics that have to be well understood if
23 you're going to achieve effective implementation
24 under Strategy 3.

25 Q And the group you referred to are you suggesting
26 doesn't have that focus?

27 DR. HYATT: They have not been involved directly in
28 Wild Salmon Policy development or its
29 implementation, unless Mark or someone else, we
30 could comment on this later. But to my knowledge,
31 they have not been involved directly with the
32 implementation of Wild Salmon Policy.

33 Q Thank you. Please proceed.

34 DR. HYATT: We're almost done. The eleventh bullet
35 down, which is actually the fifth point of what it
36 requires to implement Strategy 3, and under WSP,
37 after it says:

38
39 ...he believes that DFO will need to initiate
40 some new science programs to examine how
41 marine and freshwater ecosystems...

42
43 Previously it said "controls to salmon
44 production". It really should say "ecosystem
45 linkages to salmon production variations". There
46 is a fine distinction, which I'm sure we'll get
47 into.

1 Q Thank you.

2 DR. HYATT: And that's -- that's the last correction
3 that's required. Subject to those changes, I can
4 accept this testimony.

5 MR. WALLACE: Thank you. Mr. Commissioner, with this
6 panel I will now cover this Implementation area,
7 and there are three topics, just to lay it out
8 generally. First of all, I'd like to address --
9 ask the panel to address, rather, the
10 implementation planning generally in 2005, and
11 then go -- proceed to an overview of the
12 implementation of the three strategies, which will
13 be primarily directed to Mr. Saunders. The third
14 point I'll then go in more detail to Strategy 1,
15 and put questions principally to Dr. Irvine and
16 Dr. Holt. Then to Strategy 2, which my questions
17 primarily will be directed to Ms. Stalberg, and
18 fifthly go to Strategy 3, addressing the
19 implementation of Strategy 3 principally to Dr.
20 Hyatt and Dr. Irvine. Then I have some questions
21 about Strategy 6 and some questions as to the
22 implications with respect to the linkages, I
23 guess, between the Wild Salmon Policy and the MSC
24 certification, talk a little about interaction
25 with the Province of British Columbia, and finally
26 deal with challenges to Wild Salmon Policy
27 implementation.

28 Q So if I can start with you, Mr. Saunders. The --
29 this question we went to before, and just to
30 clarify. As I understand your evidence, there has
31 been no document referred to or called an
32 "Implementation Plan" and you have identified, I
33 think, a couple of ways how -- what the
34 implementation plan is, and you've identified, I
35 think, and your counsel has marked as exhibits a
36 number of workplans, and then you gave some
37 evidence about the strategies themselves in that
38 context, and I'd like to ask you some questions
39 about that.

40 The implementation plan, and as we heard in
41 the previous panel, was quite explicitly put into
42 the Wild Salmon Policy, and page 35 in particular
43 -- is it your evidence, then that the workplans
44 that are produced annually and as I understand it,
45 and perhaps more frequently, are intended to be
46 that plan, or in your view does this meet the
47 requirement for a plan, which is, I take it, a

1 long-term goal in the Wild Salmon Policy itself?
2 MR. SAUNDERS: Yes, Mr. Commissioner. I think as I
3 stated in the previous panel, I think it may be
4 some semantics about what an implementation plan
5 really entails. And my point then and still is,
6 is that the document itself, with its six
7 strategies, the Wild Salmon Policy provides the
8 basic direction of each of those strategies for an
9 implementation plan, how to move forward on
10 implementing the principles, goals and objectives
11 of the policy.

12 And as we moved into the implementation
13 phase, there were a number of documents, and I
14 don't recall the one that we spoke to yesterday,
15 but it did include some of the larger performance
16 measurement issues around the implementation, and
17 included a first diagram of the timeline, and
18 started to under each of the strategies and each
19 of the action steps that are included in the
20 Policy, started to lay out with the \$1.1 million
21 in resources that we discussed in the previous
22 panel, as well, how we would utilize those
23 resources to start conducting or achieving the
24 activities that were required under each of the
25 action steps.

26 And that in subsequent years, that timeline,
27 I used a tool called a Gantt diagram, and was
28 continually updated and brought back to our
29 Steering Committee, or as it's now called, our
30 Operations Committee, to update senior management
31 on the status. So that was the general process
32 for development of, if you want to call it
33 implementation plan or workplan.

34 Q Wasn't it intended that the implementation plan
35 would be a consultative document that you would
36 develop with the assistance of and consultation
37 with stakeholders?

38 MR. SAUNDERS: Yes. And certainly we have an internal
39 requirement as part of the budgeting exercise for
40 that \$1.1 million. We had to move a workplan
41 through internal process. But the basis -- those
42 documents formed the basis for subsequent multi --
43 First Nations and multi-interest forums that
44 mirrored the ones that we -- Mr. Commissioner,
45 that we identified that were used in the
46 development of the policy, that same collection of
47 interests and First Nations came together to work

1 on the implementation. And so, yes, that they did
2 form, they had multiple uses, internal and
3 consultative.

4 Q If I could take you to Exhibit 123, please.
5 Sorry, I have the wrong number there. It's
6 document 129 -- Exhibit 129.

7 Now, were you involved in the development of
8 this communication?

9 MR. SAUNDERS: I don't recognize being involved in the
10 development of it.

11 Q You -- it was copied to you at the time?

12 MR. SAUNDERS: Yes.

13 Q And do you agree that that was a commitment of the
14 Region -- I'm looking at the first, the large
15 paragraph in the middle of the page:

16
17 The Region has made the point that
18 consultation will continue on implementation
19 of various parts of the Policy. At the April
20 29&30 sessions the Regional Director General
21 committed to an open, consultative process
22 for developing the implementation plan,
23 finalizing Conservation Units, developing a
24 strategic planning process...

25
26 Do you recall that commitment?

27 MR. SAUNDERS: Yes.

28 Q And is it your evidence, then, that the process,
29 which has been followed with the workplans, meets
30 that commitment?

31 MR. SAUNDERS: As I said in the -- my time as a
32 coordinator, I can answer absolutely. And my
33 present experience in the last year, my
34 understanding is that is the case. But there's a
35 gap in my engagement in the WSP from March 2007 to
36 February 2009.

37 Q Yes. And how does the public get involved in this
38 process?

39 MR. SAUNDERS: Well, material -- there's a number of
40 ways that the public can be engaged in it, but
41 certainly material, we made a commitment to making
42 sure that material that came -- documents that
43 came out have been made available on websites. I
44 think the majority -- certainly the sessions were
45 open. There's never been -- you'll hear today
46 that there are a number of ways that we move
47 forward on methods and other aspects of

1 implementation, and we certainly -- those are open
2 to the public, including our peer review process.
3 The forums were well advertised, certainly within
4 the realm of all of the interests that had
5 previously been involved in the development of the
6 Wild Salmon Policy.

7 Q Are the workplans available to the public?

8 MR. SAUNDERS: I can't recall specifically whether our
9 workplans are available. I would have to take a
10 look at some of the documents that we had related
11 to the -- the actual -- to the implementation
12 forms, whether or not we presented the full
13 workplan there, I can't recall.

14 Q Perhaps you could go to Exhibit 123 now. And this
15 document, which was put to you yesterday by Ms.
16 Gaertner, there's a commitment on page 2. Did any
17 of those next steps occur:

18
19 Engage First Nations in implementation
20 through a process that builds on the success
21 of the WSP development consultative process.
22

23 MR. SAUNDERS: Yes, Mr. Commissioner, as I noted,
24 indeed we followed the -- the same process that we
25 discussed in the previous panel quite extensively
26 in terms of multi-interest and First Nations
27 dialogue sessions that were built back-to-back
28 with First Nations, and then -- and then the
29 multi-interests. And as we talk more about
30 subsequent implementation and the development of
31 the CU's, there were more targeted processes that
32 went, rather than bringing people to --
33 specifically to a central place for a forum, we
34 went -- we went into areas within the -- within
35 the region to discuss the specifics with people of
36 items like the definition of the conservation
37 units.

38 Q There's a specific commitment here to convening a
39 First Nations forum in September. Did that occur?

40 MR. SAUNDERS: I can't recall. There would have been a
41 First Nations forum, I can't recall if it occurred
42 in the September or a number of months later.

43 Q Was there ever a completion, going on page 2, the
44 commitment to complete:

45
46 ...a detailed implementation plan through
47 consultation with First Nations and other

1 salmon interests.

2
3 Did that occur?

4 MR. SAUNDERS: I don't have a clear recollection of
5 ever landing on a finalized document that would
6 have had the plan. It was more of a continuous
7 engagement and notification of the sort of work
8 that was ongoing, and then -- and results, and
9 then another round of what we would be doing in
10 subsequent years. So I don't recall a specific
11 long-term, you know, like a -- if you're asking
12 for like a five-year plan, I don't recall anything
13 like that.

14 Q If you look at -- you know, looking at page 35 of
15 the Policy, and some of the commitments made right
16 after it came into force, you get, I think, a
17 strong sense of a firm commitment with firm
18 timelines, with particular kinds of consultation.
19 And I'm suggesting that what you're identifying
20 now as having been the implementation plan is
21 really more ad hoc, more internal, and doesn't
22 have the sort of rigorous commitment that was
23 suggested in the early documentation. Is that
24 fair?

25 MR. SAUNDERS: I'm not sure I would say that's entirely
26 fair. I don't -- I would rather than choosing a
27 word like "ad hoc" I would say it's adaptive. I
28 think part of what we recognize is right from the
29 outset it's very difficult to pin down and put
30 into a timeline exactly how long it's going to
31 take to conduct, and in particular this panel that
32 we've got assembled today, the technical people
33 that were involved in those -- in some very
34 complicated technical issues, that in themselves
35 it's very difficult to predict how much time that
36 will take. And then looking at any kind of a
37 consultative process around that, and I expect
38 we'll get into details when you push down into the
39 -- into the conservation units.

40 But I think we realized very quickly that it
41 was very difficult to pin this down in terms of
42 the -- (a) the sort of timeline, and (b) the
43 resources that were going to be required. So in
44 my experience, in the first several -- year and a
45 half of implementation, that the -- the
46 consultation both outside the Department and
47 inside the Department was at a very high standard.

1 And I don't believe that the -- I can't speak to
2 specifics, but the commitment has not -- not gone
3 away.

4 I think if you're looking for evidence of
5 subsequent large meetings, that is probably a less
6 -- as we got into the details of things, the need
7 to bring the larger group together had -- it was
8 not something that we recognized as -- as being
9 necessarily appropriate. They would be more
10 targeted related to the very technical and
11 specific pieces we were working on. So there were
12 still a lot of activities and consultation going
13 on, but you won't -- they're not in the same --
14 exact same manner that you would have seen them in
15 that first year and a half of implementation
16 engagement.

17 Q In your summary of evidence, Mr. Saunders, you
18 indicated that -- or you said:

19
20 ...that in the summer and fall of 2005, he
21 considered the need to create an
22 implementation plan and provided briefing
23 materials to the Regional Management
24 Committee referencing an implementation plan.
25 However, in the fall of 2005, DFO shifted
26 away from this effort. He does not recall
27 any specific decision to not pursue an
28 implementation plan. He will say that, from
29 the fall of 2005 onwards, DFO documented its
30 implementation commitments through internal
31 annual work plans instead.

32
33 Now, in -- let me ask you about the meeting of the
34 Regional Management Committee on August the 9th,
35 2005. And there's a reference to the record of
36 decision and presentation deck, and you'll say
37 that you vaguely remember it. But the -- and this
38 is Exhibit 134. At that time there was support
39 for the production of an implementation plan that
40 was recommended at the meeting; is that correct?

41 MR. SAUNDERS: Mr. Commissioner, I don't recall -- I'd
42 have to look at that record of decision again. It
43 would say whether or not at the end of that record
44 of decision.

45 So -- well, that was approved, but I think
46 maybe -- maybe we did have it on the screen. If
47 you can move -- please move back up. Okay.

1 MR. SAUNDERS: Sorry, can you point that to me again
2 exactly the recommendation we're talking about.

3 Q Last bullet, "Implementation Structure" near the
4 top of the page.

5 MR. SAUNDERS: Yes. Okay. So the -- a Strategic
6 Initiatives Steering Committee, is that the action
7 that you're talking about there?

