

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



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

Public Hearings

Audience publique

Commissioner

L'Honorable juge /
The Honourable Justice
Bruce Cohen

Commissaire

Held at:

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

Tuesday, December 14, 2010

Tenue à :

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

le mardi 14 décembre 2010

APPEARANCES / COMPARUTIONS

Patrick McGowan	Commission Counsel
Jennifer Chan	Commission Counsel
Mark East	Government of Canada
Charles Fugère	
Boris Tyzuk, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
No appearance	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
No appearance	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.	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")
No appearance	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")
No appearance	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")
James Reynolds Derek Christ	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
Robert Janes Sarah Sharp	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)
No appearance No appearance	Adams Lake Indian Band Carrier Sekani Tribal Council ("FNC")
No appearance	Council of Haida Nation

APPEARANCES / COMPARUTIONS, cont'd.

Joe Gereluk	Métis Nation British Columbia ("MNB.C.")
Nicole Schabus	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")
Krista Robertson	Musgagmagw Tsawataineuk Tribal Counsel ("MTTC")

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1
PANEL NO. 10
In chief by Mr. McGowan

1 Vancouver, B.C. /Vancouver (C.-B.)
2 December 14, 2010/le 14 décembre
3 2010
4

5 THE REGISTRAR: The hearing is now resumed.

6 MR. MCGOWAN: Good morning, Mr. Commissioner. We're
7 continuing today with the evidence focusing on
8 aboriginal traditional knowledge, Aboriginal World
9 View and cultural context. We have four
10 panellists for you today. They're all represented
11 by Ms. Gaertner and Ms. Pence. I'll just follow
12 the same pattern I did yesterday of taking a
13 moment to introduce them to you, have their
14 witness summaries filed, and then hand them off
15 for a more detailed oral examination to Ms. Pence.

16 Starting on the right, we have Chief Fred
17 Sampson.
18

19 EXAMINATION IN CHIEF BY MR. MCGOWAN:
20

21 Q Chief Sampson, you're the chief of the Siska
22 Indian Band?

23 CHIEF SAMPSON: Yes.

24 Q And that's part of the Nlaka'pamux Nation?

25 CHIEF SAMPSON: Yes, it is a part of Nlaka'pamux
26 Nation.

27 Q Thank you. And you participated in an interview
28 with Commission counsel on September 21st of this
29 year?

30 CHIEF SAMPSON: Yes, I did.

31 Q And we produced a summary and you've had a look at
32 that, since that time?

33 CHIEF SAMPSON: Yes.

34 MR. MCGOWAN: Okay. If we could just have brought up,
35 please, Mr. Lund?

36 Q Are you content with the contents of that summary?

37 CHIEF SAMPSON: This is Dr. Ron Ignace's summary I'm
38 looking at.

39 MR. MCGOWAN: It's Chief Sampson we're looking for.

40 THE REGISTRAR: Excuse me, counsel. Did you wish them
41 affirmed first, or are you --

42 MR. MCGOWAN: Perhaps before we mark this, we'll just
43 have the panel affirmed.

44 THE REGISTRAR: Good morning, gentlemen. Do you
45 solemnly affirm that the evidence to be given by
46 you to this hearing shall be the truth, the whole
47 truth and nothing but the truth?

2
PANEL NO. 10 (Affirmed)
In chief by Mr. McGowan

1 (ALL PANEL MEMBERS AFFIRMED)

2
3 THE REGISTRAR: Thank you. Your name, sir?

4 DR. IGNACE: Dr. Ronald E. Ignace. My Shuswap name is
5 Stsmél'ecqen.

6 THE REGISTRAR: Thank you.

7 GRAND CHIEF TERRY: Saul Terry.

8 MR. ALEXIS: Thomas Alexis.

9 CHIEF SAMPSON: Fred Sampson.

10 THE REGISTRAR: Thank you, gentlemen. Counsel?

11 MR. MCGOWAN: Thank you. If we could have Chief
12 Sampson's summary brought up.

13 Q As you said, sir, you've had an opportunity to
14 review this summary, and you adopt its contents?

15 CHIEF SAMPSON: I do.

16 Q Thank you. Mr. Alexis --

17 MR. MCGOWAN: Moving to the left, Mr. Commissioner.

18 Q You're a member and former chief of the Tl'azt'en
19 Nation?

20 MR. ALEXIS: Yes.

21 Q And the Tl'azt'en Nation is a member -- is part of
22 the Carrier Sekani Tribal Council, or --

23 MR. ALEXIS: Yes, they are.

24 Q Okay. And you're also a board member for the
25 UFFCA presently?

26 MR. ALEXIS: Yes, I am.

27 Q And UFFCA, does that stand for Upper Fraser
28 Fisheries Conservation Alliance?

29 MR. ALEXIS: Yes, that's it.

30 Q Okay. And you also had an interview with the
31 Commission on September 22nd of this year?

32 MR. ALEXIS: Yes, I did.

33 Q Okay. And you've had a chance to review that
34 summary?

35 MR. ALEXIS: I did.

36 Q Okay. And you adopt its contents?

37 MR. ALEXIS: Yes.

38 MR. MCGOWAN: Okay. And I wonder if before we mark
39 this one if we could just mark the last one, Chief
40 Sampson's, assign an exhibit number.

41 THE REGISTRAR: For Chief Sampson, the exhibit number
42 is number 291.

43 MR. MCGOWAN: Thank you. And Mr. Alexis' summary?

44 THE REGISTRAR: 292.

45
46 EXHIBIT 291: Witness summary for Chief
47 Sampson

3
PANEL NO. 10
In chief by Mr. McGowan

1 EXHIBIT 292: Witness summary for Mr. Thomas
2 Alexis
3

4 MR. MCGOWAN: Thank you. Mr. Commissioner, now moving
5 to the left as we face the panel, we have Grand
6 Chief Saul Terry.

7 Q Chief, you're a member of the Stl'atl'imx Nation?

8 GRAND CHIEF TERRY: That's right.

9 Q Okay. And you're presently the Chief Executive
10 Officer of the Inter-Tribal Treaty Organization?

11 GRAND CHIEF TERRY: That's correct.

12 Q And that's sometimes referred to as the ITO?

13 GRAND CHIEF TERRY: That's right.

14 Q And I understand you're also a commissioner on the
15 Pacific Salmon Commission; is that right?

16 GRAND CHIEF TERRY: Correct.

17 Q Okay. And your interview with the Commission was
18 on September 21st of this year, and we produced a
19 summary from that. Have you had a chance to
20 review that?

21 GRAND CHIEF TERRY: Yes.

22 Q Okay. And you've made any corrections that you --
23 that are required?

24 GRAND CHIEF TERRY: Satisfied with the way it's
25 presented there now, yeah.

26 MR. MCGOWAN: Thank you. And finally moving to the
27 left, Dr. Ron Ignace.

28 Q Sir, you have a Ph.D. in anthropology from Simon
29 Fraser University?

30 DR. IGNACE: Yes.

31 Q And you're a former chief of the -- is it
32 Skeetchestn?

33 DR. IGNACE: Skeetchestn, yes.

34 Q Skeetchestn Band. You were a chief there for over
35 20 years?

36 DR. IGNACE: Yes.

37 Q And you're also a former chair of the Shuswap
38 Tribal Council?

39 DR. IGNACE: Yes.

40 Q Thank you. And have you had a chance to review
41 the witness summary we produced for your interview
42 on September 21st?

43 DR. IGNACE: (Speaking Secwepemc)

44 Q Okay. And you're content with the contents?

45 DR. IGNACE: (Speaking Secwepemc).

46 MR. MCGOWAN: Thank you. If we could mark those -- I
47 think we've only marked two, so if we could mark

4
PANEL NO. 10
In chief by Mr. McGowan
Cross-exam by Ms. Pence (FNC)

1 the last two now.

2 THE REGISTRAR: For Grand Chief Terry, it will be 293,
3 and for Dr. Ignace, 294.

4
5 EXHIBIT 293: Witness summary for Grand Chief
6 Terry

7
8 EXHIBIT 294: Witness summary for Dr. Thomas
9 Ignace

10
11 MR. MCGOWAN: Mr. Commissioner, Commission counsel
12 relies on the summaries as its examination in
13 chief, and I'll now pass it off to Ms. Pence,
14 counsel for the panellists, to conduct her
15 examination.

16 MS. PENCE: Thank you, Patrick, and Mr. Commissioner.
17 I'm going to start the examinations today and the
18 questions to the panellists in kind of a
19 geographic order. So I'll just start with
20 questions to Chief Sampson, and then I'll move and
21 ask certain questions of Grand Chief Terry, and
22 then I will move to Dr. Ignace, and I'll finish
23 with Thomas Alexis. My hope is that I can finish
24 the questions to these witnesses this morning.

25
26 CROSS-EXAMINATION BY MS. PENCE:

27
28 Q So, Chief Sampson, can you take the Commissioner
29 and the rest of us in the room here out of this
30 room and explain to us where Siska is, where your
31 community is, where it is within the greater
32 Nlaka'pamux Nation, please.

33 CHIEF SAMPSON: Yes. My community is pretty well
34 centralized within the Nlaka'pamux territory.
35 We're located north of Boston Bar and nine
36 kilometres south of Lytton on the Number 1 Highway
37 and the main stem Fraser River. Our community is
38 located in the canyon, so it's a very incredibly
39 steep area, and the river is extremely narrow.

40 The community, of course, historically, has
41 been there for a long, long, long time. Through
42 archaeological studies and research that was
43 conducted in the area years ago, there's very
44 strong evidence that that community has been there
45 for a long, long time. In my community, we have
46 150 community members that live on the reserve,
47 and about that much off the reserve, because the

1 size of the reserve is very small. We have
2 approximately 1200 acres of reserve lands, and
3 that was primarily -- of course, the allotment of
4 reserves in British Columbia were directly related
5 to historic fishing stations, and Siska most
6 certainly is one of those.

7 In the immediate area just below the reserve,
8 you can throw a rock across the river. It's
9 incredibly narrow. This gave excellent
10 opportunities to fish because the salmon would get
11 condensed into those areas and it was a very
12 strong historic dipnet fishery in that area.

13 Q Chief Sampson, if you could also share with the
14 Commissioner how many communities or bands form
15 part of the Nlaka'pamux Nation?

16 CHIEF SAMPSON: Yeah, there's a total of 16 bands that
17 income -- or are part of the Nlaka'pamux Nation.
18 Approximately -- well, they say we're getting
19 close to historic numbers now, so I would think
20 that we're in and around between 20,000 and
21 30,000, within the entire Nation. So slowly
22 getting back up there.

23 Q Now, Chief Sampson, you started to talk about
24 this, and I'd like you to speak in a little more
25 detail about where it is that you fish, how you
26 get to your fishing spot and what kind of fishing
27 methods you use there.

28 CHIEF SAMPSON: Okay. As I was saying earlier, it's a
29 very steep part of the canyon, so of course you
30 access the river by fishing trails. So you walk
31 down into -- down to the water, and all of the
32 fishing sites are there. Where my family fishes,
33 it is the key dipnet site in the Siska area, to
34 the point that when you're down there at the
35 fishing site, there is what we call the dipping
36 rock. You can actually see where our ancestors
37 have worn the rock.

38 There are three different levels to the
39 dipping rock, and they -- as the river drops, then
40 people will move and shift. Of course they have
41 to, to stay close to the water. But there are
42 three levels on that rock and I was told by my
43 grandfather that that rock was put there by Coyote
44 for the people, and he made the rock have those
45 three levels that targeted and coincided with the
46 three biggest runs that come up our river. You
47 can actually see the rock is worn. When I stand

1 down there and I'm going to start dipping, I have
2 this incredible sense of belonging, because I know
3 that I'm standing in the footprints of my
4 ancestors, and you can see that. You can see it
5 when you look there. You can see the rock is worn
6 from years and years and years of people dipping
7 on that same site.

8 My grandmother and grandfather told me that
9 people would come all the way across country from
10 the Merritt area through Sunshine Valley through
11 the Boston Bar trail to come to Siska to fish,
12 because the ability to catch huge numbers in a
13 very short period of time are there. I mean, to
14 the point when I was nine years old, me and my
15 buddy went down and we seen the fish just going
16 by, and we're just young fellas, but we were still
17 dipnet fishermen, and we grabbed those nets and we
18 went to town, and before we knew it, within 45
19 minutes to an hour, me and my buddy had 250 salmon
20 in the holding hole, which is a great big bowl
21 that's worn right into the bedrock. That's where
22 we would put the fish. It's right close to the
23 dip site. That, too, was put there by Coyote for
24 us to hold our salmon when we fished.

25 Then we realized that we'd better stop.
26 We're having too much fun. The work begins. We
27 had 250 salmon. You can only pack 15 to 20 up the
28 hill at a time, and it is well over an hour to get
29 up top. It is steep. It is a hard, hard climb.
30 At that time, we were still using baskets with a
31 head strap. So at nine years old, I was able to
32 pack 20 salmon up that hill and do it five times a
33 day. We took a huge amount of salmon out of that
34 -- out of that river in dipnet fisheries.

35 I mean, those kinds of things, they're almost
36 non-existent now. The ability to go and use a
37 dipnet and go fishing is so greatly restricted
38 that we're lucky if we get two days for a dipnet
39 fishery. How do you transfer knowledge and
40 traditional knowledge to your children when your
41 opportunities are so restricted now?

42 My son is 18 years old. He doesn't know how
43 to make a dip net. I made my own first dip net
44 when I was nine years old. I haven't had the time
45 to teach him that because when we do get the
46 opportunities to fish, it's, "Stand aside, son.
47 We gotta go, we gotta give 'er," and we'll go

1 around the clock. He's in school so he loses out,
2 and he has lost out on his traditional knowledge
3 and his culture.

4 Q Chief Sampson, I wonder if you can tell the
5 Commissioner and the rest of us in the room a
6 little bit more about this dipnet fishing being a
7 selective method, which is something I believe is
8 included in your summary.

9 CHIEF SAMPSON: Well, the dip net is absolutely
10 probably the most efficient selective fishing
11 tool, at least if the numbers are there and you
12 are on the right piece of river. A dip net is an
13 incredible selective tool.

14 My grandmother used to always tell me that
15 there are certain times that we'd go fishing, and
16 the good example that I use is on -- on the
17 chinook. She would wait until the mock orange
18 blossoms came out on the trees, on the bushes,
19 then she would say, "Now we're going to go fish
20 spring salmon." I asked her, "How come? There's
21 fish in the river right now. I see them when I
22 walk down there. I can see them swimming by."
23 And she would tell me, "Because those fish belong
24 to someone else." So already, at that time, and
25 prior, there was management regimes in place based
26 on respect. She would not go fishing until those
27 orange blossoms came out, the mock orange blossoms
28 came out on the bushes. She said it's because
29 those fish belong to those people up there,
30 respecting the northern tribes and those people
31 that actually owned that fish. That was part of
32 that universal -- a universal sharing formula that
33 was communicated between nations, and respecting
34 each other and the fish resource.

35 Q Chief Sampson, can you speak to some of the
36 ceremonies that are held at Siska that involve or
37 that honour salmon?

38 CHIEF SAMPSON: Oh, absolutely. For us at Siska, there
39 is a First Fish Ceremony. In some cases, it's
40 conducted by the whole community, but each family
41 has their own way of paying respect to the salmon
42 in a First Fish Ceremony. For myself, when I go
43 down, I go down with my wife and we go down and we
44 start dipping or we set the net, and the very
45 first fish that we catch, we release it back into
46 the river alive, and we say to that fish, "Thank
47 you, my relative." They are not a fish to us;

1 they are our relatives. We believed that by
2 returning fish to the river, they would continue
3 to come back for us in respect.

4 This is -- like I say, it's done by different
5 families (sic). I know some families who will do
6 their First Fish Ceremony, they'll actually catch
7 the first fish and they will actually kill it.
8 But they would take a piece of its -- its flesh or
9 a piece of its rib and honour the fish that way
10 and put it back into the river. So it varies from
11 family to family, community to community. But the
12 key point is the respect that's paid to the fish
13 because they are our relatives, they are our
14 family who come back to nourish us.

15 In the past in Nlaka'pamux territory, a lot
16 of our dead were placed into the river when they
17 passed away. The burying and burial grounds and
18 headstones and that was a -- came after contact.
19 My grandmother told me that they used to put our
20 people back into the river, 'cause they would come
21 back as the salmon. So there was that high
22 respect. Not only was this a fish, it was your
23 relative.

24 Q Thank you. Now, recognizing that you're not a
25 fish biologist, but instead a fisher with an
26 incredible amount of experience on the river, can
27 you tell the Commissioner some of the observations
28 that you've made about the health of the fish that
29 are returning at Siska?

30 CHIEF SAMPSON: Well, I mean, I can just go back to
31 that story of when I was nine years old, and even
32 at that age, having the ability to catch 250
33 salmon in 45 minutes to an hour, but over time
34 that has steadily, steadily declined to where the
35 point, in 2009 and 2008, I could dip for a whole
36 hour and would not catch one fish. So there's
37 obviously been huge drastic declines since the
38 time when I was nine years old up to the 2007, '08
39 and '09, where I could spend a whole hour down
40 there and all I do is get exercise, to the point
41 where when they did -- would close the dipnet
42 fisheries.

43 I had contemplated going down to the river
44 with my dipnet and taking the mesh off and going
45 dipping, just to see what would happen. If Barry
46 (phonetic) came along in a boat and saw me dipping
47 in a closed -- on a closed day but with no net in

1 the dip net, to be able to say to him, "Well, at
2 least I'm getting exercise." It would be -- it
3 made no difference whether I had a net on that dip
4 net or not, because a whole hour, I couldn't even
5 catch a fish.

6 So most certainly, after time, there's been
7 huge changes. Temperature water (sic), at that
8 dipping site that I talk about, in the last five
9 years I'm seeing bedrock that I've never ever seen
10 in my life, so that tells me that there's been
11 huge changes to the water levels over time. To
12 actually see rocks in the river that you've never
13 seen in your life -- and I bet if my grandmother
14 was still alive, she would very easily say, "I
15 have never ever seen these rocks in my life." So
16 there is definitely changes that are happening to
17 the river.

18 We see a lot more lesions now on the fish.
19 We're positive that's directly related to sea
20 lice, because we see more and more fish now that
21 have spots all over them. Once the salmon's skin
22 has been breached, it allows the bacteria that
23 builds up in warmer water temperatures, and it
24 impacts the fish.

25 Numbers, drastically reduced. Bears down at
26 the river, drastically reduced. In the good
27 years, right across from our site there's what
28 they call a catchment area where all of the logs
29 and all of the debris and that catches on one side
30 of the river. We could see 20 bears down there.
31 Now, you're lucky if you see one or two.

32 This year, with the heavy return, we saw
33 seven. That is still way down from the past, and
34 I think it's because of the inconsistency. The
35 bears can't rely on it.

36 Q Thank you. You spoke a little bit initially about
37 some of the impacts you're noticing to your
38 culture from not having the level of fish
39 returning year to year. Could you speak in a
40 little more detail about what happens to your
41 culture when you don't have that opportunity to
42 fish?

43 CHIEF SAMPSON: Well, with it, of course, all of it --
44 I mean there's not only the loss of the practice
45 itself, there's the loss of the language. That
46 language is really key to whole big parts of our
47 fisheries. I mean, in our language alone, there

1 are 47 different words that describe all the parts
2 of a salmon, and all the different names for the
3 different species of salmon. It is very complex
4 in the sense that our relationship to the fish
5 resource is directly linked to our languages.

6 So when there are huge impacts to our
7 fishery, and the inability to fish and practice
8 and utilize our traditional fishing methods, not
9 only is there a cultural loss in that aspect, but
10 there is a loss in language as well, and most
11 certainly a huge loss in the transferring of that
12 knowledge to our children.

13 Q Thank you. Can you describe your people's
14 relationship with the fish in terms of food,
15 social and ceremonial fishing and describe what
16 that term that we often refer to as "FSC" means to
17 you?

18 CHIEF SAMPSON: Well, FSC, I've tossed this one around
19 in my head so many times over the years, after
20 being in leadership and hearing, the first time,
21 hearing that term, "food, social, ceremonial". In
22 my mind, it was always the ceremonial that would
23 be placed first, because there is such a deep,
24 deep, deep respect to the fish resource and how we
25 interact with the fish, how we recognize them as
26 being a part of us, our relatives. By placing our
27 dead into the river, they came back as salmon. By
28 doing First Salmon Ceremonies, we paid respect to
29 the fish, that the fish would come back and feed
30 our children.

31 I think that in relationship to that, when
32 you look at food, social, ceremonial, most
33 certainly what I see it as is the social part of
34 it is the people, and the people are in the
35 middle. The ceremonial and the food is what
36 rotates around on the outside of the people or the
37 community that utilize the fish.

38 So I can't really -- you know, I can't really
39 agree with the acronym, but in some sense, I can
40 relate to it. I think it's, you know, our
41 inability to determine what "social" means in that
42 acronym. It is an imposed concept. It doesn't
43 really capture the First Nations' way of thinking
44 or their value system and how they look at fishing
45 and the act of fishing.

46 So I think that -- well, I think that's
47 pretty well my thought on "food, social,

1 ceremonial". It needs to be recognized and
2 broadened, I guess. What does that mean to a
3 First Nations, a Nation, and their approach?

4 Q Thank you. You mentioned that it doesn't capture
5 your thinking and your view of the fish. Some of
6 the things -- one of the things that the
7 Commissioner has been hearing about is traditional
8 knowledge, First Nations traditional knowledge and
9 traditional ecological knowledge. You spoke about
10 some of the indicators.

11 Can you share with the Commissioner how First
12 Nations' thinking, as you said, can be better
13 incorporated into management decisions and can
14 better aid management decisions in relation to
15 Fraser River sockeye?

16 CHIEF SAMPSON: Well, first and foremost, the biggest
17 weakness that I've found is that the traditional
18 ecological knowledge is not recognized and not
19 respected by contemporary scientists and
20 biologists and these people who are technicians
21 who participate in the management of fisheries
22 through the Department of Fisheries and Oceans.
23 We believe that traditional ecological knowledge
24 is going to play, and will play, a key role in the
25 management of the fish resource if -- if it's
26 recognized and has equal footing at that -- at the
27 tables where these decisions are being made.

28 Far often -- far too often, when I'm at
29 meetings with scientists and elders trying to talk
30 about traditional ecological knowledge and how it
31 relates to fish, the scientists will turn around
32 and say to us, "You just don't understand the
33 science." We turn around and we tell them the
34 opposite, "No, it's you who does not understand.
35 You will not recognize traditional ecological
36 knowledge, and the vital role it can play in the
37 management of all resources."

38 Q Do you have suggestions on how that can be moved
39 forward, how traditional knowledge can be seen on
40 equal footing at those discussions and those
41 meetings?

42 CHIEF SAMPSON: Well, as I said, it has to be
43 respected. It has to be able to have equal
44 footing at that table, and we, as First Nations,
45 have to be at those tables, and currently we're
46 not. We're pushed back from the tables where the
47 big decisions are being made. When the province

1 issues fishing licences in this province, First
2 Nations are not at that table to say, yeah, we
3 agree with that or, no, we disagree with that. I
4 mean, look at the huge effort that went into the
5 early-time chinook and trying to curtail the
6 recreational fisheries. It took the First Nations
7 right from the spawning grounds all the way down
8 to the ocean to have any kind of impact. And who
9 were we fighting against? It was just an unreal
10 discussion.

11 And to hear that the killer whales won a
12 court case when First Nations had been fighting to
13 protect this resource for the last 20 years, and
14 to have killer whales come in and win a court case
15 against DFO, and those -- those killer whales,
16 their main diet is early-time chinook. Through
17 that study, that's what they found. Those killer
18 whales rely on the early-time chinook and yet they
19 were just having wide open recreational fisheries
20 to the point where these runs were almost
21 exterminated.

22 Louis Creek had six early chinook returns.
23 That is frightening, not only to me as a First
24 Nation, but to everybody as a British Columbian.
25 When we have one of our resources in this province
26 almost extinct -- and not just in the Louis Creek.
27 There was the Deadman Creek, there was the
28 Coldwater, there was the Nicola. Huge declines in
29 the early-time chinook. That is unacceptable, and
30 yet it happens.

31 Q Chief Sampson, I'm going to take you back a little
32 bit to the traditional knowledge piece, and
33 specifically as early traditional practices. You
34 mention the dip net. Can you describe for the
35 Commissioner some ways that those traditional
36 fishing methods are being kind of reborn in more
37 modern tools, fishing tools?

38 CHIEF SAMPSON: Oh, sure. I mean, absolutely the dip
39 net has been redesigned. It is now a fish wheel,
40 which is basically a giant dip net except it's got
41 three nets on it. It does the same thing, it has
42 exactly the same principle. The salmon are coming
43 up the river, the dip net goes down the river and
44 you catch fish. The fish wheel does that.

45 We have an inland -- we're exploring an
46 inland communal commercial fishery. We had a huge
47 effort last year and we utilized beach seines. We

1 wanted to use our fish wheels, but we were told,
2 no, because science -- there you go again -- it
3 was the scientists who we were working with on the
4 wheel, collecting data, so we're handling all of
5 these fish, we're handling them, we're collecting
6 scales and DNA and sexing and sizing, and we
7 wanted to do the commercial communal fishery. But
8 the Science Branch would not let that happen on
9 our fish wheel. They said, "If you start pulling
10 fish off of this wheel for commercial use, we will
11 shut this wheel down." And yet there was a
12 beautiful opportunity to do both of those things
13 together.