8 Q Implementation, yes, under "Implementation" -- I'm
9 looking at the recommendation, which sets out a
10 number of "Start Up Actions", and then over on the
11 page 2, I'm looking, focusing at the moment on the
12 "Implementation Structure". Was there ever a Wild
13 Salmon Policy Implementation Steering Committee
14 established?

15 MR. SAUNDERS: Yes, there was.

16 Q So and that is the Strategic Initiatives Steering
17 Committee chaired by the RDG? Is that what
18 occurred?

19 MR. SAUNDERS: Yes. That -- that's true, yes.

20 Q And is that --

21 MR. SAUNDERS: I would say that now in the -- in the
22 current naming of it, there is a more -- a more
23 highly formalized committee that's called the
24 Operations Committee, is what it's referred to
25 now. But it's the same -- the same structure that
26 you see with Regional Directors and it's chaired
27 by the RDG.

28 Q But it's not specific to the Wild Salmon Policy?

29 MR. SAUNDERS: That's correct. So the idea being that
30 there were a large number of steering committees
31 being formed, as there were almost one for each
32 initiative it seemed, that was in -- and a lot of
33 them were -- were complementary. So the idea was
34 to form a single steering committee that would
35 deal with policies and other issues around
36 operations. So Wild Salmon Policy became one of
37 those change initiatives that were included in the
38 Operations Committee function.

39 Q And were the project teams established as set out
40 in that structure?

41 MR. SAUNDERS: Certainly there were projects and leads,
42 but I -- if specifically a project team, I would
43 say that no. Maybe that's not fair. It's a no
44 and a yes. If you were looking for -- there are
45 certainly leads, investigators that were assigned
46 to particular projects. But they would not have
47 -- would have been -- wouldn't have been a

1 formalized team related to a particular project.
2 Q There's an interesting comment on page 2 as well,
3 where it described, identify, it says, their
4 "Action":

5
6 RMC supports this proposal, think about how
7 to market this phased approach.

8
9 I'm sorry, I'm putting it on.

10
11 ...think about how to market this phased
12 approach. September date is premature.

13
14 Can you first of all explain the issues of
15 marketing the phased approach?

16 MR. SAUNDERS: Yes, Mr. Commissioner. It was -- I
17 don't think -- well, marketing's a difficult word,
18 but I would have chosen sort of communication
19 strategy. We, having worked through how we were
20 going to proceed, it was then we needed to begin
21 discussions with both internal and external, so
22 how, what kind of a plan would we have to -- to
23 taking the -- communicating this going forward.

24 Q And the -- the phased approach that was
25 contemplated there was a five-year implementation
26 period?

27 MR. SAUNDERS: I don't recall that we specified
28 "phased". But it recognized, and I think we spoke
29 to this in the earlier session, that -- the
30 strategies that they're laid out, you are -- you
31 can't just simply say that the Wild Salmon Policy
32 starts today. Certainly you could say that with
33 respect to the intent of the Policy as it informed
34 fisheries management decisions, but there was --
35 that roughly following the sequence of the numbers
36 of the strategies, you need to -- it needed to be
37 phased, you needed to start work on Strategy 1.
38 Until we had the conservation units, it made it
39 very difficult to -- to conduct any of the
40 subsequent strategies, in particular to move to a
41 planning strategy. So I think the phasing was
42 about trying to understand what needed to be done
43 first and how, you know, over time how we would
44 proceed

45 Q But wasn't the -- wasn't the concern about
46 marketing the phased approach the fact that people
47 were concerned that it would take too long and

1 that five years would be too long a period?
2 MR. SAUNDERS: I think it's just -- I think it was more
3 about trying to communicate that it wouldn't
4 happen all at once, that we -- I think there was
5 an expectation out there that it would be
6 instantaneous, and the phased approach was
7 recognition of the fact that it couldn't happen
8 immediately.

9 And there's also, and I think we spoke about
10 it in the earlier -- the earlier session, Mr.
11 Commissioner, where we didn't -- you know, there
12 was some discussion that we had around the number
13 of conservation units, and so what would it -- you
14 know, if the -- was the number of conservation
15 units going to be 50, or was it going to be 500.
16 And that the complexity and resulting work would
17 -- would then be informed by making progress on
18 that initial, further more detailed clarification.
19 And so that's the issue, I think, behind the
20 phasing.

21 Q I understand why internally you saw that this was
22 a big job. The question here is the commitment
23 that this will be done in a short period of time,
24 and I'm identifying the words in this action plan,
25 or this "Action" item, that suggests that it was
26 going to be difficult to market the phased
27 approach, and yet the Department's saying we don't
28 think we can do this any more quickly, for the
29 reasons you -- you mention. But as I understand
30 it, and according to the Policy itself, that
31 phased approach was a five-year period, correct?

32 MR. SAUNDERS: I'm not clear that it's five years, but
33 certainly that was -- that was the expectation
34 that we would take. I think a lot of us knew it
35 was somewhere between five and ten years in terms
36 of depending, and it's a difficult concept to land
37 on and what full implementation would be. But I
38 think that was -- we felt that in five years there
39 should be substantial progress and you'd be able
40 to report out and do an independent review at that
41 time.

42 Q But it was a concern of the -- in the document
43 itself. There's a concern expressed that there
44 was a commitment to the public, and I'm -- my
45 question really relates to how this was, you know,
46 the commitment to the public seems to have been
47 lost in the need to -- the internal problems of --

1 of how long this is going to take. And the idea
2 of what the concerns of the public were lost in
3 that. But it was identified in August of 2005 --
4 2006 as being an important consideration, no?

5 MR. SAUNDERS: I'm struggling with where -- where
6 you're going with it.

7 Q Well, all right. The action item speaks of
8 selling the phased approach. And in your summary
9 you suggested that that was a five-year
10 initiative, the phased approach was to take five
11 years. And you had a realization which is, I
12 think, reflected in these -- in this action plan
13 that suggests -- or this action -- sorry, in this
14 decision document that demonstrates that the
15 Department saw this as a job that maybe was larger
16 than they had in mind. But the commitment was
17 there to the public to do this in a phased
18 approach -- sorry, to do this, and the concern was
19 that it would be difficult to sell to the public
20 why this was taking so long. And that's really my
21 -- my question is, what happened to the commitment
22 to get this done and meet the public expectation.

23 MR. SAUNDERS: No, I think, I mean, if you look at the
24 timing, I mean, this was immediately after --
25 almost immediately after the release of the
26 Policy. So if you're suggesting by -- that we had
27 to market it, that we were being disingenuous in
28 -- or we were trying to hide something, I don't --
29 that's not true at all. We -- I mean, it was very
30 near after what we -- there was still uncertainty
31 about what it was going to take, so recognized
32 that we had to proceed step at a time was the
33 rationale behind that. But not to say that we
34 didn't need a communication strategy, because
35 there probably -- we certainly heard that there
36 was an expectation that this, there would be
37 something instantaneous. And I don't think there
38 was anybody that was expecting -- maybe
39 instantaneous is wrong, but -- a wrong word, but
40 there was certainly no suggestion that it wasn't a
41 large undertaking.

42 DR. IRVINE: Are we on? Yeah, I'd just like to comment
43 on that. Mr. Commissioner, I just -- I think it's
44 important to realize that --

45 MR. WALLACE: Does your mike --

46 DR. IRVINE: Am I on?

47 MR. WALLACE: Okay.

1 DR. IRVINE: And Mr. Commissioner -- I think I'm on
2 now, okay?

3 MR. WALLACE: Yes, you are.

4 DR. IRVINE: As Mark Saunders, as Mark has indicated --
5 maybe I should do that. As Mr. Saunders has
6 indicated, you know, this -- you're really
7 focusing on -- on two lines and one, you know,
8 summary meeting report that was held not long
9 after the Policy was -- was passed. But it's
10 important to recognize that there was a whole
11 series of consultations and meetings that occurred
12 following this. And so in particular in the
13 fall of 2006 and into January of 2007, I think we
14 visited approximately 12 different communities
15 within B.C. and that with large groups of
16 stakeholders and individual First Nations. And
17 so, you know, this was -- it was a significant
18 period, a significant amount of interaction with
19 various groups following -- following this
20 meeting.

21 So that the proposed September multi-
22 stakeholder meeting did not take place, but we had
23 plenty of subsequent conversations with First
24 Nations and others regarding the implementation.
25 So I just wanted to make that point clear.

26 Q Mr. Saunders, if I could take you to Exhibit 170.

27 MR. LUNN: Sorry, Mr. Wallace, Mr. Commissioner, I'm
28 just not quite there in catching up with the
29 exhibits as filed.

30 MR. WALLACE: With the flood of exhibits that was filed
31 this morning. If it helps, this is the colour
32 deck that was provided at the August 2005 meeting.

33 MR. LUNN: I'm just trying to locate the source.

34 MR. WALLACE: I think it was -- well, it's a non-
35 Ringtail document -- non-Ringtail document.

36 MR. LUNN: (Indiscernible - off microphone).

37 MR. WALLACE: Thank you.

38 Q If you go to page 4 of that document, this was --
39 you presented this deck at the meeting we've just
40 been discussing?

41 MR. SAUNDERS: I don't recall if I specifically
42 presented it, but I likely did.

43 Q And you're identified as being present at that
44 meeting for that purpose, I think. Under the
45 "Implementation - A Phased Approach" you see
46 recognition that the full implementation will take
47 five years, in the third bullet of the whole --

1 can we see the whole page, please.

2 So in the top box, third bullet, recognized
3 that full implementation will take five years.

4 MR. SAUNDERS: I see that there, yes.

5 Q Yes.

6 MR. TIMBERG: Mr. Commissioner, the -- if I could ask
7 that the Commission counsel actually read the text
8 of the document.

9 MR. WALLACE:

10
11 At the time of its announcement Minister
12 Regan stated that implementation will begin
13 immediately.

14
15 DFO operations will need to immediately
16 consider the intent of the WSP goal,
17 objectives and principles.

18
19 It is recognized that full implementation
20 will take time, in the order of 5 years.

21
22 WSP will be implemented within available
23 resources, however the \$1.1M provided for FY
24 05/06 will jump start the implementation and
25 focus on startup activities.

26
27 Q And then the next slide at the bottom of page 4,
28 Mr. Saunders, you set out a chronology there,
29 showing a "Scoping" phase, the first bullet of
30 which is:

31
32 Completion of detailed Implementation Plan
33 including:

34
35 Establish Committee/Team/Advisory
36 structure

37
38 Assign resources...

39
40 Determine timelines

41
42 Consultation

43
44 Preliminary identification of CU's and their
45 status

46
47 Between June and December 2005. Correct? That

1 was your view at the time?

2 MR. SAUNDERS: Yes, it was.

3 Q And that the -- if you then go to page 9 -- just
4 if we can go back, please, to page 4. So the
5 "Scoping" phase, would it go to December of '05,
6 the "Interim" phase was to carry on between 2006
7 and -- January of '06 and March of '07, and that
8 would -- that phase would -- in the second bullet,
9 involve the:

10
11 Completion of Start-up Action Steps with
12 functioning Interim planning process.

13
14 Correct?

15 MR. SAUNDERS: That's correct.

16 Q And all of these interim -- or if you then go to
17 the next page, page 5, there are the -- all of
18 these start-up processes identified in the -- in
19 the phased approach slide are indicated as in red,
20 and this is part of the -- obviously a significant
21 part of what you were trying to do, correct?

22 MR. SAUNDERS: That's correct.

23 Q And then the final step, going back to page 4,
24 would be the completing the Action Step process in
25 2010. Correct?

26 MR. SAUNDERS: That's correct.

27 Q Now, if we can go to page 9, there are a number of
28 quite specific items in the "Timeline". That
29 timeline actually starts on the previous page, but
30 let me focus on the second slide on timelines.
31 September 2005:

32
33 Convene a First Nations and Multi-interest
34 Forms to review policy and implementation
35 plan.

36
37 That was the next item? The first item on that
38 slide, correct?