14 And the fish wheel itself is highly
15 selective, highly selective. The fish are
16 captured, they slide off ramps, they go into
17 holding pens that are open on the bottom with
18 screens so they're well irrigated, and it allows
19 us to release steelhead, coho, chinook, sturgeon,
20 eels, red-sided shiners, trout, whitefish. Any of
21 the none-targeted species, we can release
22 unscathed. Unscathed. Not the same as a catch-
23 and-release fishery where the chinook salmon is
24 caught, it's played for an hour and a half. They
25 don't have any way to tag that fish to know if it
26 actually survives to the spawning ground. What
27 are those real numbers?

28 So the wheel is very similar in that sense to
29 a dip net. It's highly selective.

30 Q I'd like to move to ask you some questions about
31 co-management or joint management. I'd like to
32 start by asking what is your definition of co-
33 management?

34 CHIEF SAMPSON: Yeah, well, co-management to me means
35 the right to manage something, but not a right to
36 the resource itself. So I would more lean towards
37 the side of what is joint management.

38 Q Mm-hmm.

39 CHIEF SAMPSON: And I would put my -- I will put my
40 title in front of rights, so I would say this is a
41 titling right, because once you have title, the
42 rights flow from that. I'm regressing (sic).

43 Q What do you think would need to be done from the
44 First Nations perspective, First Nations speaking
45 with each other on a Nation-to-Nation level, to
46 put the structures in place for what you have
47 called joint management?

1 CHIEF SAMPSON: Well, most certainly we need the
2 capacity to do so. There is -- we are out there,
3 but we're not engaged. With the steady cutbacks
4 to the Department of Fisheries and Oceans -- and
5 it's strictly constantly moved us farther and
6 farther away from those tables where we will be
7 recognized.

8 We have awesome organizations out there. We
9 have the ITO, we have the First Nations Fisheries
10 Council. There are coalitions. My friends here
11 all participate in those, but to what end, if
12 we're constantly being told, "There is no money,
13 there is no money"? This isn't about money. It's
14 about saving these fish for our future
15 generations, and not only ours, but yours too.

16 MS. PENCE: If I could just have one moment, Mr.
17 Commissioner.

18 Q Chief Sampson, just as a final question, I wonder
19 if you could speak to, and give the Commissioner
20 your perspective on the role of First Nations on
21 the international scene with regards to sockeye
22 management?

23 CHIEF SAMPSON: Are you talking about the Pacific
24 Fisheries Commission -- Panel?

25 Q Pacific Salmon Commission, if you'd like to.

26 CHIEF SAMPSON: Well, absolutely. I mean, First
27 Nations need to be at those tables where the
28 decisions are being made and to bring about those
29 changes at those levels, at the high level. We
30 need to be fully endorsed and recognized at those
31 tables, and have equal say and equal voice.

32 In many cases, it's more of symbolism or
33 tokenism that aboriginal people sit at those
34 tables, and you will hear from my friends of the
35 frustrations that they have, in wanting to do the
36 right thing, and wanting to engage so that our
37 knowledge and our fish are protected for our
38 future generations. And yet their voice isn't
39 heard or respected at those tables.

40 MS. PENCE: Thank you, Chief Sampson.

41 I'd like to move and direct my questions now
42 to Grand Chief Terry. I'm just going to pull up
43 my materials.

44 Q Grand Chief Terry, I understand that the
45 Commissioner actually made his way up to Lillooet
46 and up to Bridge River this summer. But I wonder
47 if you could explain for us in the room now and

1 for the record where your community of Xwisten is,
2 Bridge River is, where it's located and where your
3 fishing spots are there.

4 GRAND CHIEF TERRY: Yes. Thank you. Mr. Commissioner,
5 good morning.

6 THE COMMISSIONER: Good morning.

7 GRAND CHIEF TERRY: Certainly it was -- we were pleased
8 to host the Commissioner and his people there at
9 Bridge River this summer. Bridge River is located
10 near what is known as the village or the
11 municipality of Lillooet. It's a few miles above
12 that, about three or four miles, our town, where
13 the location of our fishery is.

14 Essentially, the Xwisten fishery is very
15 lucrative and much as Fred has explained at his
16 community, there experiences some tremendous
17 opportunities for harvesting salmon. Same at
18 Bridge River.

19 Bridge River is really a focal point because
20 of the conditions there are such that we are
21 capable of harvesting a lot of fish as well. I
22 think that historically we were able to harvest so
23 many fish that it was -- it was not only a food
24 staple for our people through the winter, but it
25 was also a trade, goods for -- with our neighbours
26 and/or with the -- at that time, the Hudson's Bay
27 Company. We used to -- our folks used to trade
28 quite -- have a lucrative enterprise trading back
29 and forth until we were sort of outlawed from
30 doing that, the latter part of the 19th century, I
31 guess, and which seems to go on today.

32 Q Could you situate Bridge River and Xwisten within
33 the larger St'at'imc territory for us, Grand Chief
34 Terry?

35 GRAND CHIEF TERRY: I'm sorry?

36 Q Could you situate Bridge River, where it is within
37 the larger St'at'imc territory?

38 GRAND CHIEF TERRY: The Bridge River is in the northern
39 sector of the St'at'imc country, and above us
40 would be the Pavilion people. That would be the
41 northernmost reaches of the St'at'imc or up in and
42 through the -- we're going up into the northern
43 territory then of the Secwepemc. That's -- we're
44 at the northern tip, then.

45 There are seven communities that are directly
46 located in and around the area of our community,
47 and I think that the Xaxli'p or the Fountain

1 people are across the river from us on the Fraser.
2 Just south of us would be the people we call the
3 Tit'q'et or the Lillooet, and also Sekw'el'wás or
4 Cayoose. Over the -- over the mountain is Lake --
5 Seton Lake, and there is the Seton people that
6 live in that area.

7 Many of these folks now need to gravitate to
8 Bridge River to do a lot of their fishing because
9 of the impacts, tremendous impacts that the Hydro
10 developments in our area have impacted on the
11 fishery. So therefore it really needs to -- they
12 need to come to the Bridge River and our areas
13 there to do their fishery -- fishing.

14 Q Thank you. Can you describe for us, and just
15 paint a bit of a word picture in terms of what the
16 fishing at Bridge River looks like, what kind of
17 methods are used, what kind of rocks you might
18 see, all of that sort of detail.

19 GRAND CHIEF TERRY: Well, primarily we do the -- what
20 some people called wind-dried or sun-dried. The
21 -- because of the heat in the summer, the -- it's
22 very conducive for the wind to generate, you know,
23 along the river banks, and our people have set up
24 various racks - we call them racks - where we hang
25 the fish once they're processed. Primarily they
26 are the means by which we process is drying our
27 fish. That's a prized product that we use.

28 Q Mm-hmm.

29 GRAND CHIEF TERRY: In terms of harvesting, we do use
30 the setnet process as well as the dipnet process.
31 The difference is that the set net is anchored to
32 the bank and the dip net is utilized in a paddle.
33 You know, it's like a paddling process. So you're
34 -- it is not anchored and the folks are just using
35 the current, the swiftness of the current to
36 paddle the river and then the fish swim up into
37 it.

38 In the set net, it is utilizing the up
39 current in the river that helps the setnet people.
40 Also we utilize now the gillnet process and those
41 kind of things now.

42 Q How important is a high level of abundance to the
43 methods that you've described, the setnet, the
44 dipnet methods.

45 GRAND CHIEF TERRY: Well, it certainly lends itself to
46 being very effective in retrieving or harvesting
47 the fish when there's abundance. Certainly it's

1 pretty trying when there's low abundance or a lack
2 of returns in the runs. Then it's very difficult
3 for folks to meet their needs for the winter.
4 We've been experiencing this for quite a number of
5 generations. But I think too that because of
6 that, we're investigating again the utilization of
7 weirs. Some of our folks in the Seton area
8 reintroduced the weir, for example, this past
9 summer, and just by locating the various poles
10 that were used previous to their being outlawed
11 from use, and so they've relocated them, and then
12 began using them again this summer because of the
13 fact that there's a high -- higher rate of control
14 on the kind of fish that you catch and what you
15 can release and -- up the river. Those kind of
16 things, I think, are very important for the
17 greater returns in the future.

18 Q Thank you. I asked this question of Chief Sampson
19 and I'd like to ask it of you as well, Grand Chief
20 Terry. That is, can you describe your people's
21 relationship with salmon for food, social and
22 ceremonial purposes and what does this term --
23 this term, "FSC", mean to you?

24 GRAND CHIEF TERRY: Well, for those that know me, I've
25 been involved with the politics of Indian rights
26 in this province for 40 years. I'm always
27 suspicious of various names being given to -- or
28 acronyms applied to many of the rights that our
29 people have.

30 Too often, I'm thinking that food, social and
31 ceremonial, you know, may be too susceptible to
32 interpretation of different kinds, or it's not
33 very clear. Because I think our people also are
34 interested in barter/trade and sale of the
35 resource, and I think that much of that is, you
36 know, left out in that particular picture, or can
37 be. So I think that there's a greater definition
38 that needs to be applied that is determined by our
39 people, not by someone else.

40 Q And in your witness summary, when you say that DFO
41 doesn't consider the cultural element of fishing,
42 what do you mean by that?

43 GRAND CHIEF TERRY: Well, I think that as I believe my
44 colleague here, Chief Sampson, has indicated, that
45 it permeates the wholeness of our culture, of our
46 people, our way of life. Our people have told me,
47 you know, that this is our way of life that our

1 people are being deprived from. Too often, I feel
2 that we're losing a lot of the culture of our
3 people that's associated with the harvesting of a
4 very important resource in the fish because, for
5 example, I was up in my friend Thomas's area here
6 this summer, and up in that area, many of the
7 elders were saying, "My goodness, we've been
8 without proper quantities of fish for so long,"
9 that they couldn't pass on the customs,
10 traditions, the practices to the younger people.
11 I think Chief Sampson also reflected on that.

12 I think that's the kind of thing that's
13 associated here, and I think that's why it's so
14 important to have our voice heard as how best to
15 deal with the conservation, preservation,
16 enhancement and greater opportunities for bringing
17 back the healthy stock as fish as we seen before.

18 Q Mm-hmm. Grand Chief Terry, yesterday there were
19 some questions to the panel about ways that First
20 Nations talk with each other to figure out what
21 should happen in times of low abundance. I'm
22 wondering if you could tell the Commissioner a bit
23 about what has happened in terms of dealing with
24 that between and among Nations in terms of the
25 Early Stuart example.

26 GRAND CHIEF TERRY: Well, the -- most recently, if I
27 could start there, in that about four years ago
28 the Department really realized that they needed to
29 deal with our people because of the fact that the
30 pressure was on them for our people to get fish,
31 and how is it that they're going to allocate this
32 -- in this low abundance period.

33 But of course I think that they couldn't make
34 the decision themselves, so they had to come to
35 us. I think that's rightly so, because I think
36 that we have been dealing with much of these kind
37 of things for eons, for generations upon
38 generations.

39 I think our people tell of stories of
40 starvation. In periods of starvation what do we
41 do? You know, there are different strategies that
42 need to be applied. I think the Early Stuarts,
43 for example, we have, in the St'at'imc and
44 Nlaka'pamux and others down river from the Carrier
45 and Sekani peoples, been really making certain
46 that many of the runs are -- or that particular
47 run especially, returns to their spawning grounds

1 and into the homeland areas of the -- of the
2 Carrier peoples, because of the importance that
3 that reflects in their culture, in their history.

4 So we've done that, and I think just as I
5 think that we too are concerned for many of the
6 stocks that are returning into the Seton River,
7 for example, into the Gates Creek area and the
8 significant diminishment of the numbers is such
9 that we need to safeguard that, and we need to
10 find ways and means to cooperate with one another,
11 and that is one of the reasons why, in 1989, we
12 signed the treaty amongst the various Nations to
13 save the salmon.

14 Q Grand Chief Terry, I wonder if you could just get
15 a little bit more specific for us in the room
16 today and tell us what kind of actions you did
17 take in those times of very low abundance. What
18 specific actions did you decide, with your
19 neighbours and other First Nations, in those
20 situations?

21 GRAND CHIEF TERRY: Well, the only thing that comes to
22 mind is the example of -- 2009, I guess that's the
23 year in question here -- is what happened in 2009.
24 What did we do in that time? It was -- we were
25 advised it was a very critical time for making
26 certain that every last fish got up that river,
27 and we, at the St'at'imc, I was primarily the lead
28 person in the fishery up in the area there, and
29 took the lead in deciding what needed to be done
30 on behalf of our people, the St'at'imc people, and
31 -- in relationship also as well to the northern
32 Secwepemc up there as well, and the Carriers.