39 MR. SAUNDERS: Yes.

40 Q That was a commitment and that didn't happen; is
41 that correct?

42 MR. SAUNDERS: The September meeting?

43 Q Yes.

44 MR. SAUNDERS: It did happen, but not in September.

45 Q It happened --

46 MR. SAUNDERS: I think that was the feedback from RMC.

47 Q Yes. It happened several months later?

1 MR. SAUNDERS: Yes.

2 Q It was December, I think.

3 MR. SAUNDERS: Yes.

4 Q Then the third box on the -- that slide identifies
5 the completion of the Implementation Plan for RMC
6 approval on October 31st, correct?

7 MR. SAUNDERS: Yes.

8 Q Did that occur?

9 MR. SAUNDERS: I don't recall. I mean, the plan, again
10 this gets into what is the implementation plan.
11 The workplan would have been approved. I'm just
12 not sure what the date is on that.

13 Q In the next box on page 9, the internal challenges
14 are identified. The first being developing
15 linkages between:

16
17 ...watershed, marine and fisheries planning
18 and operational programs.

19
20 Affect change through redirection of existing
21 resources and expanding partnerships.

22
23 Build and support an open, interest-based
24 consultative processes.

25
26 And providing:

27
28 ...leadership to affect culture change.

29
30 Those are clearly challenges. Was there ever a
31 champion identified to lead this cultural change?

32 MR. SAUNDERS: Well, I don't know that we ever used
33 that language of identifying a specific champion,
34 but certainly the RDG and -- and through our
35 Operations Committee, each of the -- each of the
36 Regional Directors for the various sectors were,
37 you know, recognized as having responsibility for
38 the components that their sector was implementing.
39 So but I would say as we went forward internally
40 and externally the RDG was visible in the brief --
41 in the briefings about processes going forward on
42 implementation.

43 Q So the leadership was left to the RDG, there was
44 no other senior leadership involved in -- in the
45 implementation, with -- or with a direct and
46 specific responsibility for the Wild Salmon
47 Policy.

1 MR. SAUNDERS: Well you've used the word "champion", so
2 the RDG would have provided leadership. But
3 responsibility, the Director of Policy, I was at
4 the time the Coordinator for the Wild Salmon
5 Policy and reported to the Regional Director of
6 Policy, who held overall responsibility.

7 MR. WALLACE: Yes. Mr. Commissioner, I'm about to go
8 to another slide. If this is convenient?

9 THE COMMISSIONER: Will it take longer than five
10 minutes?

11 MR. WALLACE: Probably not.

12 Q Exhibit 135. This is a presentation to the
13 September 20th Regional Management Committee
14 meeting. Do you recall that event?

15 MR. SAUNDERS: Yes.

16 Q And if I could take you to page 5. You made this
17 presentation, as well, Mr. Saunders; is that
18 correct?

19 MR. SAUNDERS: I would have, yes.

20 Q And if you go to page 5 you'll again see the
21 "Phased Approach" box. It seems to have slipped a
22 bit in the timing, but the elements are the same,
23 are they?

24 MR. SAUNDERS: I haven't done an analysis of whether
25 the one deck is completely the same or changed
26 from the previous one, but I would have expected
27 it to change, based on discussions with the
28 Implementation Team, et cetera.

29 Q Could we have the previous exhibit, as well? Can
30 we put them both up? So the box on page 4 of
31 Exhibit 170. Okay.

32 So looking at these, we see that "Scoping"
33 has in the course of a month or so, month, maybe
34 six weeks, has gone from June 2005 to March --
35 sorry, from June 2005 to December 2005, to June to
36 March 2006.

37 The next one seems to be -- the other two
38 seem to be intact. So there's still a commitment
39 but a slight slipping; is that correct?

40 MR. SAUNDERS: Yes. I would say, well, it would be a
41 result of looking at what was required in terms of
42 consultation, it would have...

43 Q And that reflected the concerns that were
44 expressed in the August RMC meeting.

45 MR. SAUNDERS: Yes.

46 Q But there's no ultimate slippage. It still has us
47 completing the project by 2010.

49
PANEL NO. 7
In chief by Mr. Wallace

1 MR. SAUNDERS: Yes, two months into it we are still
2 holding to that.
3 THE COMMISSIONER: Mr. Wallace, this might now be an
4 appropriate time to break.
5 MR. WALLACE: Thank you. Maybe I can get the original
6 document numbers coordinated with the new exhibit
7 numbers. Thank you.
8 THE REGISTRAR: The hearing is now adjourned until 2:00
9 p.m.

10
11 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
12 (PROCEEDINGS RECONVENED)
13

14 THE REGISTRAR: The hearing is now resumed.
15 MR. WALLACE: Thank you. Good afternoon, Mr.
16 Commissioner. For the record, Brian Wallace,
17 Commission counsel. Two preliminary matters.
18 There are two flash drives circulating around the
19 room that contain all of the exhibits that have
20 been filed today, and Mr. Lunn tells me that that
21 service is -- that service can be provided on a
22 regular basis as we have more exhibits so people
23 will be able to load them directly onto their
24 computers and return the flash drives to Mr. Lunn.
25 The second point is that this morning, I
26 neglected to mark as exhibits the summaries of
27 evidence that have been adopted by each of these
28 witnesses so I'd ask, please, Mr. Registrar, that
29 Ms. Stalberg's Summary of Evidence be marked as
30 the next exhibit.

31 THE REGISTRAR: 181.

32
33 EXHIBIT 181: Stalberg Summary of Evidence
34

35 MR. WALLACE: And Ms. Holt's Summary of Evidence as the
36 next.

37 THE REGISTRAR: It will be 182.

38
39 EXHIBIT 182: Holt Summary of Evidence
40

41 MR. WALLACE: Dr. Hyatt's as the next.

42 THE REGISTRAR: 183.

43
44 EXHIBIT 183: Hyatt Summary of Evidence
45

46 MR. WALLACE: And Dr. Irvin and Mr. Saunders' evidence
47 has already been entered. May I ask, Mr. Lunn,

1 for Exhibit 109, please, and in particular, to
2 page 20.

3 Well, have a look at the -- show the cover to
4 the witness, please, to Mr. Saunders.

5

6 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:

7

8 Q This was a presentation from September 20th, 2005.
9 Do you recall that, Mr. Saunders?

10 MR. SAUNDERS: Yes, I do.

11 Q Could we go to page 20 of that document, please?
12 And can you just tell us briefly what this table
13 shows us.

14 MR. SAUNDERS: Yes, Mr. Commissioner. Can we scroll up
15 a little bit, just so I can see the title on the
16 table?

17 Q Perhaps at the bottom of the previous page.

18 MR. SAUNDERS: Maybe if we can go up a little further.
19 I'm still -- okay, so the -- this would have been
20 a work plan that would have rolled up the
21 resources that would have been expected, and then
22 the subsequent pages, so if you can go on to 19,
23 and if I recall correctly, this would go in order
24 of the strategies and the various activities that
25 we were undertaking. So the questions -- you
26 know, what is the task that needs to be done, what
27 are the expected deliverables that would come out
28 of it, some of the outcomes, higher-level outcomes
29 that we were working towards that would have been
30 documented higher -- further up in the -- a logic
31 model which describes the general outcomes that we
32 were headed towards, and then associated FD's, or,
33 sorry, full-time equivalents, so a person's salary
34 dollars, operating and maintenance, then the
35 budget for that. So that would -- O&M would have
36 been the breakdown of the total. So you see in
37 that first line, travel is \$45,000, and a
38 facilitator is 8K. And so this -- what -- this
39 first line item would be a meeting, the first
40 meeting that we were talking about. Well, this
41 one's saying May 2005, but --

42 Q I just wanted it in general, this is basically a
43 presentation to the Regional Management Committee
44 by you as coordinator for the WSP as to,
45 essentially, the next steps on a budget and --

46 MR. SAUNDERS: Yes.

47 Q Thank you. If I could go to the next page, 20, I

1 just want to focus on a description in the
2 "Deliverables" column, and you will agree, I
3 assume, Mr. Saunders, that this was your
4 description, where you described, under the
5 heading, "Development of the WSP Implementation
6 Plan," a deliverable being a meeting of the
7 implementation team "... to review Workplan and
8 discuss Implementation Plan." And in there, you
9 were differentiating between the Implementation
10 Plan, which we were discussing this morning, and
11 the work plans which you have also mentioned?
12 MR. SAUNDERS: Okay. And I --
13 Q You made that --
14 MR. SAUNDERS: I'm trying --
15 Q At the time, you made the --
16 MR. SAUNDERS: Yeah, I'm not sure. So we've got an
17 implementation -- I'm not sure of the distinction
18 you're trying to make. So a meeting --
19 Q Well, you described two different things here --
20 MR. SAUNDERS: Yeah.
21 Q -- that you were going to review, a work plan, to
22 review Work Plan and discuss an implementation
23 plan. In your --
24 MR. SAUNDERS: Yeah, I --
25 Q Put it this way, in your mind --
26 MR. SAUNDERS: I can't recall what -- at the time, what
27 I -- the distinction between the two that I was
28 making there.
29 Q Okay. Thank you.
30 MR. WALLACE: May I have Exhibit 169, please?
31 Q I don't think we need to go into this to detail,
32 but, Mr. Saunders, I just bring this up to refresh
33 your memory. This document is a response to a
34 request that we made with respect to briefings
35 given to the Pacific Salmon Commission, or panels
36 regarding the Wild Salmon Policy and in -- it
37 confirms, at Roman numeral -- small Roman numeral
38 ii, that you attended a presentation of the Fraser
39 River Panel, is this in January of 2009?
40 MR. SAUNDERS: I don't recall that.
41 Q Oh, I'm sorry, January -- sorry, January 2006, the
42 January 2006 Minutes.
43 MR. SAUNDERS: So it must be a typo there so yes, I
44 recall making -- I don't remember the exact date,
45 but I did make a presentation to the Panel.
46 Q And at page 6, is that the presentation that you
47 made?

1 MR. SAUNDERS: Can you scroll down, please? I don't
2 recognize this presentation. That's not to say I
3 didn't.

4 Q Okay. If you go to page 4.

5 MR. WALLACE: Show that, the start of the charts,
6 please.

7 Q The cover page on this presentation dates it at
8 January 11th, 2006, and the document identifies
9 you as having made this presentation to the Fraser
10 River Panel.

11 MR. SAUNDERS: Well, the deck that we're looking at,
12 attachment 6, or further down? I mean, that says,
13 "Fraser River Spawning Initiative," so that's not
14 the Wild Salmon Policy.

15 Q And if you scroll to the next page, you'll see
16 Part 2 of that links to other processes.

17 MR. TIMBERG: Mr. Commissioner, I'm wondering if
18 Commission counsel could clarify for the record
19 whether it does identify Mark Saunders, or not?

20 MR. WALLACE: The document 109 identifies the request
21 for a copy of all briefings given to the PSC and
22 panels regarding Canada's Wild Salmon Policy,
23 which -- the first page, which is a request that
24 we made to the Pacific Salmon Commission, and it
25 identifies briefings given to the panels. And if
26 you see Roman numeral ii, the Fraser River Panel,
27 it includes excerpts from the Minutes of the
28 Panel, and including Mr. Saunders' presentation to
29 the Panel on the WSP.

30 MR. SAUNDERS: So it could --

31 MR. TIMBERG: I apologize. So just for clarity, this
32 is a document from the Pacific Salmon Commission?

33 MR. WALLACE: This is a document received from the
34 Pacific Salmon Commission.

35 MR. TIMBERG: Okay. Thank you.

36 MR. WALLACE: Thank you.

37 Q The point is a simple one, Mr. Saunders.

38 MR. SAUNDERS: Yes?

39 Q If you look at page -- the following page to --
40 sorry, go to -- my pages aren't numbered, it's --

41 MR. WALLACE: If you scroll down, please, Mr. Lunn,
42 into the tables, another page, the next one.

43 Q The middle panel on the right-hand side looks
44 familiar? Does that --

45 MR. SAUNDERS: Yeah, okay. I think I saw you scroll
46 by, up there, where it described how the
47 presentations were done, where Mr. Riddell gave

- 1 the top part of the presentation, and then Mr.
2 Saunders -- I gave the -- it must have been the
3 slides, and that. That would make sense.
- 4 Q All right. And the point is simply that the
5 Implementation Plan that you discussed -- that
6 we've discussed earlier, you also presented
7 outside the Department, to the Pacific Salmon
8 Commission and Fraser River Panel, as well?
- 9 MR. SAUNDERS: Yes.
- 10 Q Just quickly, if I can ask you, Mr. Saunders, to
11 just -- we're going to go to each of the
12 strategies in a moment, but I'd just like to ask
13 in an overview question. Now, is it fair to say
14 that none of Strategies 1, 2, or 3 have been fully
15 implemented at this point?
- 16 MR. SAUNDERS: I would -- yeah, I think that's a fair
17 statement, although I would suggest that it's
18 really difficult to determine when we would be at
19 a full implementation. I mean, we can talk a bit
20 about that, but I -- but yes, that's a fair
21 characterization.
- 22 Q Let me -- and just going to Action Step 1.1, can
23 you tell me how many Fraser River sockeye CU's
24 there are?
- 25 MR. SAUNDERS: Off the top of my head, I believe it's
26 in the order of, I think, 36, something -- you say
27 of -- did you say sockeye, or --
- 28 Q Yes.
- 29 MR. SAUNDERS: I think it's in --
- 30 Q Fraser River sockeye.
- 31 MR. SAUNDERS: I think it's in the order of 36, but the
32 number has changed, there are several iterations
33 of the numbers of CU's. And, again, they're split
34 between lake type and river type and I'm -- I
35 can't -- I honestly can't remember the exact
36 breakdown.
- 37 Q All right. So your recollection is about 36, but
38 there have been some changes?
- 39 MR. SAUNDERS: Yes.
- 40 Q Perhaps others can help on this. Is there a
41 definitive number, Dr. Hyatt?
- 42 DR. HYATT: Well, we've just been through a CSAS review
43 of the paper that identifies 36 CU's that were the
44 subject of status and trend -- or that were
45 potentially the subject of status and trend
46 evaluations, but of those, and Dr. Holt can
47 correct me if I get the wrong number, but of

1 those, there were 18 that had substantive
2 information to allow a status and trend
3 assessment.

4 Q We'll come specifically to the CSAS review very
5 quickly.

6 DR. HYATT: However, the number of CU's at any given
7 point can be in flux as suggestions are made to
8 either split or, alternatively, amalgamate based
9 on new knowledge that is presented to the
10 Department. So you know, at this point in time,
11 one would identify that 36 would be the common
12 number that would come up for the Fraser.

13 Q Thank you. Mr. Saunders, under Step 1.2, the
14 identification of benchmarks for the CU's, you'll
15 agree that in 2009, Dr. Holt published the DFO's
16 methodology to identify benchmarks?

17 MR. SAUNDERS: Yes.

18 Q And in --

19 MR. SAUNDERS: Perhaps Dr. Holt can clarify that -- you
20 know, that's one step in a process of fully
21 identifying a benchmark.

22 Q Indeed, and we'll get to Dr. Holt. You said in
23 your summary that one contentious issue which came
24 out of the peer review of Dr. Holt's paper is
25 aggregate assessment of CU status. Can you
26 explain to whom was this contentious?

27 MR. SAUNDERS: Mr. Commissioner, we've talked in the
28 earlier presentation, or the earlier panel, Dr.
29 Riddell and Dr. Irvine presented the benchmark,
30 the red, amber, green zones in the Wild Salmon
31 Policy and we really just spoke about -- in
32 describing what those were, we said, "Well, that
33 will be the status of a particular conservation
34 unit."

35 Dr. Riddell also pointed out that there are a
36 number of indicators, both abundance-based
37 indicators and distributional indicators that are
38 really required to understand the health or the
39 status of a particular conservation unit. So the
40 contentious part is whether or not -- and so Dr.
41 Holt, you'll -- through this process, will learn
42 about the number of indicators and approach to
43 determining them, but if you have a number of
44 indicators that are in there, each one can be
45 categorized into -- can have a benchmark and can
46 be categorized into a zone. So imagine for each
47 conservation unit, you may have a -- more than a

1 handful of indicators. Some are red, some are
2 amber, and some are green.

3 Is there some methodology -- is there some
4 either logical or analytical approach that could
5 be taken to condensing those into a single
6 estimate reporting of status and that's
7 contentious within the scientific community, as
8 well as within, I think, the broader policy
9 community, or fish management as to whether or not
10 that should be done or can be done.

11 Q So if I understand you, the aggregation you're
12 speaking of is aggregating various -- benchmarks
13 for various criteria within a single CU?

14 MR. SAUNDERS: You used the word "aggregating." I
15 don't think they're additive. They're -- it's
16 about saying given the status of all of these
17 indicators, can you condense -- is there a summary
18 position that would say that this status -- that
19 would describe where this is.

20 Q Right, but it's a summary of a number of
21 indicators within a particular CU --

22 MR. SAUNDERS: Yes.

23 Q -- as opposed to a summary of the benchmarks of
24 several CU's?

25 MR. SAUNDERS: That's correct.

26 Q Thank you. Now, would you agree that so far,
27 there has been no benchmark established for any CU
28 on Step 1.2?

29 MR. SAUNDERS: Have we finalized a benchmark that is in
30 place right now? I would say no, although
31 certainly we have -- progress has been made, as
32 you've already presented, on the development of a
33 -- the methodology around these -- around
34 developing these benchmarks, and that's the
35 subject of Dr. Holt's work and others. And in --
36 again, a complex issue around -- every CU is
37 unique in terms of the amount of data, information
38 that are available to do that, and Dr. Holt can
39 speak to that. But we've been -- there's a lot of
40 work going on in a number of areas.

41 Our Wild Salmon Policy pilot area in Port
42 Alberni, Somass area, is working on benchmarks
43 there. We have work in the Fraser under the
44 Fraser River Sockeye Spawning Initiative and other
45 processes. And the paper that's just in front of
46 our peer review process, CSAP, right now, the -- a
47 large paper that I believe is entered into

1 evidence is in the process of -- it went through a
2 first round of peer review, it was very positively
3 received, and that's to apply these benchmarks,
4 develop the benchmarks and report on status of
5 Fraser River sockeye. And so that is in the
6 revision -- it was accepted. If I'm not mistaken,
7 it was accepted subject to some revision, and Dr.
8 Holt can speak to that paper, as well.

9 Q Yes.

10 MR. SAUNDERS: We also have a large initiative in the
11 Skeena that is partly funded by Moore Foundation
12 and others, and they are working in that area, as
13 well, on the application of benchmarks. So we're
14 well along on -- in that process.

15 Q All right.

16 MR. SAUNDERS: But have we absolutely delivered and
17 said, "Here are the benchmarks for a CU," no.

18 Q Are there provisional benchmarks for all 36 Fraser
19 River sockeye CU's?

20 MR. SAUNDERS: I can't speak to the exact number. I've
21 been -- it's been some time since I've been
22 involved in the -- well, maybe I should backtrack.
23 Are you asking in terms of in a management sense,
24 or are you talking about in the -- in -- in the
25 process, Dr. Hyatt was just explaining, in the
26 paper that's before our peer review process right
27 now, all of them, although there's acknowledgement
28 in there that some are data poor, that we can't
29 actually determine, do work to determine a
30 benchmark.

31 Q All right. So they haven't all been -- we don't
32 have benchmarks for all 36 Fraser River CU's,
33 right?

34 MR. SAUNDERS: I can't -- I don't believe so, but
35 perhaps Dr. Hyatt can --

36 DR. HYATT: Yes, I can speak to that. We've just
37 finished a review, an initial review of a paper by
38 Sue Grant, who is the senior author of which Dr.
39 Holt was also one of the co-authors, on the
40 development of state and rate benchmarks for
41 Fraser River sockeye, and this is upper and lower
42 benchmarks.

43 As I mentioned before, 18 of the sockeye CU's
44 were examined and provisional benchmarks, both
45 upper and lower, were provided in that paper as
46 examples of the methodology.

47 The Salmon Subcommittee of CSAS, there were

1 three reviewers of that paper, I was one of the
2 reviewers, and the paper was viewed as a really
3 major step forward in terms of the methodology and
4 it was provisionally accepted subject to
5 satisfactory revisions. Directions have been
6 provided to the authors for those revisions.

7 Q Thank you, Dr. Hyatt, and we'll come back to -- I
8 think the points being that it was provisional and
9 the number we'll come to in the -- when we get to
10 the paper, itself.

11 DR. HYATT: Yeah. So a definitive answer, though, to
12 your question of whether benchmarks have been
13 provided for all 36 Fraser River sockeye CU's, the
14 answer would be no because a number of them are
15 data deficient.

16 Q Thank you. Dr. Holt, did you want to add anything
17 to that?

18 DR. HOLT: Is that document an exhibit here?

19 Q Yes, it is.

20 DR. HOLT: Because we can clarify the numbers because
21 I --

22 Q We are actually going to go to the document --

23 DR. HOLT: Okay.

24 Q -- in due course --

25 DR. HOLT: We'll -- okay, we can get the correct
26 numbers, then.

27 Q -- because there is more nuance, I think, around
28 the number we're talking about so we'll come back
29 to that. Dr. Hyatt, you raised the point that
30 this was a state and rate issue. Dr. -- or Mr.
31 Saunders, I notice in your Summary of Evidence,
32 you talk about the benchmark methodology finalized
33 in January of 2009. Since then, the DFO staff,
34 including area staff, have sought to have greater
35 emphasis on the abundance metric alone. Has there
36 been a retreat, then, from the distribution metric
37 that was one of the elements that Dr. Riddell
38 spoke about and which the -- seemed to have been
39 the starting place?

40 MR. SAUNDERS: I don't think there's been a retreat,
41 but I would ask my colleagues, Carrie -- Dr. Holt,
42 to -- or Dr. Hyatt. I mean, there are issues
43 around whether or not we have information on the
44 distributional aspects, and that was a later sort
45 of piece of work of development. So how that's
46 been actually applied in that paper, I would defer
47 it to them to sort of address that.

1 Q Okay. Well, then we'll come to that.

2 MR. SAUNDERS: Yeah.

3 DR. HOLT: Can I add to that?

4 Q By all means.

5 DR. HOLT: So not only is the data missing for a lot of
6 the distributional metrics, but also the
7 ecological foundations, our understanding of how
8 the distribution affects the sustainability of a
9 CU, that's also missing, which has made it
10 difficult to identify metrics and benchmarks.

11 Q Thank you. Mr. Saunders, under Action Step 1.3,
12 you say in your summary that you agree that DFO
13 does not yet have any CU monitoring plans,
14 however, you will say the DFO has stock assessment
15 programs to monitor data for, approximately, 19 of
16 the 36 Fraser River sockeye CU's. You will say
17 that DFO generally only has data for the most
18 abundant CU's. Am I correct that the first WSP
19 Step 1.3 assessment was done just this year?

20 MR. SAUNDERS: Can you give me that question again,
21 please?

22 Q This was the -- that this year was when the first
23 Step 1.3 assessment was done under the Wild Salmon
24 Policy; is that correct?

25 MR. SAUNDERS: Well, I'd have to look again at the
26 wording under 1.3, but assessment is an ongoing
27 process for -- I think, during the -- Mr.
28 Commissioner, during the first panel, we spent
29 quite a bit of time talking about stock concept
30 and how conservation units had sort of provided
31 some clarity around what that stock unit is, but
32 stock assessment activities around what are now
33 sort of categorized as CU's has been going on for
34 a very long time. So we do have a lot of
35 information, but it's a question of making sure
36 that it's -- that in some cases some units that we
37 were assessing were combinations of what ended up
38 to be combinations of conservation units. So
39 there's been some splitting.

40 And as Dr. Riddell, I think, testified
41 earlier, there are -- and I think it's clarified
42 in the paper that we were referring to, that Dr.
43 Holt's a co-author on, and Sue Grant is the main
44 author, that, in there, they break down the
45 various CU's, some of which there are -- you know,
46 there's just very limited evidence that fish ever
47 existed in certain places, and that's based on, as

1 you'll -- as you may or my not appreciate, the
2 extensive consultation that was done around these
3 CU's. So becoming aware of fish in certain areas
4 quite some time ago, all of those things need to
5 be considered in the total number and what
6 available information there are.