33 What we did was that we, as chiefs, got
34 together and talked about this situation. We
35 conveyed -- and then we also met with the
36 Department of Fisheries and Oceans and tried in
37 getting -- making certain that the numbers that
38 were being talked about were as firm as they are.
39 So we needed to get the information as best as we
40 could, and then the chiefs met amongst ourselves,
41 and then we made a decision. The decision had to
42 be made as to whether or not our people were going
43 to get fish that summer. We decided, yes, our
44 people were going to get fish that summer. They
45 were going to go fishing. It was important.

46 We also knew that the importance of
47 conservation to making certain that there were

1 salmon that went back to their various natal
2 streams upriver, and wherever they were going.
3 But of primary concern was the fact that our
4 people also needed food for the winter, so we
5 decided that they needed to go fishing.

6 Q Thank you. Grand Chief Terry, I understand from
7 Commission counsel that the Intertribal Treaty
8 Organization, ITO, will likely be explored in more
9 detail in the following year, but I do want to
10 take advantage of your being here today to ask
11 some questions of you about the ITO.

12 Could you briefly explain to the Commissioner
13 what the Intertribal Treaty Organization, what the
14 ITO is?

15 GRAND CHIEF TERRY: Well, it's -- the ITO, Intertribal
16 Treaty Organization is, I guess one might say, a
17 federation of various Nations of ours along -- on
18 the Fraser River. In this case we had the Carrier
19 Sekani peoples, the Secwepemc peoples, the
20 St'at'imc and Nlaka'pamux. Within the last two
21 months as well, we had the Okanagan Nation as well
22 join the group.

23 Principally, these are the nations that
24 signed the treaty in 1989. The thing was that we
25 had not implemented the treaty. This was the
26 mechanism that we devised -- that is, those that
27 were participating devised to implement the treaty
28 that was signed in 1989. So it essentially is to
29 -- prime objective, to save the salmon, and the
30 ways and means of doing that, we figure, had to be
31 done by getting together in this federation, I'd
32 say right now, in order to coordinate our various
33 fishing plans that we have, and how best to
34 implement that in the conservation of our food
35 source.

36 Q And when was a decision made to kind of re-engage
37 the treaty, to work on implementing this treaty
38 that had been in place since 1989.

39 GRAND CHIEF TERRY: The treaty was signed in 1989 but
40 really wasn't implemented. So in 2007, after a
41 couple of years of discussions amongst --
42 especially the Nlaka'pamux and the St'at'imc,
43 because we were two nations that -- we seen
44 ourselves -- and not to pat ourselves too much on
45 the back, but we seen ourselves as the guardians
46 of the treaty because we didn't really sign onto
47 the watershed agreement that was being promoted by

1 the Department of Fisheries and Oceans. So
2 therefore Nlaka'pamux and St'at'imc talked about
3 revising the treaty again because of the dire
4 situation that the fish were, you know,
5 encountering.

6 Q And why do you feel that it's important to develop
7 these relationships between Nations?

8 GRAND CHIEF TERRY: Essentially because I believe that
9 politically we understand one another, and how
10 much more effective we can be in dealing with the
11 resource that is so, you know, endangered. I
12 believe, too, that socially, I think we needed to
13 address some of these things because our people
14 were getting very concerned for not only in terms
15 of the quantity of the fish, but also in the
16 quality of the fish that were returning.

17 Also, they're concerned for the environment.
18 Where you saw the river beginning to show its
19 ribs, one might say, you know, and that there was
20 so little water coming through there that if there
21 was a good abundance of return, there was
22 tremendous mortality of fish returns going up
23 river. What needed to be done was a collective
24 voice being created that was new, but yet old,
25 because our various homeland areas were devised
26 well over a millennia before, and I think it's
27 time to bring it back because it's needed.

28 Q Thank you. Now, you mentioned that the ITO isn't
29 involved in working together on fishing plans of
30 each of the Nations, but can you describe in a
31 little more detail what your vision is for the
32 role of the ITO in the management of fisheries?

33 GRAND CHIEF TERRY: Well, I think that it's -- if I can
34 sort of compare, if I could, and if it'll make
35 sense to some, that when you look at our
36 territories, they're quite clearly defined. We
37 know where there -- our boundaries lay, and we
38 know our own territories best.

39 Also, for example, there was a policy that
40 has been devised by the Government of Canada
41 through its Wild Salmon Policy of various what
42 they call conservation units. Those kinds of
43 delineation of watershed drainage areas that could
44 be utilized as sort of CUs, they call them,
45 conservation units.

46 I think that the territories of our nations
47 fit that so neatly, I would say, that it would be

1 an effective means by which we can really manage
2 in a very -- you know, together we can manage
3 better, I feel, in the long run, not only amongst
4 the Indian nations, but also with Canada.

5 Q Thank you. My last point on the ITO is if you
6 could explore for us some of the challenges that
7 the ITO might have in moving forward, and like --
8 what you would like to see done to overcome those
9 challenges.

10 GRAND CHIEF TERRY: Oh, boy. You should come with me
11 for a month or so. There are tremendous
12 challenges, I tell you, because of the manner in
13 which -- the administration of Indian Affairs
14 happens these days is such that there's no
15 resemblance to what I'm talking about when we're
16 talking about a "Nation". While you can hear the
17 term "First Nation" it really generally reflects
18 onto what is in the **Indian Act** terms "Indian
19 bands". So that was appropriated and then
20 utilized as a means by which you use the term
21 "Nation" then, as "First Nation". So, number one,
22 confusion then begins to build in all of this kind
23 of stuff.

24 But in terms of Nations having a voice, I say
25 that -- I feel very confident that once we're able
26 to be able to overcome the hesitancy to recognize
27 our Nations, I think it would be much easier.

28 For example, I think that, at least in my
29 talking with some folks in government is this,
30 "How do we deal with you? We got no legal means
31 by which to deal with you." Whereas in the **Indian**
32 **Act**, you have **Indian Act** reflects the bands. So
33 therefore, we don't have a means to -- that kind
34 of a mechanism in place to deal with the Nations
35 themselves.

36 Q So I heard that challenge, overcoming the "band",
37 "First Nation", moving to a "Nation" system that
38 recognizes the Nations. What other challenges and
39 possible ways to overcome them do you see?

40 GRAND CHIEF TERRY: Well, there's a concept that has
41 been talked about, about revenue-sharing. That
42 certainly would be helpful for many of our Nations
43 to be able to realize some income, as it were,
44 from our homeland areas from which many are
45 becoming quite affluent these days from many of
46 the lands and resources that are within our
47 territories. I feel that there needs to be a

1 means on how we can best devise ways and means of
2 resourcing our Nations to properly manage not only
3 the fishery, but our ways of life within the
4 territory.

5 Q And specific to the ITO, what kind of resourcing
6 do you think needs to be in place for the ITO to
7 move forward with its goals?

8 GRAND CHIEF TERRY: Well, I'd be -- we have put
9 forward, and maybe Thomas will be able to
10 elaborate on some of this from his territory as
11 well, or Ron here. But we do -- have put forward
12 ideas on some means by which we could utilize
13 resources to best effect. I push forward too, and
14 I think I tried to share some of this with the
15 Commission in the public forum in Lillooet, in
16 that I think we are in a time when resources are
17 very, you know, hard to get, as it were,
18 economically. And so I think the means by which
19 we are administering the ITO would be a much more
20 effective means of managing because they're with
21 -- instead of, for example, 11 communities coming
22 from St'at'imc to a meeting, you can have one
23 representative speaking for all of the folks in
24 the St'at'imc.

25 And that's the principle that we're carrying
26 forward with the -- for all the other Nations. So
27 therefore, instead of having, for example, if
28 there were four Nations, instead of having 55 or
29 47 communities coming together, you'd have five or
30 four people show up at the table and they're
31 talking with authority with the mandate from their
32 Nation to be able to make decisions on the
33 fishery.

34 So therefore I think, to me, that means you
35 can utilize then much of the stream cleaning, much
36 of the projects that need to be done in our home
37 areas to utilize those dollars in that more
38 effective way, I think, than spending it on
39 enormous huge meetings that sometimes are quite
40 questionable in their -- you know...

41 MS. PENCE: Okay. I hear that. Mr. Commissioner, I
42 have just a couple of more questions to Grand
43 Chief Terry.

44 Q Grand Chief Terry, you are a commissioner on the
45 Pacific Salmon Commission. We heard that in the
46 introduction. Do you have any views you'd like to
47 share on how First Nations issues regarding the

1 management of Fraser River sockeye, and I'm
2 including in-season decision-making in that, how
3 that can be enhanced at the Pacific Salmon
4 Commission level and at the Fraser Panel level.
5 GRAND CHIEF TERRY: Well, I think certainly the -- it
6 is nothing new for many of our people to say they
7 want to be able to have a seat at the table, for
8 example, the Fraser Panel. In this Intertribal
9 Fishery Treaty, for example, there are eight
10 Nations encompassing both the Fraser and the
11 Columbia River, mind you. But we thought that we
12 should investigate ways and means, perhaps, that
13 that kind of an arrangement could be realized in
14 order to have a voice from each of the Nations to
15 something that is critical and important for
16 everyone.

17 I think too that it is important in
18 Canada/United States relations when dealing with a
19 common resource, as the fishery, as to how it is
20 that we're going to be dealing with one another.
21 Now, many of our Nations, the Okanagans, for
22 example, Nlaka'pamux, and in the lower Fraser here
23 too, much of their territories are on both sides
24 of the border, and so we need to maybe take a look
25 at that and see how, perhaps, we can accommodate
26 the ways and means of sitting with the various
27 Nations and how to coordinate that with the
28 Canadian domestic system as well as the
29 international system.

30 MS. PENCE: Thank you. Those are my questions to Grand
31 Chief Terry. Mr. Commissioner, I note that it's
32 ten after 11:00 and I wonder if we might take the
33 morning break now.

34 THE REGISTRAR: The hearing will now recess for 15
35 minutes.

36
37 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

38 (PROCEEDINGS RECONVENED)

39
40 (PROCEEDINGS RECONVENED)

41
42 THE REGISTRAR: Order. The hearing is now resumed.

43
44 CROSS-EXAMINATION BY MS. PENCE, continuing:

45
46 Q So Dr. Ignace, I'd like to now turn my questions
47 to you. And I'd like to have you start by

1 describing to the Commissioner where Skeetchestn
2 is, locating it for us within Secwepemc territory
3 and taking -- explaining to us where your people
4 fish in that territory.

5 DR. IGNACE: (SECWEPEMC LANGUAGE SPOKEN)

6 First of all, I'd like to recognize the
7 Creator and thank Him for giving me the
8 opportunity to be here. And as well as thank the
9 West Coast Coast Salish People for allowing us to
10 have such an important hearing as this in this,
11 their house. I have to, according to protocol,
12 recognize another Nation when I enter their house.

13 Q Thank you.

14 DR. IGNACE: (SECWEPEMC LANGUAGE SPOKEN)

15 I would like to say that I wish that I had an
16 opportunity to speak to you all in my language. I
17 feel that I'm at a disadvantage in having to speak
18 in English but I honour and recognize the hearing
19 here. And Mr. Commissioner, thank you for giving
20 me the opportunity to explain myself. What was
21 your question again? Who am I?

22 Q So my question again for you, Dr. Ignace, is if
23 you can describe to the Commissioner where your
24 community of Skeetchestn is and situate it within
25 the larger Secwepemc territory for us.

26 DR. IGNACE: (SECWEPEMC LANGUAGE SPOKEN)

27 Excuse me, sorry. First, yes, I'm of Shuswap
28 ancestry. My community is part of the Secwepemc
29 Nation and it's located west of Kamloops, about 40
30 minutes between Kamloops and Cache Creek. It's --
31 we are part of the Kamloops Division, which makes
32 up -- we have seven regional governments within
33 the Shuswap territory. James Tate called them
34 divisions. But they're not divisions insofar as
35 that we're separated from each other. And each
36 one of our divisions is given the responsibility
37 according to our laws to be the yoochameenmen
38 (phonetic). Yoochameenmen means the caretakers of
39 that part of the Shuswap Nation on behalf of the
40 whole Nation and there are seven other divisions
41 within the Shuswap Nation. And that's where I'm
42 located.

43 Q Thank you. Can you also describe for us the
44 rivers within that Shuswap territory where the
45 sockeye return to and flow through?

46 DR. IGNACE: If I -- if I may take the liberties, Mr.
47 Commissioner, and state that that was a hundred

1 years ago -- I should give you some background of
2 my family. My mother's mother was Milani Paul
3 (phonetic) and she's from Kamloops. And her
4 husband is the son of Chief Edward Ignace. And
5 Chief Edward Ignace's wife was Sulyen, who was
6 also a medicine woman. She was a medicine woman
7 -- the daughter of a medicine woman, Miliminetka
8 (phonetic), meaning medicine water. As well as
9 that, she had a brother and an uncle, Jimmy
10 Antoine (phonetic), who was chief, and Joe Tomah,
11 who was also a chief. And Joe Tomah was one of
12 the chiefs among the -- our Nations here that met
13 with Sir Wilfred Laurier in 1910.

14 And we made an offer to the Government of
15 Canada, as our chiefs made an offer to Canada back
16 them back then in 1910. They told it and we still
17 abide by that Sir Wilfred Laurier memorial that
18 these people want -- entered into our homeland and
19 became guests, although uninvited guests in our
20 house, that they wished to be brothers with us.
21 And as such, that we were prepared to offer up to
22 Canada half of our homeland, land, water, timber,
23 everything. What is ours will be yours and what's
24 yours will be ours. But there was a provision in
25 it of -- a relational provision in it that we must
26 help each other to be great and good.

27 And thus far, Mr. Commissioner, that what is
28 -- what have we gotten for our patience, the
29 Chiefs pointed out? Is the governments have taken
30 everything into -- of advantage over us, taken our
31 land, water, timber into their possession and
32 imposed their laws on us. One -- one way for the
33 Indians, one way for the -- another way for the
34 rich whites and yet another for the poor white
35 people. They took -- they took possession of all
36 our lands without any consultation, signing any
37 papers or any treaties made with us. And that
38 still stands today. Yet, the power and the wealth
39 of this country comes from that and thus we remain
40 impoverished and without power to control our own
41 affairs and rule our lands the way we used to.

42 So having said that, the -- the waters that
43 we held control over and our laws applied to where
44 the -- what is called the Secwepemcwetkwa
45 (phonetic), the North Thompson River, on the -- I
46 mean the Simpwetkwa (phonetic), the North Thompson
47 River, sorry, and the Secwepemcwetkwa, the Shuswap

1 -- South Thompson River and the Shuswap Lakes area
2 and the Quinquetkwa (phonetic). That was is the
3 South Thompson River from Savona down into the
4 Fraser are great fishing runs for us. We also
5 have the Horsefly and the Likely River, along with
6 the Fraser River.

7 And each one of these carry a great abundance
8 of various types of fish that all my colleagues
9 over here spoke about. And I agree with all that
10 they've said so far. Now, we have the keksu7, the
11 sheni7, the squeuekten7uwi, the -- you know, the
12 spring salmons, the Chinooks, the Cohos, the
13 sockeye, all those -- the different types of fish,
14 the rainbow trouts, all of those that come into
15 our -- our rivers. And we are -- we view
16 ourselves as the protectors and the growers of the
17 salmon, as such, at that part of -- as the
18 Secwepemc people.

19 Q Thank you, Dr. Ignace, and thank you for grounding
20 us in that history. I'm going to focus my
21 questions on the nature of this forum and the
22 nature of the Commissioner's mandate, which is
23 focused on looking at the reasons for the decline
24 of Fraser sockeye and what we can do to sustain
25 that. And in that light, recognizing the
26 importance of Secwepemc oral tradition to the
27 Secwepemc people, I wonder if you could share with
28 the Commissioner one of the stories from your oral
29 history that captures the nature of that
30 relationship of your people to salmon?

31 DR. IGNACE: Oh, yes, I can do that. Salmon is very
32 significant to us in many ways. And by way of
33 example, without telling all the stories that we
34 have, which would take some time, is that
35 (SECWEPEMC LANGUAGE SPOKEN) long time ago, Coyote,
36 by the way who was sent down by the Creator to fix
37 the land up for us the way it is. And when he
38 came down off the mountain after the great flood,
39 there was very little vegetation or plant life on
40 the land except for a few grasses and trees. And
41 he took a tree for a wife. And from that, the
42 forests and the plant life underneath are our
43 relatives. We're related to all living things.
44 All things are living in our view. And he had a
45 hankering for fish. And so he went to the river
46 (SECWEPEMC LANGUAGE SPOKEN) he turned himself into
47 a rock to try to float down the river but instead

1 he just sunk. Then (SECWEPENC LANGUAGE SPOKEN)
2 Sk'elep so he changed himself into a feather and
3 he just got blown around by the wind. And then a
4 leaf. And he got just whirled about in the back
5 eddy in the hoolontkum (phonetic).

6 And so finally, he turns himself into a
7 sakstay (phonetic), into a nice stick (SECWEPENC
8 LANGUAGE SPOKEN) then he floats all the ways down
9 the river and he gets stuck in this fish dam or
10 weir that was put up by two powerful medicine
11 women. And he stays with -- and they find this
12 stick and they pull it out and they're going to
13 use it for their fire -- firewood. (SECWEPENC
14 LANGUAGE SPOKEN) and Coyote turns himself back.
15 Once he was thrown in the fire, he turns himself
16 back into a small baby and so they reach in and
17 say, "Oh, wow, this cute little baby boy. We
18 should raise him as our own." (SECWEPENC LANGUAGE
19 SPOKEN) and he stays with -- they look after this
20 baby and he was -- the Coyote was there for there
21 four days and four nights. And at the -- on the
22 morning of the fourth morning, he gets up really
23 early and he runs and he -- by -- by being with
24 these women for four days and four nights he
25 breaks their power and was able to tear down the
26 dam. And he invites the fish upriver. So the
27 Coyote was the one that brought us the fish.

28 And according to our oral history, the
29 greatest gift that Coyote gave us is the fish.
30 And because those -- being with those women, they
31 -- they were -- became our kinfolk and, as such,
32 you cannot deny your kinfolk food or access to a
33 resource because the foundation of our laws is
34 based on kinship, kinship ties. Without it, you
35 cannot enter into a -- we're unrelated to these
36 Nations. We have similar cultures and -- and
37 stories. But I could not go into their territory
38 and fish unless I had kinship ties over there like
39 -- and vice-versa with us. And that is our law.
40 It's a very strict law. I could be severely
41 punished if I went into their territory without
42 their consent and proper protocol.

43 Q I'd like to take you --

44 DR. IGNACE: And --

45 Q Sorry. Continue.

46 DR. IGNACE: -- I'm not quite finished with my story
47 yet. And Coyote brings the fish up the river and

1 he's proud -- so proud of what his accomplishment
2 that he invites the chiefs from the throughout the
3 Shuswap Nation of -- we had 32 communities. Now,
4 we're reduced down to 17 because over the -- the
5 years, our population was decimated through
6 smallpox and all kinds of other things that I
7 think you're all familiar with. I don't have to
8 go into detail. But he invites all the chiefs and
9 he fills up his drying rack with salmon. And as
10 he's drying the salmon, he's dancing and singing,
11 filled his head, it's swelling bigger and bigger
12 with pride. And some of the salmon get hooked in
13 his hair and it gets pulled off the rack. And --
14 and he gets mad at the fish and he kicks it. And
15 not long after that, all the salmon jump back --
16 come back to life, jump off the rack and go back
17 in the river. And just then, all the chiefs show
18 up to see what great gifts the Coyote has brought
19 them. And all they have to lick is the slime on
20 the stick. And so they -- they mock Coyote.

21 And so that's what's happened is that, you
22 know, if you disrespect the salmon, they will
23 leave you. And we have done that in so many ways
24 in this modern age, through pulp mill pollution.
25 I mean we fought the CN twin track -- CN was going
26 to twin track the Secwepemc and Thlecewepemc
27 (phonetic). And other Nations fought -- fought
28 the CN from twin-tracking it to the river because
29 that would have led to the destruction of the
30 wetlands, the salmon-rearing habitat and all of
31 that. And we got a permanent injunction even
32 though CN said that we are one -- two doors down
33 from God, you cannot stop us. But we did it. I
34 stood on the tracks and stopped the train because
35 that's how much we believe in the salmon. And
36 we're prepared to do that again should we have to.

37 You know, we have -- as one of our elders up
38 in Canim Lake said, "Salmon is our firstborn
39 child." You know, so it's -- that's how we --
40 we're related to the salmon. We're related to all
41 living beings. And the problem is that we ought
42 not to focus just on a particular species but what
43 we ought to be focusing on is the
44 interconnectedness between the species, between us
45 and the species, between the environment and the
46 species that we're concerned with. That is
47 traditional ecological knowledge. It's a life-

1 lived experience through observation as well.

2 Q Thank you. I want to get into a discussion about
3 what the impact to your culture is when you don't
4 have an opportunity to do the fishing and when the
5 fish aren't returning in the same abundance as
6 they may be used to. Could you speak to that?

7 DR. IGNACE: Most definitely. It's -- it's -- you
8 know, the way -- way we've been managed vis-à-vis
9 the government under the residential schools, it's
10 been -- what is -- the objective there was to take
11 the Indian out of the child, okay? If we take
12 that and look at the example of fisheries, what --
13 the way the fisheries have been operating is to
14 take the fish out of the Indian. That's the
15 analogy that I would put forward there. And that
16 -- we have lost so much of our -- of our knowledge
17 of the fishery of our -- our -- you know, in many
18 ways, a lot of our young people today. We used to
19 do fishing when I was like -- our -- my chief over
20 there said that when he was young that he used to
21 go and fish all kinds of fish. Well, we fished in
22 the creek. We had to build special places for the
23 salmon to come under and hide in so we could --
24 and we'd have to sneak out there and spear them
25 from there.

26 Well, in the Deadman Creek, that -- the Coho
27 out of there disappeared and we imposed on
28 ourselves - as a matter of fact, before we did
29 that, we used to go up against fisheries. They
30 used to come in helicopters with their guns and we
31 had gunfights to protect our right to fish. And
32 they would come and tear out our nets, you know.
33 So we passed a fishing bylaw within our reserve
34 because under the **Indian Act**, there's laws of
35 general application apply only if you don't occupy
36 the field. And so we occupied the field and we
37 pushed that out. And as soon as we did that, we
38 imposed closure on ourselves on the Deadman River
39 so that we -- and we put in fish hatcheries. We
40 tried every trick in the book to bring back that
41 run. But the sad fact of it is, is that no -- the
42 younger generations in the last 20 years have lost
43 the knowledge of how to fish in the creek with a
44 spear. They've lost the technology, how to make
45 the technology to -- to spear salmon in the creek.
46 They have lost the language of -- of that. And it
47 was a collective communal -- all our fishing was

1 collective and communal. We'd all -- you know,
2 families would go down there and help each other.
3 Likewise down the river.

4 We don't -- manets -- manets are two-pronged
5 harpoons that when you spear a spring salmon they
6 come off and you could pull them in. There's no
7 more spring salmon to go -- or very few. This --
8 this was the first year that there was enough that
9 we could have gone down there and did it but we've
10 lost that. That practice is lost to us. As well
11 as the hooking of the salmon, the dip-netting of
12 the salmon. The only way that we can catch -- use
13 right now is to have -- to be able to catch enough
14 salmon is through gillnets, set nets in the river.
15 You know, but traditionally, we had up at the --
16 you know, when all our traditional ways, as my
17 colleagues have pointed out here, have been
18 outlawed. I mean in between Kamloops and Chase,
19 if you go there, you can still see evidence where
20 we built rock walls across the Thompson -- the
21 Thompson River -- the South Thompson River. And
22 the fish would come up and they would pool in
23 there. And this was -- it would take the number
24 of different communities coming together, packing
25 mountains -- rocks off the mountain to make these
26 fish dams where the fish could pool up. And so
27 that we could go in there and we could selectively
28 catch and pick.

29 All our traditional techniques are geared to
30 fish one type of fish or another, as opposed to
31 the commercial fishery in the ocean where it's
32 much like clear-cut logging; you clear cut the
33 ocean floor, you know, which has been very harmful
34 to the fisheries. And that has to end. That has
35 to stop. You know, we -- we pick and choose, as
36 my friend here, if we want the sockeye, the males
37 -- or so many males or so many females, whatever,
38 to ensure a continuation of the -- you know, the
39 species, the genetic diversity.

40 I mean we went so far as a community to try
41 to save the steelhead that we -- we used -- we
42 tested out and cryogenetically (sic) saved the
43 sperm from the -- the rainbow trout -- steelhead,
44 I mean, so that we could have -- if they were all
45 gone one day, we could go back and bring it back
46 and revive it. You know, we're desperate in terms
47 of trying to save that fish.

1 We've -- we've lived off of salmon for
2 thousands of years. It's significant and
3 important to our diet, to our way of life and we
4 have to fight to look after its -- its home. And
5 its home is not just the water. If you look at
6 the Earth, when the Creator came down to finish
7 off Coyote's work, he gave us what was called
8 teskalia (phonetic); that's a sweat house. People
9 call it the sweat house. That name doesn't -- in
10 English doesn't do justice for teskalia as a sweat
11 house. But being that as it may, he went
12 (SECWEPEMC LANGUAGE SPOKEN).

13 The Creator gave us a sweat house, a direct
14 gift from the sweat house as our church, if you
15 will. That's where we go and pray to be healed
16 and to ask for things that we may be wanting in or
17 the strength to be able to do what we need to
18 accomplish in a good way -- always in a good way.
19 We don't go there to ask for something bad to
20 happen to someone or to something. But he went to
21 the -- he went to the furballs (phonetic) and he
22 told the furballs that when the people go to the
23 sweat house you help the sweat house in healing
24 and giving the people what they want.