7 Q But in your Summary of Evidence, you say that the
8 DFO has -- does not yet have any CU monitoring
9 plans, and then you're now describing what is in
10 place, but it's not a plan to monitor CU's,
11 correct?

12 MR. SAUNDERS: Right. I guess it's -- that's correct.
13 So you're talking about a physical plan that has a
14 list of CU's and the plan -- and the proposed
15 monitoring that we have for every CU, we don't
16 have that in hand, but I was taking it to mean,
17 you know, DFO doesn't have any plans to monitor a
18 CU. We're monitoring the majority of them as of
19 right now. What we're talking about is a
20 particular -- a document that would be a plan
21 about how we're going to proceed. And in the
22 policy, that's, I think, generally referred to as
23 a stock assessment framework, and I can't remember
24 where that -- where in the Wild Salmon Policy that
25 is.

26 Q You really can't assess it until you have
27 finalized benchmarks, can you?

28 MR. SAUNDERS: The penultimate step would be providing
29 a reporting out of status against that particular
30 benchmark, but you can still have a plan to
31 collect information and do the actual on-the-
32 ground what would the actual operations be to
33 collect the appropriate data that would then
34 inform the calculation of the benchmarks.

35 Q But you can't assess it until you have a benchmark
36 to assess it against?

37 MR. SAUNDERS: You can't carry it to that final stage.
38 Dr. Irvine's --

39 DR. IRVINE: Are we on? Can you turn me on? Yeah.
40 No, I'd just like to maybe make a comment on that.
41 As Mr. Saunders is saying, we have been assessing
42 a lot of these CU's for decades. The benchmarks
43 are important to categorize status. So if you
44 want to categorize status, you need some sort of
45 benchmark, and we've used different types of
46 benchmarks. For instance, you could categorize
47 the status of a population of salmon in 2010,

1 compared to 2008. So those are another kind of
2 benchmark. Or you could compare the status of
3 salmon in the 1990s with the 1950s. So we very
4 much have been doing stock assessment work and
5 assessing status for many of these CU's for
6 multiple years.

7 You know, for example, Cultus Lake is a
8 conservation unit so there's been a long history
9 of stock assessment in Cultus Lake, going back to
10 the 1930s.

11 So what's new in the Wild Salmon Policy are
12 the identification of these two specific
13 benchmarks and which delineate three status zones.
14 So that's what's different, but we certainly have
15 been doing stock assessment and categorizing
16 status, you know, for many of the CU's for quite
17 some time.

18 Q But not against the benchmarks?

19 DR. IRVINE: No, these benchmarks, I think the paper
20 was published in 2008, was it, or --

21 DR. HOLT: Nine.

22 DR. IRVINE: 2009. So what is it now, 2010, so no, we
23 haven't gone too far, I guess.

24 Q Mr. Saunders, under Strategy Action Step 2.3, do
25 you agree that the -- selecting the indicators and
26 developing benchmarks for habitat assessment is
27 well along?

28 MR. SAUNDERS: Can you please repeat the question?

29 Q The Step 2.3, selecting the indicators and
30 developing benchmarks for habitat assessment is,
31 in fact -- sorry, 2.2.

32 MR. SAUNDERS: Okay.

33 Q I apologize. 2.2, that is completed and has been
34 for two years, or so?

35 MR. SAUNDERS: I'd have to refresh myself on exactly
36 what fullness and completeness, sort of, in 2.2
37 is, but yes, we have made a lot of progress in
38 terms of selecting indicators and benchmarks for
39 strategy under action Step 2.2.

40 Q Yeah. In your Summary of Evidence, you say that
41 OHEB, Oceans and Habitat -- what's the acronym --
42 Enhancement?

43 MR. SAUNDERS: Oceans Habitat Enhancement Branch.

44 Q Branch. Thank you. That it's a struggle to get
45 national support for Strategy 2. Can you explain
46 that?

47 MR. SAUNDERS: Probably, the -- I'm not the best person

1 to truly understand the nature of that. That's
2 probably a question best left for the RDG, but my
3 general understanding is that it has been a
4 struggle to get recognition of the national -- a
5 linkage between the national regulatory -- habitat
6 regulatory program direction and whether or not
7 the Wild Salmon Policy is sort of a recognized
8 component and compatible with that overall
9 program, but I'm not the -- that's just an
10 understanding that I have. I'm not the best
11 person to confirm that.

12 Q Thank you. In the -- with respect to Action
13 Step 2.4, establishing linkages to develop an
14 integrated data system for watershed management,
15 do you recall discussions between DFO and the
16 Province on how to better integrate data holdings?

17 MR. SAUNDERS: I don't recall that, but perhaps my
18 colleagues may.

19 Q Okay. You're not familiar with this issue, but I
20 see Ms. Stalberg's nodding her head so perhaps
21 she'd like to address this?

22 MS. STALBERG: We had discussions with the Province on
23 a number of fronts, Mr. Commissioner, regarding
24 linking provincial efforts on monitoring and Wild
25 Salmon Policy efforts on monitoring and programs
26 to deliver. So there was individual programs that
27 we looked at. Whether they were the -- through
28 Forestry, that the Province was undertaking, and
29 some of their monitoring programs, and then also
30 broader initiatives where they were reporting out
31 on monitoring information or data, such as
32 Hectares B.C., that Kim Hyatt was also involved in
33 through Strategy 3. And then there was also a
34 group within OHEB that worked with the Province on
35 data sharing, many different types of programs and
36 repositories for data that we were trying to
37 synchronize efforts and improve efficiencies
38 between.

39 Q Thank you. Moving on to Strategy 3, Mr. Saunders,
40 with respect to Action Step 3.1, this is to
41 identify indicators, to monitor status of
42 freshwater ecosystems. Do you agree that that
43 step has not occurred?

44 MR. SAUNDERS: Well, has the step been completed, I
45 would agree that no, it hasn't, but there has been
46 progress towards that, a substantial amount of
47 consultation and we're at the stage where we have

1 a -- you know, it distilled down into a
2 presentation. And as Dr. Riddell spoke, to, you
3 know, his -- he would have -- you know, there was
4 -- we're working towards ultimately more of a
5 discussion paper, but we do have the sort of
6 underpinnings of how we would approach that.
7 Q Is there a date by which this is to be done?
8 MR. SAUNDERS: I don't have a date.
9 Q And you'll agree that under the Wild Salmon
10 Policy, that was to be done by June of 2007?
11 MR. SAUNDERS: Yes.
12 Q Do you have a sense, or is it your -- who's
13 working on this?
14 MR. SAUNDERS: Dr. Hyatt perhaps can speak to it.
15 Q Okay. We'll come to the specifics, then we'll see
16 if he -- see if Dr. Hyatt has a date.
17 Dr. Irvine, you -- with respect to Action
18 Step 1.1, you say in your summary that Dr.
19 Holtby's methodology, and Dr. Holtby produced the
20 methodology that was -- PSARC reviewed last year;
21 is that correct?
22 DR. IRVINE: No, I think Dr. Holtby's paper was
23 published in 2007, I think.
24 Q Sorry, I -- I think, actually, that sounds
25 correct.
26 DR. IRVINE: Yeah, good.
27 Q We'll -- we will know the answer to that in a
28 moment.
29 DR. IRVINE: It might have been 2008, but it's on the
30 record.
31 Q And you say about those, that they are -- I guess
32 I went to it before I was -- posted in 2008, yes.
33 And you said that Dr. Holtby's original CU
34 definitions were largely uncontroversial and
35 accepted? Do you -- is that your view?
36 DR. IRVINE: The ones that were presented as a result
37 of that peer-reviewed assessment --
38 Q Yes.
39 DR. IRVINE: -- that's correct.
40 Q And is that still the case, that those are
41 accepted?
42 DR. IRVINE: Yes, I would say so. I'm sure there's
43 always disagreements. There's, approximately, 400
44 -- there's a large number of CU's. Is it 400?
45 Yeah, about 400 so I'm sure there's some
46 disagreement.
47 Q Okay. Yeah.

1 MR. WALLACE: Mr. Lunn, can you pull up the Grant and
2 Holtby (sic) draft paper, all 194 pages of it?
3 It's in the non-ringtail documents.

4 Q So this is the paper of Dr. Holt and Sue Grant.

5 DR. IRVINE: I think --

6 Q It's --

7 DR. HYATT: Excuse me, could counsel just clarify
8 whether that's Holtby and Ciruna?

9 Q Sorry, no, I'm referring now to the Grant and Holt
10 paper --

11 DR. HYATT: Oh, the Grant et al paper.

12 Q I apologize.

13 DR. HYATT: Thank you.

14 Q Yes. This is a document which you -- I think we
15 both addressed shortly earlier. This is a -- now,
16 let me just put this to you, Dr. Holt, this is a
17 paper that you co-authored and this is the paper
18 that was being discussed that has recently been
19 peer reviewed by CSAP; is that correct?

20 DR. HOLT: That's correct.

21 Q And this is entitled, "Fraser Sockeye Wild Salmon
22 Policy Evaluation of the Stock Status: The State
23 and Rate."

24 MR. WALLACE: I'd ask that be marked as the next
25 exhibit.

26 THE REGISTRAR: 184.

27

28 EXHIBIT 184: Document entitled, "Fraser
29 Sockeye Wild Salmon Policy Evaluation of the
30 Stock Status: The State and Rate"

31

32 MR. WALLACE:

33 Q Now, if I could just take you, Dr. Holt, to the
34 abstract of the paper, and on the question of the
35 methodology for -- or the determination of the
36 CU's, as we've just been discussing, the paper
37 says that the current paper, I'm reading the
38 second full sentence of -- the second sentence of
39 the abstract.

40 MR. LUNN: Do you have a page number?

41 MR. WALLACE: It's, yeah, page Roman numeral viii.

42 Q And in the second sentence, it says:

43

44 The current paper updates WSP Strategy 1,
45 Action Step 1.1 (the identification of
46 Conservation Units ... Action Step 1.2
47 (identification of benchmarks) and Action

1 Step 1.3 (CU status assessment) for Fraser
2 River Sockeye Salmon ...

3
4 And I won't try and pronounce the Latin:

5
6 Stock status is evaluated for 26 out of the
7 existing 36 Fraser Sockeye CU's; the
8 remaining 10 CU's are tentative given data
9 are currently insufficient to confirm the
10 validity of these CU's.

11
12 Is that intended to convey that the initial
13 methodology has identified 10 CU's that may not be
14 valid?

15 DR. HOLT: No, my understanding is that there are 26
16 CU's for which we have sufficient data and we can
17 perform these assessments. I just want to
18 clarify, in that first sentence, Action Step 1.1,
19 1.2 and 1.3 that says "CU status assessment," we
20 did assess status, but 1.3 also talks about the
21 monitoring program and this doesn't address that.
22 So we didn't address all of Step 1.3.

23 Q Thank you.

24 DR. HOLT: I just wanted to clarify that.

25 Q Thank you.

26 DR. HOLT: So 26, we had sufficient information, 10 we
27 did not have sufficient information, and there was
28 an additional five that were considered -- that
29 were put forth as perhaps didn't have data that
30 were -- that supported them being a CU, being
31 CU's. One of those was a CU that was a mistake in
32 the database and so there was consensus among the
33 group that that was, in fact, not a CU. Another
34 one where there was agreement it wasn't a CU
35 because of a misunderstanding of where a dam was
36 in a lake, and another three that we're still --
37 there's still debate around.

38 My understanding is that those 10 are still
39 considered CU's, but the data around them are very
40 poor, or it may just be a visual inspection, one
41 or two years where it's not confirmed that there
42 are long-term persistent populations so I think
43 that's why she worded it that way, but I -- my
44 understanding is those aren't on a list to be cut
45 from a -- or they aren't candidates to be cut from
46 our conservation unit list.

47 Q Okay. But the -- it still is an issue as to

1 whether or not a CU, as defined in Dr. Holtby's --
2 found by Dr. Holtby's methodology that a CU that
3 was originally identified may not survive the cut?
4 DR. HOLT: Exactly. So there are some -- still some
5 decisions about how appropriate that initial list
6 is. There are -- there's been several iterations
7 of Blair -- Dr. Holtby's list as new information
8 becomes available and errors in the database
9 become known so that we can revise that list.
10 Some of the information came up in this paper and
11 so we put our efforts into revising the list so it
12 better reflects this -- our scientific
13 information, and that was put forward to this
14 review process at the meeting.
15 Q Thank you. In the -- again, going back to the
16 abstract, Dr. Holt, this -- let me address the
17 question I raised a little earlier. This report
18 is entitled, "State and Rate," and was the
19 original title not, "State, Rate and
20 Distribution"?
21 DR. HOLT: It may have been. We discuss in the paper
22 why we didn't include metrics of distribution.
23 Q Can you discuss that? We've had a little on it,
24 perhaps you might just explain, first of all, why
25 you left it out and --
26 DR. HOLT: Mm-hmm.
27 Q -- how you're going to deal with it?
28 DR. HOLT: We felt that the data wasn't available to us
29 to assess metrics of distribution. The monitoring
30 -- the historic monitoring hasn't been extensive
31 and consistent enough to be able to assess if
32 populations have been, for example, contracting or
33 expanding, changing their distribution within a
34 CU. There is the -- because monitoring programs
35 have changed over time, we don't know whether an
36 apparent change in distribution is because of just
37 a change in monitoring, or a change in the actual
38 distribution of the fish.
39 So without the appropriate data, we didn't
40 think it was warranted to do an assessment on
41 distribution.
42 Q What are the plans to assess distribution?
43 DR. HOLT: We are currently investigating the
44 properties of different metrics of distribution
45 using simulation models where it -- a simulation
46 model will -- can simulate a Fisheries system
47 under various scenarios and then evaluate which of

1 the metrics has the best properties in terms of
2 being able to detect contractions, given all the
3 uncertainties in the data, uncertainties in the
4 biological system and the uncertainties from our
5 assessment protocols. So we're in the midst of
6 doing that simulation work.

7 Q You'll agree that the Wild Salmon Policy calls
8 upon there being a distribution metric, as well,
9 Dr. Holt?

10 DR. HOLT: Yes.

11 Q Dr. Holt, is there a timetable for considering
12 this and dealing with the simulation models and
13 trying to assess distribution?

14 DR. HOLT: I'm not aware of any timetable, myself, but
15 others may.

16 Q Dr. Irvine?

17 DR. IRVINE: No. No, I'm not, but I'd just like to
18 point out that the Wild Salmon Policy was
19 developed for five species of Pacific salmon so
20 you've got sockeye, Chinook, Coho, chum and pink
21 salmon. The sockeye, which is the subject of this
22 investigation, are the one species that have the
23 most-restricted distributions so that this
24 distribution parameter -- it's important for
25 sockeye, but really, when we developed the policy,
26 we were thinking much more about the other
27 species. So if you think of a pink salmon, or a
28 chum salmon, or a Chinook, or a Coho that are
29 distributed over multiple watersheds and huge
30 areas of coastline sometimes, I mean, that's where
31 one would more frequently use this distribution
32 parameter. So you don't want to have all your
33 eggs in one basket, or all your fish in one small
34 area.

35 The sockeye, the conservation units, are lake
36 based so you may have multiple spawning locations
37 within a lake, and some cases you don't so it's --
38 you know, the different types of data that one
39 uses will depend on -- data availability, as Dr.
40 Holt is pointing out, but also it varies depending
41 on the species and the location of the fish in the
42 province.

43 Q So you would say that it's less significant for
44 sockeye, is that the point?

45 DR. IRVINE: I think it depends on the conservation
46 unit. I mean, if -- I mean, within conservation
47 unit, variability is important, but with sockeye,

1 a lot of the data will tend to be when fish are
2 entering or exiting the lake, where you will
3 frequently have sub-groups from that conservation
4 unit passing through an area at the same time.
5 They're perhaps going to different locations. So
6 that the data that you collect may not be
7 sufficient to allow you to look at the
8 distributional aspects.

9 Q Thank you. If I may, Dr. Holt, just to come back
10 for a moment to the 10 CU's, was it part of your
11 mandate in -- during this investigation to review
12 the validity of CU's, or was this just a matter of
13 coming to a conclusion --

14 DR. HOLT: Yes, it was.

15 Q It was? And is that from the initial request for
16 Science information?

17 DR. HOLT: I --

18 Q Let me take you to the appendix.

19 MR. WALLACE: Appendix 6, page 166, Mr. Lunn. And just
20 so the Commissioner understands, these papers are
21 produced as a result of a request for scientific
22 advice from, in this case, Fisheries and
23 Aquaculture Management. And actually, it's from
24 Fish and Science.

25 Q Directorate branch or group initiating the
26 request, category of request, Fisheries and
27 Aquaculture Management and Science, correct?

28 DR. HOLT: Correct.

29 Q And in the description of the request, under
30 heading 1, in the box:

31
32 Develop Wild Salmon Policy ... lower
33 benchmarks for up to 36 Fraser Sockeye WSP
34 Conservation Units ... where data
35 availability permits;

36
37 And then:

38
39 Several of these 36 CU's have been flagged by
40 Fisheries and Oceans Canada ... Stock
41 Assessment as being opportunistic spawning
42 sites only rather than CU's.

43
44 Is that an invitation from Stock Assessment that
45 perhaps the -- there was a question about the
46 validity?

47 DR. HOLT: Well, this came up at the meeting, that

1 there was disagreement amongst the group. If
2 there wasn't good quality data on the CU's, are
3 they, in fact, full CU's? It wasn't resolved. My
4 understanding was that they were to be kept as
5 CU's despite the fact that we don't know that
6 there was persistent populations in there.

7 Q Okay.

8 DR. HOLT: But there is, you know, disagreement in the
9 group of how that should be handled.

10 Q Can you tell us more about this discussion? Who
11 was involved in the discussion and was there a
12 suggestion that they should simply be dropped?

13 DR. HOLT: Sue Grant was certainly in the discussion,
14 as was Blair Holtby. Blair's opinion was to
15 include, to maintain the CU's within the -- in the
16 list. Sue argued that for those CU's for which we
17 only have very opportunistic observations for
18 those in certain locations, where we have no
19 evidence of persistent populations, that perhaps
20 they shouldn't be included. I don't have a --
21 maybe Kim has more to add.

22 DR. HYATT: I can add to this.

23 Q Yes, please.

24 DR. HYATT: The discussions in a Salmon Subcommittee
25 review air a number of different perspectives and
26 what those discussions are aimed towards is coming
27 up with a recommendation or some kind of end point
28 that is satisfactory to the group. And the end
29 point in this case, after discussion, was that
30 there were -- there was a group of sockeye that
31 clearly constituted CU's and had sufficient
32 information to reinforce that label. There were
33 some added information sources that identified the
34 erroneous inclusion of a couple of CU's where none
35 had actually existed, and this was a
36 misinterpretation of data or just data that -- as
37 Dr. Holt has pointed out, fish never occurred
38 above this point because there was always an
39 impassable barrier. So those instances, those
40 identities were removed as CU's, and then there
41 was a third group that was regarded as nominal
42 CU's for which the information at hand was neither
43 sufficient to confirm their identity as CU's, and
44 this would mean information like genetic
45 information that would confirm their uniqueness,
46 persistence, sufficient surveys over time, to
47 confirm that persistence. So neither sufficient

1 information to confirm their identity as CU's, nor
2 sufficient information to reject them out of hand
3 as CU's. So they stay in that tentative bin,
4 looking for additional clarification through
5 supplementary surveys, through a search for
6 additional information, you know, a more thorough
7 search.

8 Q Isn't it likely that the same information that
9 would -- or data that would lead you to conclude
10 that these CU's were perhaps not valid for the
11 reasons you mention might also be CU's that are in
12 tough shape and very much in the red zone? If
13 they are CU's, they're not doing well?

14 DR. HYATT: It's -- well, yes and no. I mean, the
15 issue that you point out is one of certainty.
16 Clearly --

17 Q I'm sorry, I don't understand.

18 DR. HYATT: Well, it's a question of have we blanketed
19 the landscape with sufficient survey effort to
20 know all of the locations that salmon currently
21 occupy or have ever occupied and whether if you
22 see salmon in a particular location at one point
23 in time, in the absence of a long series of
24 observations, whether that's a CU or a -- or
25 simply a stray from some other location. And it
26 takes a process of organized assessment over both
27 space and time to gather sufficient information to
28 determine which of those categories it really lies
29 in.

30 Q Dr. Holt, do you have a view on this? Is it
31 likely a -- getting away from certainty, is it
32 likely, though, that where a CU has been
33 identified and now you look at it and not sure, it
34 may well be because it's not doing well?

35 DR. HOLT: I would not say it was likely because it
36 wasn't doing well. We don't have the information
37 to be able to further assess whether it is a
38 conservation unit, or not, whether it is a
39 persistent population, or not.

40 Q Thank you.

41 MR. WALLACE: Mr. Commissioner, is this a convenient
42 point to break?

43 THE COMMISSIONER: Very well. We're going to recess
44 for 15 minutes.

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

1 MR. WALLACE: Thank you, Mr. Commissioner. Brian
2 Wallace.

3
4 EXAMINATION IN CHIEF BY MR. WALLACE, continuing:
5

6 Q Dr. Holt, just to finish up on the 10 CU's that
7 weren't assessed and where validity of which are
8 under question, you indicated that the reason for
9 this is the lack of data on those CU's. Would it
10 be fair to suggest that the data that DFO has been
11 collecting over the years has been largely based
12 on abundance and that it's the lack of abundance
13 data that is the reason why these CU's have
14 insufficient data?

15 DR. HOLT: I'm not clear. There's a lack of abundance
16 data on those CU's, like consistent abundance
17 data.

18 Q And the other side of that equation is the CU's on
19 which you have abundance data are the ones that
20 are important because of their size and where
21 there's -- they're important to the commercial
22 fishery and not others?

23 DR. HOLT: True.

24 Q So there is a relationship, then, to the size and
25 to the ability to assess them?

26 DR. HOLT: Yeah, I'm not -- I don't know what the
27 numbers are of those 10 CU's, so I can't talk to
28 that specifically and how that compares to the
29 abundances of the 26 that we could see -- that we
30 could evaluate. You know, we could go through the
31 document page -- like into the details of the
32 document to find out if there -- if there are
33 small CU's that we did evaluate that are --

34 Q Yes.

35 DR. HOLT: -- comparable in size to those that we could
36 not evaluate. I'm not sure whether there is some
37 overlap there or not.

38 Q Okay.

39 DR. HOLT: I don't know.

40 Q Thanks. Can you tell us, briefly, where we might
41 find these 10 CU's identified in the paper, or are
42 they spread throughout, or...?

43 DR. HOLT: There's a -- the bulk of the paper goes --
44 is about the 36 CU's. I think the 26 that are
45 evaluated for abundance and trends and abundance
46 are listed, first, and then the 10 without
47 sufficient data are listed with a description of

1 what we know about them.

2 Q And can we identify where they are,
3 geographically, from going through the report?

4 DR. HOLT: I'm not sure if there's a figure, like a map
5 in there; do you recall?

6 DR. HYATT: There is a map in the paper. I'm not -- I
7 don't recall whether the location of each CU is
8 identified on that map, but certainly the
9 geographic coordinates of the stream mouths where
10 those CU's would be located would be known to the
11 department. I don't recall whether that detail
12 actually exists in the paper.

13 Q Okay. Thank you. All right, we may come back to
14 this. If you could just see if perhaps you can
15 provide the location or tell us how to find it?

16 DR. HOLT: Do you want the map and/or the list of 10
17 CU's location right now?

18 Q I'd like to know where we can find it, and if you
19 can tell us where they are?

20 DR. HOLT: Both those -- both those pieces of
21 information?

22 Q Yes, please.

23 MR. BUTCHER: Page 86.

24 DR. HOLT: Yes, page 86 is the section that starts:

25
26 Stock Status: Ten Tentative Conservation
27 Units (Additional Research Required)

28
29 And then, on page 88, is the five
30 conservation units that were removed from the CU
31 list just in this paper, by Sue Grant, the senior
32 author, but through this peer review process we
33 did not conclude that those five CU's should be
34 excluded, and so that's still -- she wrote this in
35 a draft, or this was a draft and --

36 Q Yes.

37 DR. HOLT: -- so this is not the case, that those five
38 CU's will all be excluded.

39 Q So we have - I'm confused - the 36 CU's,
40 initially?

41 DR. HOLT: Right.

42 Q Ten are in question, because there's insufficient
43 data, which means it's down to 26. Of those 26,
44 seven are in the red zone; 13 are in the yellow
45 zone; five in green; and one unassessed, which
46 adds up to 26.