25 Then he went to the water and said to the
26 water the same thing, "You'll be the sweat house.
27 You will work with the furballs in helping the
28 sweat house heal the people and giving them what
29 they want." So those are sacred things to us.
30 Water is sacred and we're not treating as sacred.
31 We don't -- we're disrespecting the water. We
32 dump our pollution in the water. And that's where
33 -- just think we're polluting the air and how much
34 it makes us sick. Just think what it must do to
35 the salmon.

36 Q Mm-hmm. Dr. Ignace, I'd like to get a little more
37 specific with you and -- and ask you how the
38 traditional knowledge that we've just heard you
39 speak of, Coyote stories that teach respect for
40 salmon, needing to respect the waters and
41 traditional practices, spear fishing and those
42 sorts of methods, how can those pieces and that
43 wisdom of traditional knowledge be better used or
44 be used today for fisheries management?

45 DR. IGNACE: Well, I -- I appreciate you asking an
46 elder-in-training that -- that question. But I
47 will do my best to try to give the best answer I

1 can to it. When -- when you look at our -- our
2 technologies and you look at the fish, right now
3 we're -- the way we're harvesting the fish is
4 upside down as far as we're concerned, is that the
5 best place to do the -- to do a harvesting of the
6 fish is to allow them to come inland where they
7 will self-select, you know, out. The sockeye will
8 go one way. The other salmon, Cohos, Chinooks,
9 they will separate themselves out so that you're
10 not catching, you know, different types of fish at
11 once.

12 And not only that, you can -- you can
13 selectively catch the amount you need, the amount
14 you want, what kind you want, when you want it and
15 that's the type of technologies that we need to --
16 to adopt. And in terms of -- we've got to ensure
17 that -- that we look after -- I mean we -- we
18 worked hard, for example, in trying to maintain
19 the Deadman -- the Deadman River where the farmers
20 went in and cut down all the trees right up to the
21 edge of the river. And what that led to was the
22 warming of the water, which harmed the fish. So
23 we -- we had to negotiate with the farmers, say,
24 "Look, we want to try to -- 20 feet back we'll
25 fence off the riverbank on each side and we'll re-
26 vegetate it so that the vegetation could grow over
27 and cool down, keep the water streams cool."

28 And also, you know, bears go in and eat the
29 salmon and take it out and help fertilize the
30 riverbanks and help maintain the vegetation over
31 the stream banks, particularly the spawning
32 grounds. But that's not the -- a lot of places
33 now have cabins and houses and the bears can't go
34 over there and help re-vegetate and maintain a
35 healthy habitat, ecosystems. It has -- the clear-
36 cut logging in the mountains has led to siltations
37 -- siltations of the spawning beds, you know,
38 which has caused serious harm. And we've been
39 talking about all of that. And you know, we've
40 got to get back to respecting the environment,
41 respecting the -- the water, respecting the fish.
42 Otherwise, they're going to disappear on us.

43 Q Thank you. The Commissioner has been hearing some
44 information on the theory of over-escapement. And
45 I'd like to put that question to you and seek your
46 views on this theory. This theory that it's
47 possible to have too many salmon returning to the

1 spawning grounds. What does your traditional
2 wisdom and knowledge say to that theory?

3 DR. IGNACE: I think we have too much abuse and
4 disrespect of the fisheries and the environment.
5 We can never have too much fish. When you have a
6 lot of fish much like -- and we're happy to see
7 what happened come back this year and, you know,
8 the -- this year the -- the -- I guess the stars
9 were aligned for the fish because the water
10 temperature was right, there was rain when -- in
11 cooling down the environment unlike last year when
12 the salmon hit the Kamloops Lake, it was so warm
13 that they all -- majority of them got knocked out
14 and floated back downstream. A lot of them didn't
15 revive and died. A few of them made it through
16 but this year they -- they did, you know, and --
17 sorry, what is your question?

18 Q We've heard about over-escapement.

19 DR. IGNACE: Okay, right, yeah. And what happens when
20 a lot of the salmon go there and were like happy
21 to do that because what -- what -- when the salmon
22 spawn and die in the spawning grounds, what
23 they're doing is fertilizing the river,
24 fertilizing the food that the fry and the salmon
25 will eat as they grow and get ready to go back out
26 in the ocean. And it feeds -- they feed -- it's
27 -- it's a great fertilizer. We all know salmon is
28 a great fertilizer. And without that, you cannot
29 feed the future generations of fish. And we have
30 to ensure that there's nothing wrong with over-
31 escapement. That's just an excuse to catch more
32 fish for commercial sales and to enhance
33 somebody's bankbook.

34 Q I'd like to move to questions about what Grand
35 Chief Terry was talking about and work within
36 Nations, building up Nations. Can you tell the
37 Commissioner a bit about how Nationwide fisheries
38 decisions are made for the Secwepemc people and
39 the Secwepemc Fisheries Commission's role in that?

40 DR. IGNACE: Well, you know, the policy has
41 individuated as a Nation of people, as Secwepemc.
42 And so we now have individual communities and
43 individuals going down and fishing. And there's
44 no collective -- our collective laws can't be
45 applied in those individuated circumstances. So
46 we need to get back to the Nation level and we --
47 and I believe between 2002 and 2004, we had a

1 meeting and we invited our neighbouring Nations
2 and we met in Kamloops.

3 And we looked at -- amongst ourselves, we
4 said that we need to get the people in the
5 Horsefly/Likely/Williams Lake area. They're the
6 caretakers of that area. We need to stand them
7 back up and monitor and assess all -- you know,
8 the fish that are returning, assess the quality of
9 the water, assess the environment surrounding the
10 river to ensure a healthy, good habitat, along
11 with the people up in the North Thompson/Barriere
12 area, likewise, along with the people up the Adams
13 Lake and -- you know, South Thompson area, that
14 they do that and that they -- we have people that
15 are fish monitors and looking all of those, the
16 quality of the environment to ensure that wherever
17 there's enhancement required, that they will come
18 -- we will come back -- these people will come
19 back and make recommendations to the chiefs and
20 the chiefs will make the decisions as to how we
21 should -- which -- how we should manage various
22 runs in various rivers and when to do that. And
23 if need be, then our chiefs would then go down and
24 meet with Chief Saul Terry and -- you know, and
25 Stl'atl'imx country and his fellow chiefs and we
26 would say, "Hey, this is what we need," along with
27 our Chief Fred Samson down there. We -- this is
28 what's happening up here. How can we work
29 together to ensure that these salmon are going to
30 come back?

31 I mean we have an aboriginal right to fish
32 but I can't eat a right. I definitely sure can
33 eat a fish. So in order to have that right to
34 have any value to me, we need to protect at all
35 costs those fish from coming back -- to come back.

36 Q Thank you. You spoke about the dialogue that can
37 happen with Grand Chief Terry on behalf of
38 Stl'atl'imx and the Lakahahmen Nation leaders.
39 What's your view of the role of the ITO in that
40 type of dialogue and Nation-building?

41 DR. IGNACE: Well, I think it's important that we, as
42 Nations, not as communities, come together at the
43 -- each Nation level and -- and lay out a common
44 objective to ensure that all of us get healthy
45 runs of salmon. That's -- and a healthy
46 environment. If we can ensure healthy runs of
47 salmon and a healthy environment, then the rest --

1 we have different histories and approaches and
2 technologies and techniques and conditions for
3 fishing. That will take care of itself within our
4 Nations, you know. I don't -- we don't have the
5 same conditions as Saul. For example, the Fraser
6 River, the salmon can't see that well because it's
7 dark and silty. But in the Thompson River it's
8 clear so you can't go and dip during the day.
9 They'll see you and they'll duck away from you.
10 You can't spear. They'll duck away. There's
11 certain different times and ways. Each technology
12 has a different approach and method to it. And
13 those will take care of itself within our Nations.
14 There's certain areas that we can come together on
15 and there's certain areas that we differ on.
16 That's fine.

17 Q Dr. Ignace, I'm just cognizant of the time and I
18 feel I can only put one last question to you at
19 this point. But that question is to ask you to
20 comment on what you view as -- what's your
21 definition of co-management or joint management?
22 Which term do you prefer and what's your vision
23 for what that entails?

24 DR. IGNACE: Well, when I started off this morning, I
25 started off with saying, you know, we offered up
26 with Canada that what is ours will be yours and
27 what's yours will be ours and we'll help each
28 other to be great and good. We have to be equal
29 partners with Canada. You know, and equal
30 decision, equal access, revenue sharing, you know,
31 we said for us, as Secwepemc, half-and-half in
32 everything. And that, you know, we have to -- and
33 we're still fighting for that and we're still
34 working towards that. Presently, right now, the
35 way the -- the DFO regulations are divisive in our
36 communities and it leads to hardships between
37 communities. And that makes it more difficult for
38 us to be able to come together as a Nation and to
39 speak when there's -- when there's hurt between
40 communities. We have to overcome that. You know,
41 the intergenerational transmission of that harm
42 has to be dealt -- pushed aside and we move
43 together collectively for the good of all. It's
44 not just for ourselves but it's for the good of
45 all.

46 Q Thank you.

47 DR. IGNACE: (SECWPEPMC LANGUAGE SPOKEN)

1 Thank you for giving me this opportunity to
2 say what I've had to say and I hope it's been
3 helpful. Thank you.

4 Q Thank you, Dr. Ignace. I am going to turn now to
5 you, Thomas Alexis. Mr. Alexis, as I have with
6 the other panellists, I'd like you to start by
7 explaining for us where Tl'azt'en community is,
8 where it's situated within the larger Nation, and
9 to describe some of your traditional fishing
10 practices, too.

11 MR. ALEXIS: Okay. Thank you. My name is Chief Thomas
12 Alexis, former chief or the Tl'azt'en Nation.
13 I've been a politician for about ten years and
14 been in the fisheries field for most of my life.
15 Right from birth to today, I still regard fishing
16 as a practice that's been taught to me through
17 generations. My home community is at the
18 Tl'azt'en Nation, Tache Reserve. It's on the
19 upper reaches of the Fraser Watershed. It's in
20 the headwaters of the Fraser Watershed in the
21 Stuart Takla area.

22 I don't know if there's a map that delineates
23 that but our people consist of the Carrier people.
24 The Carrier peoples have different dialects within
25 the Nation that speaks their language in different
26 manner but still deemed as Carrier language. Our
27 Carrier territory encompasses the Babine, the
28 Takla Lakes systems down to Prince George and down
29 into the Nechako Watersheds, as well as the
30 Stellaquo and all those watersheds that's west of
31 us. Tl'azt'en Nation territory is situated at the
32 northeast corner of the Carrier territories.

33 We are situated at the divide where we sit at
34 the top of three different watersheds, one being
35 the Skeena Watershed, the other one being the
36 mainstream Fraser Watershed and the other one
37 being the -- the Arctic Watershed. So as a
38 Carrier Nation, we have to be careful of what we
39 do above there to ensure that we respect the
40 people downriver from us. So then those are
41 important points to understand because you look at
42 this picture here. The driftwood system looks
43 like this. It's pristine in a way that, you know,
44 the salmon still could go back there but it has
45 been decimated in a way that with -- through
46 logging practices has diminished that run on its
47 own. Our people historically used to say that

1 there was three different Stuart runs, one being
2 the driftwood run, the other one being the Stuart
3 Takla run and the other one being the Middle River
4 run. That's the late Stuart run. There's a run
5 of Chinook that comes to our territory and
6 different resident species that we target
7 throughout the territory of the Carrier people.

8 Our history goes back millennia. Couple of
9 years ago, in one of our fishing sites on Stuart
10 Lake, a historical fishing site that our people
11 used to gather and to do the salmon fisheries,
12 there was an archaeological dig there a couple of
13 years ago. And they dated the artefacts there to
14 be back to 12,000 years. So that's one of the
15 areas that our people used to converge onto to do
16 their traditional winter fisheries for salmon.

17 The pictographs on Stuart Lake on the rock
18 bluffs of Stuart Lake dates back about 30,000
19 years. And the pictographs themselves depict the
20 animals and the fish that we utilize throughout
21 the systems in the Carrier -- Carrier Nation
22 territories.

23 Q Thank you. If you could also give the
24 Commissioner a sense of what those traditional
25 fishing practices looked like in the -- in the
26 systems that you fished traditionally?

27 MR. ALEXIS: Yes. Prior to contact, our people used to
28 have different methods of fishing. The weir
29 fisheries they call it. There's about six or
30 seven different types of weir fish -- weirs that
31 were constructed for specific stocks. There's one
32 type of weir. They call it a deep water weir.
33 It's made up of different trap boxes tied together
34 and sunk into a deep, deep part of the river to
35 capture the salmon, as it's migrating upstream. A
36 second type of weir is one as a cone trap, they
37 call it. It looks like a big funnel. And those
38 traps were used -- utilized for smaller streams.
39 Those traps are set at a confluence of the stream
40 so that they could capture the fish that's going
41 into the smaller streams.

42 There's different types of small box traps
43 that our people use to -- to set anywhere to -- to
44 target even resident fish, white fish, rainbow,
45 char. You name it, there's those resident fish
46 that's there that -- that we capitalize on. And
47 these rivers are made up of willows and tied

1 together by spruce -- spruce roots and whatnot to
2 ensure that we are efficient in our system.

3 Q Thank you. Can you tell the Commissioner if you
4 see a role for these traditional fishing practices
5 today and what attempts have been made to
6 reinvigorate those types of processes?

7 MR. ALEXIS: Yes, since we used those weirs and traps
8 in our fisheries, it was very selective. Like my
9 colleagues are saying here, the majority of the
10 methods that our people use are selective and are
11 utilized for sustainability. In today's
12 standards, I think DFO have already started to use
13 those processes, one being in the incline plane
14 trap, they call in counting out the fry that's
15 coming out of the systems in the spring. That
16 resembles our big box trap weir that -- that our
17 people use in the deep water. The other one was
18 the shallow water weirs that they strung across
19 the fences that they strung across the streams to
20 capture fish. DFO are using that concept today as
21 enumeration fences. So there's that -- that
22 concept has been adopted in many ways in the
23 management of DFO science management, I guess, or
24 management of the fisheries and -- but we are
25 still outlawed from practising our traditions in
26 using those weirs.

27 Q Could you provide the Commissioner with some
28 information -- some more information -- you've
29 already touched on this -- about how the fishery
30 was managed historically? What kind of
31 communication was there up and down the river so
32 that, as you said earlier, you can respect your
33 neighbours down river? What was happening that
34 way?

35 MR. ALEXIS: Our people had the special person with a
36 special gift that knew the dialects of the people
37 along the river and communicated. They call this
38 person the messenger or the natanayani (phonetic)
39 in our language. And these people communicate to
40 see the conditions of the runs and to see if
41 there's abundance or not. And once -- once a
42 decision is made to fish based on the abundance
43 and that, the hereditary system kicks in. Our
44 hereditary chiefs from the different clans. In
45 our -- in our territory we have four different
46 clans: the Lasaylu (phonetic), the Slameshyu
47 (phonetic), the Granton (phonetic) and the

1 Lakchaboo (phonetic). They call our -- all our
2 head chiefs and these are the people that do
3 decide whether there's going to be a fisheries or
4 not.

5 Q Do you see any resemblance between that system and
6 modern systems like, for example, the ITO?

7 MR. ALEXIS: That would be something similar to what
8 the ITO is proving to do in this current terms
9 because, you know, the chiefs, the hereditary
10 chiefs and the chiefs that communicated back and
11 forth had the mandate to do so. And I think ITO
12 is resembling that very practice.

13 Q Thank you. Could you share with the Commissioner,
14 Mr. Alexis, some of the stories and legends that
15 you were told that embody the respect that your
16 people show to the salmon?

17 MR. ALEXIS: I would maybe reflect on three stories, I
18 guess. One would be -- one that's similar to Dr.
19 Ignace cited in the respect for the salmon. I
20 don't know the name of this. I can't translate it
21 in English. So I just call it the "salmon spirit
22 story". And it's similar to what Dr. Ignace said,
23 is that there was one time back in the early days
24 when fishing was at its peak. A widower was
25 fishing and doing all this work himself because he
26 was all alone. He had nobody to help him. Back
27 then, in our practice, this was a community
28 gathering that at the weirs where they dished out
29 or shared the catch amongst community members.
30 This story is a story that gives us respect to the
31 salmon. It goes like this.

32 There was one time, this widower that went
33 fishing or caught enough fish to go -- to prepare
34 for the winter and that he had no help. Other
35 families are too busy doing their own work. The
36 men were out hunting doing their hunting and he
37 was left behind to do all -- all the work on the
38 fish and whatnot and was jealous of the other
39 people because he was hard -- working so hard that
40 he had no time to do other things. When he
41 processed his fish in his drying rack, we call it
42 nineye (phonetic) in our language. And the
43 smokehouses, we call it ageebyoh (phonetic) in our
44 language. He processed the fish. He processed
45 everything. He didn't waste anything. He saved
46 the heads. He saved the backbones. He saved
47 everything and processed and dried it but still

1 had this urge to go out and hunt with the men.
2 But he couldn't do it until he finished his -- his
3 fish.

4 At one time, he went into his smokehouse to
5 stock the fire and got -- got his hair or head
6 caught in the ribs or the backbone of the fish.
7 He got angered by that. He was already angered
8 because he couldn't go hunting and I guess that --
9 the backbone that nicked his head angered him to a
10 point where he took that backbone of the salmon
11 and threw it in the corner and stomped on it in
12 anger and muttered some words that's disrespectful
13 to the salmon.

14 And what the salmon spirit did is that he
15 made that person pay for it. He -- the salmon
16 spirit in July -- our fisheries is in July and the
17 salmon spirit caused it to snow. And so the first
18 thing that happened is that once the person that
19 is angered did that to the backbone, the fish came
20 back in life and jumped back into the system and
21 it started to snow. And it snowed until it
22 covered the whole smokehouse. And there was no
23 way that this person could get out. And this
24 person perished right in that smokehouse.
25 Fishless, mind you, but he perished. And this is
26 the story that came about in -- in our
27 smokehouses, as I was growing up, and these
28 stories came down in our tradition to give us the
29 meaning of respect for the salmon.

30 Q Thank you. I'm going to change gears just a
31 little bit and just note that the Commissioner has
32 already heard evidence about how DFO's Science
33 Department is now making efforts to consider the
34 ecosystem more broadly and do ecosystem-based
35 management. Could you tell the Commissioner what
36 your traditional knowledge has to say about the
37 place of salmon within the ecosystem and the
38 importance of salmon to the ecosystem?

39 A Yes. There's another story that -- that I could
40 tell you based on your question, is the life cycle
41 story of an orphan. The orphan went down to the
42 river at one time and, you know, tried to find out
43 where the salmon are going or where the salmon are
44 coming from. And he was very interested in that.
45 And he had nobody. He had nobody with him. And
46 when he thought about this over and over again
47 throughout the summer and winter and spring, by

1 the time, you know, the salmon was going to leave
2 the system as smolt, the orphan changed himself
3 into a smolt to, to go back with the other fish to
4 see where they go and to see where they come -- or
5 they -- you know, where they spend their time in
6 their life cycle.

7 Four years after this, this young boy came
8 back as an adult salmon and turned back into a man
9 or -- or a young man and told his story about his
10 travels. And he indicated to the people that this
11 salmon travels far and wide and it feeds a lot of
12 people. It feeds the bears, the eagles, it feeds
13 the trees. Like Dr. Ignace indicated that every
14 living thing is our ancestor or -- in one form or
15 another was man before. The bears are one example
16 of that. They are our ancestors and we know that
17 the bears need the -- the food that's coming
18 through the systems and that these animals would
19 need this nourishment, the ocean-borne nutrients
20 that come along with the salmon. So is the
21 ecosystem. The trees and the -- the resident
22 fish, whatnot, because when there's a high
23 abundance of salmon, there's always high abundance
24 of resident fish, too. And there is good
25 productivity at that time.

26 Q Thank you. Can you tell the Commissioner some of
27 the observations that you have made about the
28 abundance of fish coming back now, as opposed to
29 when you were younger, or what you've heard from
30 your elders and your community?

31 MR. ALEXIS: Yes. Back in the early days during our
32 weir fisheries, we were managing so sustainably
33 that the fish came back in very high abundance.
34 Our people used to talk about walking across the
35 backs of the salmon to cross the river. And I
36 think you'll hear those stories all along the
37 river -- the river systems even today. Hearing
38 those stories made me think about the times we're
39 having now. A lot of people say that, you know,
40 there's overabundance in those systems and that's
41 not truly so. There's over a hundred streams in
42 our -- the Carrier Nation territories that -- that
43 produce sockeye salmon or produce Chinook and fish
44 like that. And those streams today are not being
45 fully utilized. So there's -- the misperception
46 of overabundance is not really there. You know,
47 the animals are smart enough to go to a different

1 spawning stream if there's -- there's capacity,
2 there's -- the other stream couldn't carry him as
3 a capacity. And these things are observed
4 throughout the millennia that if there's an empty
5 stream there it would be full some day again.

6 Q Thank you. We've heard and we know about the
7 phenomenal returns of sockeye this year, in 2010.
8 How was that experienced by your people up river?

9 MR. ALEXIS: Well, our people in the Carrier Nation
10 consist of about 30,000 people throughout the
11 whole traditional Carrier territory. And this
12 year, despite the high numbers, the historic
13 numbers that came back into the systems, according
14 to DFO I think it was the highest they've ever
15 gotten back in a hundred years. This perception
16 makes people think that, yes, everybody up and
17 down river have their catch of fish but it's not
18 truly so. The highest abundance that got back
19 into -- close to the Carrier territory is the
20 Quesnel -- Horse Quesnel run. And that's where
21 the abundance stopped. Above Quesnel and the 600
22 kilometres of river that's above Quesnel had no
23 abundance at all. Our people did not have any
24 food fisheries to speak of. The Carrier Sekani
25 Tribal Council and its people only caught 8,700
26 fish. My own people of 2000 of Tl'azt'en Nation
27 caught 2,200 fish. And that's for food for the
28 winter.

29 Historically, each family used to put away a
30 thousand fish for the winter. Imagine to today's
31 standards, there's over 250 families in my
32 community with three different villages. Imagine
33 the amount of fish that we require to sustain
34 ourselves over the winter would be 250,000 fish.
35 But we didn't get to that point. We got at least
36 1 percent of it.

37 Q You've spoken to the impacts of not having food
38 fish. What are some of the cultural impacts of
39 not having sockeye return to your territory?

40 MR. ALEXIS: Like my colleagues say, that the practices
41 -- or traditional practices, the gathering and the
42 preparation of the equipment that we're going to
43 use to do our fishing are no longer there. The
44 stories that come along with sitting beside in the
45 campfire and dissimilating the stories orally. I
46 mentioned two stories to you that I've learned
47 from my grandparents while sitting at the campfire

1 doing fish and these stories are related to me are
2 now related to my kids. So -- and there's -- the
3 disconnect is there because there is so low
4 abundance and there's hardly any fishing going on,
5 as opposed to back in our days of the weirs, the
6 fisheries was a communal fisheries. You know, as
7 a community getting together to help each other,
8 to gather the food for the winter. In comparison
9 to today, since our -- our weirs are no longer
10 allowed to be utilized, we resorted to gillnet
11 fisheries. And -- and these fisheries have
12 impacted us culturally because now it became an
13 individual effort. It became an individual effort
14 and it became a fishery for the people that had
15 equipment and gear to do the fisheries. So it
16 left a big hole in our community in relation to
17 the fishing and the stories that comes behind it.

18 Q Thank you. Mr. Commissioner, I note that it is
19 now 12:30. I do have a short series of questions
20 about some of the bodies that Mr. Alexis sits on,
21 the FNFC and the ITO and UFFCA. I'm happy to take
22 about ten minutes after lunch, with your leave and
23 with Commission counsel's permission.

24 THE COMMISSIONER: The hearing will be resumed at two
25 o'clock. Thank you very much.

26 THE REGISTRAR: Hearing is now adjourned until 2:00
27 p.m.

28
29 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
30 (PROCEEDINGS RECONVENED)

31
32 THE REGISTRAR: The hearing is now resumed.

33
34 CROSS-EXAMINATION BY MS. PENCE, continuing:

35
36 Q So Mr. Alexis, before I turn to some questions
37 about the different organizations of which you are
38 a member, I wanted to ask you if you could tell
39 the commissioner about some of the sharing
40 arrangements that you see between nations and
41 communities at your part of the river.

42 MR. ALEXIS: Yes, there are examples of sharing
43 arrangements between bands, I guess. It's not
44 between nations. An example I could give is that
45 in times of low abundance, Chief Robert Hope used
46 to send fish up to our community. They fished it
47 here in the Lower Fraser and packed it, ice-packed

1 it and delivered it to our community. And that
2 would come out of their allowable catch. So
3 there's the sharing arrangements that chiefs and
4 bands could do along the river to help with
5 sustaining the fisheries.

6 There's other examples in the river that
7 happens when there's low abundance in the Upper
8 Fraser, there's sharing arrangements between the
9 Babine bands and Nak'azdli and Tl'azt'en to ensure
10 that our people got enough fish for the winter.
11 Historically what happens in the Babine area is
12 that the Babine tribes usually set aside a certain
13 amount of fish for our people to fish for in the
14 Babine Lake system. And similarly, along the
15 river systems we had a chief by the name of Bob
16 from Fountain Band delivered fish to our people or
17 to our elders because he heard in a meeting that
18 we were not getting our share of food fish in the
19 Upper Fraser, so what he did is he got his
20 community together to fish for us and bring it to
21 our people so that our elders and the youth and
22 the ones in need that can capitalize on some fish
23 for winter.