47 DR. HOLT: So there are 26 that we assessed. There was

1 10 --
2 Q The -- yes?
3 DR. HOLT: And then 10 that were poor quality data, and
4 then an additional five --
5 Q So that the --
6 DR. HOLT: -- that were -- that Sue Grant did not
7 include in that initial list, because she
8 considered them to be excluded. But then, when we
9 got together as a group to review this document,
10 there was criticism over that, saying about
11 whether all five of those should be excluded or
12 not.
13 Q Okay. So the number of 36 that has been used,
14 excludes the five --
15 DR. HOLT: Excludes --
16 Q -- which may be added to that --
17 DR. HOLT: Yeah.
18 Q -- which could bring it up --
19 DR. HOLT: Right.
20 Q -- to a maximum of 41?
21 DR. HOLT: Except two of those, of the five, are -- one
22 of them was a mistake in the database, so we -- it
23 was -- there was consensus among the group that
24 that was not to be included. And a second one is
25 where they had thought fish existed above a
26 barrier, which was impossible. So two of those
27 are clear, and then the other three were a little
28 bit less clear.
29 Q Thank you.
30 DR. HYATT: Just to add comment to this, and as a
31 comment that's appropriate for the Commissioner,
32 keep in mind that this is a paper that's still in
33 review; it has not been accepted nor finalized; it
34 is subject to an additional round of scrutiny by
35 the subcommittee before it's accepted, and so
36 you're talking about -- you're having a discussion
37 about discussions that are still entrained.
38 Q Thank you, Dr. Hyatt, I was going to go there, but
39 just to understand it's still influx. Where we
40 are, though, in the current state of knowledge
41 from this document, I take it we are at 39 CU's
42 with 13 uncertain; is that it? Ten and three?
43 DR. HOLT: That would be fair.
44 Q Yeah. But -- yeah. Of those 13, 10 we have more
45 information for that she included as CU's in this
46 list, we just have poor quality information, but
47 three additional ones which she -- Sue Grant

1 considered not CU's, but as a group we weren't --
2 that wasn't supported.

3 Q I think that's clear. Let me ask -- Mr. Saunders?
4 MR. SAUNDERS: You used the word "uncertain". I think
5 we're now down to three that are uncertain, if
6 you're going to use that word.

7 Q Okay.

8 MR. SAUNDERS: And 10 that are unassessed.

9 Q Thank you.

10 MR. SAUNDERS: Yeah.

11 Q And of the 26 that are assessed, we have only five
12 in the green zone, and we have 20 in yellow or
13 red. Does this concern you, this result, Dr.
14 Holt? Dr. Holt?

15 DR. HOLT: These were not final assessments. Through
16 discussions with our -- with the group within the
17 review process, we decided that the data -- the
18 results that we presented here were insufficient
19 to give assessments, because -- because of biases
20 in the assessment process, and so we weren't
21 comfortable, as a group, presenting these overall
22 assessments with that -- the green/amber/red zone
23 status.

24 Q So in the paper as drafted, those assessments were
25 made, but in the review process there was not
26 sufficient certainty to confirm that, or to accept
27 that?

28 DR. HOLT: Right. The subcommittee recommended that we
29 do further analysis to make the analyses more
30 complete, unless there -- unless biased. And so
31 that's part of what our review -- or revisions
32 right now.

33 Q And this is the point that Dr. Hyatt was referring
34 to? Mr. Saunders?

35 MR. SAUNDERS: I was just going to ask that the
36 document that we were looking at -- that you were
37 reading from would be up on the screen to help us
38 understand the context of --

39 Q I think it is, but --

40 MR. SAUNDERS: For the -- is that where we're reading
41 from right now? That would be the abstract.

42 Q We're at page 88 of the document. What did you
43 want to see?

44 MR. SAUNDERS: Sorry, I was just having trouble
45 figuring out where we were, what you were --

46 Q I wasn't actually referring to the --

47 MR. SAUNDERS: Oh.

1 Q -- point of the document; I was asking a more
2 general question.

3 MR. WALLACE: Could we go to page 16 of the Wild Salmon
4 Policy, Exhibit 85, please -- or, sorry, Exhibit
5 8, please.

6 Q Dr. Irvine, you say, in your summary of evidence,
7 with reference to page 16 of the Wild Salmon
8 Policy, or, sorry, I'd like to ask you about the
9 issue of consultations with First Nations, which
10 is referred to at page 16 of the Wild Salmon
11 Policy for the purpose of defining CU's.

12 Can you tell me whether you're aware of
13 whether DFO scientists have engaged in such
14 consultations, whether they have any guidelines
15 for those consultations, and whether any of them
16 have taken place?

17 DR. IRVINE: Well, yes, during the fall -- so the
18 policy was finished in 2005. During the fall of
19 2006, extending into January of 2007, there were,
20 I believe, meetings in 12 communities within
21 British Columbia, and at each of these locations
22 we met, or at least in most cases, we met with
23 First Nations and with stakeholders, and we
24 presented a preliminary -- we presented a
25 description of the methodology of CU
26 identification as we knew it at the time, and we
27 provided provisional lists of conservation units,
28 and so we invited comments on both the methodology
29 and the actual units. So this is part of a
30 broader consultative process so that it wasn't
31 strictly on Strategy 1. We went through
32 Strategies 1, 2, 3 and 4.

33 The process is quite interesting, because at
34 each of these meetings what we would do is we
35 would put up maps of the province on the table or
36 on the walls and we had one big map for each of
37 the five species, and then we had locations of the
38 proposed conservation units for each of the five
39 species up on the walls. And so during the course
40 of the meeting, we would ask for input as to the
41 methodology, so we had a hand -- a typed version
42 of the methodology that we distributed, as well as
43 a PowerPoint presentation. But a lot of people
44 were maybe uncomfortable presenting their feedback
45 in a public meeting, and so what we asked people
46 to do is if they had comments on a proposed
47 conservation unit, to just write it on a sticky

1 note. And so at each of those locations we
2 basically compiled all these little sticky notes,
3 so people would say, you know, "This doesn't
4 appear to be correct, because of," or they would
5 provide, you know, perhaps some information on the
6 distribution of the fish or the timing of the
7 fish, which would help us to further delineate the
8 conservation units. So that took place during
9 2006 into early 2007.

10 And then there was a consultant's report that
11 was written up on that, as well as, I believe, a
12 DFO report.

13 Q And were these -- did these consultations have any
14 impact on the identification of the CU's?

15 DR. IRVINE: Well, most of the comments were -- did not
16 have any direct bearing on the conservation units,
17 but in some cases they certainly did. I mean, I
18 remember the one -- the one rather embarrassing
19 example, where we had a number of the streams in
20 Haida Gwaii flowing the wrong way, and it was a
21 mapping error. And so we were told about this
22 many times, you know, these bureaucrats from
23 Vancouver coming up and they don't even know the
24 way the streams flow. So we did get input. I
25 think we would have caught that error, eventually.
26 But we received a lot of, you know, very detailed
27 input that was provided.

28 In this particular instance, I mean, I
29 attended some of these meetings, Dr. Hyatt
30 attended some, Mark Saunders attended some, and I
31 had a biologist working for me at the time, Ray
32 Lauzier, and he actually attended most of them.
33 So part of his responsibility was to assemble all
34 these sticky notes, if you like, as well as other
35 comments that were provided at the meetings, and
36 then meet with Dr. Holtby, and so they went
37 through them one at a time and made whatever
38 changes were appropriate.

39 Q Dr. Irvine --

40 MR. SAUNDERS: Can I add to that?

41 Q Yes, please.

42 MR. SAUNDERS: I mean, I think it's fair to say that
43 where it was warranted there were changes made,
44 both from First Nations and other sources, and I
45 think, you know, the description as you're
46 gathering is a very complex analysis to determine
47 the conservation units, Mr. Commissioner. But I

1 think the outcome was an amazingly elegant piece
2 of science that, I mean, as a biologist I -- when
3 I -- when we were developing the policy, I sort of
4 wondered what it would look like, what our
5 definition of -- or our scientific method to
6 determine a conservation unit, and in my mind I
7 fully expected it to be a genetic dendrogram of
8 infinite complexity that would leave just about
9 everybody saying, you know, "You guys got an
10 answer. I don't know how you got there," but, in
11 fact, as Dr. Riddell described in the last panel,
12 it became very tightly defined by the ecology, so
13 this ecotypic definition where watersheds --
14 groups of watersheds that were definable and the
15 characteristics of them that were driving the
16 biodiversity led to this group of -- an
17 understanding of a group of fish. And that has
18 resonated with the biologists that aren't
19 geneticists. It's backed up by genetic analysis
20 that shows that these -- where we don't have
21 genetics everywhere, but where we do have it, it's
22 shown that the process is complete. And this has
23 resonated with First Nations, it's resonated with
24 people on the ground, with fishers, people that
25 understand local areas that conservation units --
26 the diversity are driven by the local conditions
27 and they get it.

28 And I think the -- one of the strongest
29 recollections I have is in Merritt, where we
30 described the process of it and the linkage of the
31 uniqueness of these fish and the relationship to
32 the land and, in fact, Dr. Riddell, I think, at
33 the time spoke, or one of our scientists spoke to
34 the fact that this linked up with these boundaries
35 were very similar to the First Nations linguistic
36 boundaries, and the chief at the time said, "Well,
37 it took you guys 100 years, but you got it right,
38 finally."

39 So I think these CU's with people that aren't
40 technically astute resonate with both a science --
41 a scientist level and at a practical knowledgeable
42 understanding of on the ground. And one of the
43 pieces there is you don't have to have genetic
44 data. If there are unique fish that people can
45 come to us and say, "There are fish that are here
46 that are at a different time and look completely
47 different," that's enough to warrant some

1 investigation by Blair and our staff.

2 And that ability to have discourse at that
3 very practical level of understanding these fish
4 is, I think, an outstanding sort of characteristic
5 of this CU process.

6 MR. WALLACE: Thank you. I wonder if I can just take
7 -- ask you, Mr. Lunn, to go to page 18 of the
8 Exhibit 8. There's a reference in the left-hand
9 column, just before the paragraph that starts at
10 the bottom of the page, talking about looking at
11 levels of abundance that cannot sustain further
12 mortalities and describing the red zone. And at
13 the end of that paragraph it says:

14
15 The Department will prepare and publish
16 operational guidelines on the estimation of
17 this level. The management response to this
18 level will be determined on a case by case
19 basis, in consultation with First Nations,
20 and others affected by this determination
21

22 And I -- in your -- Dr. Irvine, in your summary of
23 evidence, and also, I think, in yours, Mr.
24 Saunders, I believe you note that you're not aware
25 that such operational guidelines have ever been
26 produced. And I just am looking for
27 clarification, Dr. Holt, because I think you were
28 -- equated, today, Dr. Holtby's synoptic framework
29 assessment with those guidelines, and I'm
30 wondering if I misunderstood.

31 DR. HOLT: My understanding is that Blair, Dr.
32 Holtby's, synoptic survey uses thresholds that are
33 within the red zone that are aligned with COSEWIC
34 criteria that identify when a stock has a -- has a
35 high probability of extirpation. So I have
36 equated that with that phrase here, but we haven't
37 had a discussion, department-wide or within our
38 group, that that is -- that those are parallel
39 projects.

40 Q Okay. Dr. Holt, going to Action Step 1.2, can you
41 explain your contribution to the implementation of
42 that, and in particular, your role in designing
43 the methodology to identify indicators in the
44 benchmarks?

45 DR. HOLT: So Action Step 1.2 is to develop criteria to
46 assess CU's and identify benchmarks to represent
47 biological status. So we first identified four

1 classes of indicators to represent the diverse
2 ways that anthropogenic and natural factors can
3 influence salmon populations. Those were
4 abundances to the four classes of indicators that
5 we looked at where one based on abundances,
6 another based on distribution, another based on
7 trends in abundance over time, and a fourth on
8 fishing mortality relative to productivity.

9 We chose abundances and distribution because
10 they are explicitly described in the text of the
11 Wild Salmon Policy here. We included trends in
12 abundance over time, because that is often used in
13 COSEWIC and the -- COSEWIC is mentioned here in
14 this text of Action Step 1.2, that the lower
15 benchmark should be established at a level to
16 allow for a buffer against COSEWIC listings, and
17 trends and abundance are used by COSEWIC to
18 identify when those listings are.

19 We also included this fourth class of
20 indicators, fishing mortality relative to
21 productivity. And this is different than the
22 first three in that it's not an intrinsic property
23 of the populations, but is a threat. We included
24 it for those CU's for which we don't have
25 information on abundances, per se, but we do have
26 information on fishing mortality. We might be
27 able to identify when a fishing mortality is too
28 extreme that will not allow for sustainability of
29 that population.

30 So these four classes of indicators are
31 described in the document that Blair, Al Cass,
32 Brian Riddell and I authored in 2009, the CSAS
33 paper. We then identified specific indicators in
34 those four classes of indicators, specific
35 metrics, and then within each of those metrics we
36 identified benchmarks. So lower and upper
37 benchmarks.

38 It sounds like you've gone through the
39 definition of those lower and upper benchmarks.
40 That lower benchmark was to be established at a
41 level to allow for a substantial buffer between
42 that and a COSEWIC listing.

43 We developed candidate benchmarks for those
44 metrics for two of the classes of indicators;
45 abundances and fishing mortality. We then
46 evaluated those candidate benchmarks using a
47 simulation model -- a simulation modelling

1 approach, which is described in the document Holt
2 2009, another CSAS paper.

3 Q I'm trying to get the exhibit numbers of these --

4 DR. HOLT: Okay.

5 Q -- just for the record. So these are Exhibits 153
6 and 154. We don't need to bring them up; just so
7 the record reflects that.

8 DR. HOLT: And so that document describes how we
9 evaluated the candidate benchmarks accounting for
10 various uncertainties in the fishery -- or the
11 biological and management systems.

12 Do you want me to go into detail on that?

13 Q No. No, I think that's just -- general is
14 sufficient, just your involvement in that in a way
15 that we might understand.

16 In your summary of evidence, Dr. Holt, you
17 speak of the difference between the lower
18 reference point and the use of benchmarks, and you
19 -- I'm wondering, and you make the point that
20 lower -- that reference points tend to be
21 operational triggers as opposed to benchmark,
22 which -- sorry. You have it as being more
23 prescriptive than a benchmark, which is not
24 intended to direct specific management action. Is
25 it your view that use of reference points, lower
26 reference points, is what's required by the
27 precautionary approach?

28 DR. HOLT: So I agree that the Wild Salmon Policy
29 requires that benchmarks --

30 Q Yes.

31 DR. HOLT: -- are delimited. DFO's precautionary -- or
32 decision-making framework that incorporates the
33 precautionary approach talks about reference
34 points. Perhaps we can look at that document. Is
35 that evidence?

36 MR. WALLACE: We'll need to -- okay, this is ringtail
37 CAN007416. It's on Canada's list, I think.

38 MR. LUNN: Do we have a tang number, by chance, in
39 Canada's list?

40 MR. WALLACE: I don't have that handy.

41 DR. HOLT: The fishery decision-making framework --

42 MR. WALLACE: Yes, the fishery decision-making
43 framework.

44 DR. HOLT: -- incorporation the precautionary approach.
45 And if we look at page 2 - oh, maybe it's further
46 down - there's the first figure shows an example
47 of the reference points, where a lower reference

1 point is a level of a stock status that is
2 undesirable, on the X-axis here is stock status,
3 and on the Y-axis is removal rate or harvest rate.
4 So this document describes how a low stock status,
5 the removal rate is essentially zero. And then,
6 there's a direct relationship between stock status
7 and that removal rate.

8 That is not the case for Strategy 1.2 of the
9 Wild Salmon Policy that identifies benchmarks.
10 Those are not directly linked to a removal rate as
11 they are in this document here. For example, in
12 the red zone, that is to trigger immediate
13 consideration into possible management actions to
14 reduce probabilities of extinction, but doesn't
15 specify a specific removal rate. Same in the
16 amber or green zones. So those are the -- that's
17 the difference.

18 Q In your view, then, do you think that the Wild
19 Salmon Policy use of benchmarks meets the
20 precautionary principle which has been established
21 here and is used internationally?

22 DR. HOLT: I agree that it does incorporate the
23 precautionary approach and that precaution that we
24 shouldn't use uncertainty in the -- in data or in
25 our scientific knowledge to delay action. The
26 Wild Salmon Policy accounts for that by allowing
27 for a substantial buffer between the lower
28 benchmark and a level that would be, for example,
29 considered at risk by COSEWIC, so it allows for
30 that uncertainty -- we won't get down to that
31 level, that COSEWIC level, because we've allowed
32 for that buffer. So it's precautionary in that
33 sense.

34 But the lower reference points here are not
35 the same as the lower benchmark in the Wild Salmon
36 Policy.

37 Q So that describes the conservatism of the line,
38 but doesn't dictate any management behaviour for
39 something in the red zone, regardless, right?

40 DR. HOLT: It describes what the management approach
41 should be, but not specific removal rates.

42 Q May I direct you to Exhibit 149.

43 MR. WALLACE: Before we do that, the document that we
44 just brought up, CAN007416, the Fishery Decision-
45 Making Framework Incorporating the Precautionary
46 Principle should be marked, please, as the next
47 exhibit.

1 THE REGISTRAR: 185.

2
3 EXHIBIT 185: Fishery Decision-Making
4 Framework Incorporating the Precautionary
5 Principle
6

7 MR. WALLACE:

8 Q Dr. Holt, this document is a record of decisions
9 from an operations committee meeting in September
10 of 2008, and there were two presentations
11 indicated on the first page, and the first I
12 believe you were involved in the process of all
13 benchmarks for Strategy 1?

14 DR. HOLT: Yes.

15 Q And then the next steps says:

16
17 *The lower benchmarks should be derived from
18 biological considerations, primarily the
19 assessment of biological status should be
20 differentiated from subsequent management
21 actions taken in response to that status. It
22 is important to characterize our work on
23 benchmarks within the context of national
24 level priorities.
25

26 Can you tell me what that means? Really just the
27 last phrase.

28 DR. HOLT: Just the last phrase? That the Wild Salmon
29 Policy is one of a number of policies that
30 Fisheries and Oceans Canada is pursuing and that
31 this -- our work on Strategy 1 needs to be --
32 needs to consider the context for the other
33 policies that are also being pursued.

34 Q For example?

35 DR. HOLT: So one being the document we just looked at,
36 the decision-making framework incorporating the
37 precautionary approach, and another being SARA or
38 COSEWIC, the committee mandated to perform
39 assessments by SARA, because as we discussed, that
40 lower benchmark is to allow for a buffer between a
41 COSEWIC listing -- or itself and COSEWIC listing.

42 Q While I have this exhibit out, if I may ask a
43 question of you Ms. Stalberg, because you appear
44 to have been there that day as well and dealing
45 with the Strategy 2 assessment of habitat, and in
46 the next steps under that record of decision it
47 says it was advised to take a strategic approach

1 to Strategy 2 and to collaborate with our partners
2 to advance our interests.

3 Can you explain that to me, please?

4 MS. STALBERG: Partially. Is it possible to bring up
5 the September 23rd ops deck that I gave?

6 Q I'm sure it's possible. If it can be done
7 efficiently, I don't know. Exhibit 148.

8 MS. STALBERG: Yes, that's it, thanks. Can you scroll
9 down through a number of these slides and I'll let
10 you know which one? Okay, and if we can back up
11 to Transition Strategy, please? Try slide 17; 18.
12 Thank you. Okay, so I'll be referring to slides
13 18 and 19 in my response to your question. So can
14 we go -- or split the screen as well, back to that
15 question?

16 MR. LUNN: Oh, to the other document?

17 MS. STALBERG: Yes, please. That's right.

18 MR. WALLACE: We have the technology.

19 MS. STALBERG: Thank you so much. So at the September
20 23rd, '08, operations committee, that was a
21 session, Mr. Commissioner, where Strategy 2 we
22 were able to present the progress that we had made
23 to date and then the plans for continued
24 implementation. And the plans for continued
25 implementation were this Transition Strategy. So
26 it was at this session that Rebecca Reid advised
27 the group that the habitat working group
28 coordinator would be Sunset in March '08, and it
29 was basically how to proceed in advance of that.

30 And so for the Transition Strategy there were
31 internal works that needed to be continued, and
32 external works as an internal to the department
33 and external to the department. So there was a
34 focus, internally, on trying to operationalize the
35 efforts that the team had generated to date, and
36 so that's the OHEB integration piece, reviewing
37 all of our related work plan elements and
38 prioritizing them and implementing them. So there
39 was sessions coming up to provide guidance to OHEB
40 on what to implement of the Wild Salmon Policy.

41 And then there was still work with the
42 implementation team on developing a monitoring
43 framework for these habitat indicators, for
44 ecosystem indicators linking in with Strategy 1 as
45 well.

46 So there was internal work, and then if we
47 move to slide 19, please, external work included

1 continuing sessions to review proposed monitoring
2 framework and the associated implementation plan,
3 that internal one, that we would need to do
4 consultations with, with OHEB, once they were
5 determined.

6 So I can't recall if I had started the --
7 yes, so in March '08 I had started to meet with
8 external parties of Pacific Fisheries Resource
9 Conservation Council, the Upper Fraser Alliance,
10 Watershed Watch, on ideas for how to start
11 implement -- developing a framework for
12 implementing the habitat indicators. And we had
13 also started to have these conversations in a
14 large forum back in March '08, where all the
15 strategies met with First Nations and multi-
16 stakeholders in a session to review project
17 progress and then get feedback on that and future
18 directions.

19 And these meetings with groups were to try to
20 continue to foster these longer-term partnerships.
21 So the strategy - and I may have the dates wrong
22 on meeting with these different groups - but the
23 strategic approach to Strategy 2 that is
24 mentioned, then, in the September 23rd, was, "Yes,
25 well, given the," -- it's my recollection that it
26 was, "Yes, well, given a limited tenure of the
27 habitat working group coordinator, what do you
28 need to focus on in advance of this position
29 leading?"

30 Q So this is all in the context of the fact that
31 your position was part of the Sunset and there
32 would no longer be a habitat working group
33 coordinator --

34 MS. STALBERG: That's correct.

35 Q -- for the WSP? Yeah.

36 MR. WALLACE: Mr. Commissioner --

37 THE COMMISSIONER: We were to adjourn at 4:00 today,
38 Mr. Wallace.

39 MR. WALLACE: Yes, I apologize.

40 THE COMMISSIONER: Thank you.

41 MR. WALLACE: We were in midstream. I apologize.

42 THE REGISTRAR: The hearing is now adjourned until ten
43 o'clock tomorrow morning.

44
45 (PROCEEDINGS ADJOURNED TO DECEMBER 3, 2010,
46 AT 10:00 A.M.)
47

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.
7

8
9 _____
10 Susan Osborne

11 I HEREBY CERTIFY the foregoing to be a
12 true and accurate transcript of the
13 evidence recorded on a sound recording
14 apparatus, transcribed to the best of my
15 skill and ability, and in accordance
16 with applicable standards.
17

18
19 _____
20 Pat Neumann

21 I HEREBY CERTIFY the foregoing to be a
22 true and accurate transcript of the
23 evidence recorded on a sound recording
24 apparatus, transcribed to the best of my
25 skill and ability, and in accordance
26 with applicable standards.
27

28
29 _____
30 Irene Lim

31 I HEREBY CERTIFY the foregoing to be a
32 true and accurate transcript of the
33 evidence recorded on a sound recording
34 apparatus, transcribed to the best of my
35 skill and ability, and in accordance
36 with applicable standards.
37

38
39 _____
40 Karen Hefferland
41
42
43
44
45
46
47