24 Even although there's no formal processes in
25 the DFO management system to do that, there's
26 still a process in the First Nations regime to
27 sign protocols with each other to do some fair
28 trade. In giving thanks to these two communities
29 that gave us fish, our elders sent them some moose
30 meat, so there's these kinds of arrangements that
31 are made between First Nations and bands along the
32 river to ensure that everybody had a good share of
33 fish. So it's there, but there's no formal
34 process to do that currently.

35 Q Thank you. I'd like to ask now some questions
36 about the different organizations of which you are
37 a member and that includes the Upper Fraser
38 Fisheries Conservation Alliance, the UFFCA, also
39 the First Nations Fisheries Council, the FNFC, and
40 then your work with the Inter-tribal Treaty
41 Organization.

42 So I'd like to start with the UFFCA and just
43 briefly, because I am wary of time, could you
44 briefly describe for the commissioner what the
45 role of the UFFCA is?

46 MR. ALEXIS: The UFFCA is an organization that was
47 formed by the Upper Fraser tribes, the tribal

1 councils or individuals bands, to put together a
2 strategic plan to help with giving some technical
3 services to about 23 bands up in the Upper Fraser.
4 The reason these bands got together is because we
5 all had something in common, and that one thing in
6 common was we had spawning habitats, and we needed
7 to engage with each other to see if we could
8 ensure that there's abundance in run sizes and
9 that in the Upper Fraser.

10 Q Thank you. And if you could also touch on what
11 you see adding or -- adding to what Grand Chief
12 Terry has said about the ITO, but what do you see
13 as the role of the ITO?

14 MR. ALEXIS: Well, the ITO is an organization that's
15 been formed out of an agreement that was signed in
16 1989 and that relationship I see with the ITO and
17 the clan systems is they fit together well. The
18 clan systems are based on nation management and
19 nation building and whatnot and the ITO is simply
20 doing that and moving an initiative forward where
21 people have mandate to speak on behalf of the
22 nations.

23 Q Thank you. And can you speak to what the role of
24 the Fraser River Aboriginal Fisheries Secretariat,
25 FRAFS, is?

26 MR. ALEXIS: Yes. The Fraser -- FRAFS is an
27 organization that was formed back when the AFS
28 agreements were signed. It's an organization
29 that's been running for about 20 years. They
30 provide technical services to all tribes in the
31 Fraser watershed. It's all-encompassing. It's
32 based on technical services to -- and
33 communication services for the tribes in the
34 Fraser River.

35 Q So am I right in understanding that both FRAFS and
36 the UFFCA are technical bodies?

37 MR. ALEXIS: Yes.

38 Q And the ITO, as you've said, is a mandated
39 political body?

40 MR. ALEXIS: Yes.

41 Q Thanks. And then finally, what do you see as the
42 role for the First Nations Fisheries Council?

43 MR. ALEXIS: I see that organization as a mentoring
44 organization that advocate for titling rights
45 issues and region-wide issues. I see the
46 organization as a group to help anyone in British
47 Columbia or any First Nations in British Columbia

1 to move along an issue that's near and dear to
2 them. It's in its formative stage and once it's
3 been finalized, I think it's going to be an
4 organization that the leadership and the
5 technicians in British Columbia would look to to
6 help them move some initiatives forward.

7 Q Thank you. Can you speak in a little bit more
8 detail about how these technical and
9 communications type bodies, like FRAFS and UFFCA,
10 can support the work that's being done by the
11 larger organizations, whether it's political
12 bodies like the ITO or province-wide policy-
13 oriented ones like the FNFC?

14 MR. ALEXIS: Yes. As you know, there are 203 First
15 Nations in British Columbia and are all diverse
16 and each nation or each region or each sub-region
17 has very good knowledge of their areas and that's
18 what First Nations Fisheries Council could feed
19 from and make sure that the knowledge is out there
20 for everybody to use.

21 Q Thank you. And what are the main challenges of
22 the work that these organizations are doing?

23 MR. ALEXIS: Well, there are some challenges within
24 ourselves. There are some organizations that do
25 not look into -- or look at these organizations as
26 a body to feed from but there's, like I said,
27 they're a diverse First Nations in British
28 Columbia and I think the challenge is to be all-
29 inclusive.

30 MS. PENCE: Mr. Lunn, I wonder if you could pull up for
31 me, please, the co-management discussion paper
32 that was on our list, and just for the record,
33 this is a more up-to-date version. It's dated
34 October 25th, 2010, so it's a more up-to-date
35 version of the document that was at Tab 1 of
36 Canada's documents.

37 Q Mr. Alexis, are you familiar with this co-
38 management discussion paper?

39 MR. ALEXIS: Yes, I am familiar with it. The Fisheries
40 Council has moved forward with an agreement
41 between DFO and the Fisheries Council to -- an
42 agreement that would allow us to work together in
43 four priority areas and one of them is co-
44 management.

45 MS. PENCE: Mr. Registrar, could I please have this
46 marked as the next exhibit?

47 THE REGISTRAR: Exhibit number 295.

1 EXHIBIT 295: FNFC Co-management discussion
2 paper October 25, 2010
3

4 MS. PENCE: Mr. Lunn, if I could get you to please take
5 us to page 3 of that exhibit.

6 Q Mr. Alexis, what I'd like to do here is put to you
7 some of the definitions of co-management that are
8 explored in this paper and just to get your
9 feedback on the nature of those definitions.

10 MS. PENCE: And I'd like to start -- oh, sorry, page 3
11 in the document, not on the pdf. Okay. And if
12 you could please enlarge the part that starts just
13 under the heading "Definition", yeah. Thank you.

14 Q So Mr. Alexis, the discussion paper says:

15
16 There is no legal definition of co-management
17 but it has come to be generally understood
18 that co-management is the sharing of
19 management responsibility and accountability
20 between more than one party.
21

22 Would you agree with that? Would you have
23 anything to add to that?

24 MR. ALEXIS: Yeah, I basically agree with that.

25 MS. PENCE: And then if you could just scroll up a
26 little bit more, Mr. Lunn.

27 Q And I'm just going to draw your attention, Mr.
28 Alexis, to the last sentence in that top paragraph
29 and it says:

30
31 In Canada, particularly in British Columbia,
32 another driving force for co-management with
33 First Nations is an asserted right to
34 engagement in management and decision-making
35 for fisheries and aquatic resources wherever
36 that decision-making may infringe on an
37 aboriginal right.
38

39 And again, I'd ask for your comment and whether or
40 not you agree with that characterization?

41 MR. ALEXIS: I partially agree with it, because a lot
42 of the statements that are made are based from
43 case law and -- and prior to case law, the co-
44 management regime was that the government made a
45 decision, then engaged us after to implement the
46 decision. So there is a basic title in right
47 issue here that are near and dear to every First

1 Nations and I think Dr. Ignace did reflect on it
2 that if we're going to be true managers of the
3 resources, then we have to have ownership of it.
4 And I think co-management doesn't do that for us.

5 MS. PENCE: If I could go now to page 4 of that same
6 document and there's a bulleted list there and
7 it's that that I'd like to have enlarged.

8 Q Mr. Alexis, I'm going to read to you some of the
9 principles that this discussion paper suggests
10 should be part of any co-management arrangement
11 for fisheries resources, and I'll read them all
12 and then I'll give you an opportunity to comment
13 on your view of the importance of those
14 principles.

15 So the sentence starts:

16
17 The FNFC has heard from B.C. First Nations
18 that any co--- management arrangement for
19 fisheries resources would need to respect
20 (but not be limited to) the following
21 principles:

22
23 And the first one there is:

24
25 First Nations Ownership:

26
27 It says:

28
29 First Nations title and rights arise
30 from prior use and occupation of the
31 land and ocean spaces, and include
32 rights to utilize and manage aquatic
33 resources.

34
35 Would you agree that that's an important
36 principle?

37 MR. ALEXIS: Yes, I strongly agree with that.

38 Q And the next one is:

39
40 Shared Responsibility:

41
42 It says:

43
44 A central First Nations role in
45 management is necessary, based on
46 Aboriginal and Treaty title and rights.
47

1 MR. ALEXIS: Yes. I agree with it, but there is a
2 difference between the treaty right and a true
3 title right.

4 Q Okay.

5 MR. ALEXIS: Treaty, the title stems from the treaty
6 and gives them permission to hold a title, but the
7 true title and rights that we have as First
8 Nations under the Constitution is very different
9 than what the treaty encompasses.

10 Q The third principle is:

11
12 Scale:

13
14 It says:

15
16 Recognition that the proper title and
17 rights holders are at the community
18 level - in the Chiefs and community
19 members of each nation.

20
21 Do you agree with that, including that principle
22 in co-management?

23 MR. ALEXIS: Yes, I do agree with it because majority
24 of the First Nations work from the ground up. If
25 I can make a statement to the inverted triangle
26 that people talk about in meetings, you see the
27 disparity in that when we're dealing with the
28 government bodies, the minister makes a decision
29 and flows that decision downward towards the
30 ground, but when a chief makes a decision, the
31 decision flows upwards from the ground to the
32 chief, so there's that difference that -- and
33 there's going to be a need for a connection
34 somewhere along the line.

35 Q Thank you. The following principle is:

36
37 Conservation: The protection,
38 maintenance, and rehabilitation of
39 aquatic resources, their habitats, and
40 interconnected life support systems,
41 take precedence in managing aquatic
42 resources.

43
44 Do you agree with including that principle?

45 MR. ALEXIS: Yes, that's the very principle that our
46 elders taught us in the campfires and the need to
47 protect the resources that feeds us dearly.

1 Q And then we go to:

2
3 Stewardship:

4
5 It says:

6
7 The use of aquatic species and their
8 habitat should carry with it the
9 responsibility to treat them with
10 respect and ensure their continued and
11 unimpaired use and enjoyment by future
12 generations.
13

14 Would you agree with including that principle?

15 MR. ALEXIS: Yes. I think my colleagues here today
16 have spoke to that in various terms to ensure that
17 if we're going to succeed in maintaining the runs
18 and -- of the sockeye salmon and our people have
19 to take stewardship back prior to contact. That's
20 what happened and these runs were successful.

21 Q Thank you. The next principle is:

22
23 Trust:

24
25 It says:

26
27 Successful relationships are built on a
28 foundation of mutual trust.
29

30 Is that principle important within a co-management
31 or a joint management regime?

32 MR. ALEXIS: It is very important, particularly in
33 every relationship you need to have trust and in
34 this relationship I think there need to be trust
35 because in the years that's under the government
36 management we didn't have trust for these people.
37 They were thought of as people that took away our
38 people because they fish. We're talking about the
39 fisheries officers and the people that maintain
40 the **Fisheries Act**. So that trust is not there for
41 I don't know how many hundreds of years now, and
42 in order to build back a good relationship, you've
43 got to have that trust and people have to have
44 confidence in it.

45 Q I just have three more principles and then I'll
46 close the panel. The last one -- or sorry, the
47 third-to-last one is:

1 Transparency:

2
3 It says:

4
5 Decision making should be open and
6 transparent.

7
8 Would you agree with that?

9 MR. ALEXIS: Yes. That's how our people operate. In
10 the potlatch houses in any gathering venues people
11 talk open and transparently. They do not hide in
12 the corner to talk about something else. It's
13 been the nature of our people through generations.

14 Q Thank you. The next is:

15
16 Accountability:

17
18 It says:

19
20 Aquatic resource managers and users
21 should be accountable for the results of
22 their decisions and actions.

23
24 Do you agree with that principle?

25 MR. ALEXIS: Yes, I do. There's a few occasions where
26 -- where the government had made some decisions to
27 open commercial fisheries in the mixed stock
28 fisheries, and what happened is that when our runs
29 co-migrate with a bigger run, then our runs are
30 getting decimated because there's a commercial
31 opening on the stronger run, so we have to find a
32 way to find accountability to that. We've been
33 saying as First Nations that there should be some
34 terminal fisheries on these -- on these runs in
35 some occasions so that the Lower stocks that's co-
36 migrating with them can make it back to the
37 spawning ground successfully.

38 Q The last principle that's on this list is:

39
40 Communication:

41
42 And it says:

43
44 Information must be shared with First
45 Nation communities.

46
47 Do you agree with including that principle?

1 MR. ALEXIS: It is very important. Like I said, the
2 highways you see here today throughout the
3 province are all probably trails of our people
4 that travel up and down the river to communicate
5 with each other and that's very important and in
6 my opening statement I indicated that we have the
7 messenger type person who was capable of speaking
8 different languages to go up and down the river to
9 communicate.

10 Q Thank you, Mr. Alexis. I just put it out to the
11 other panel members, and this is my last question,
12 if you have anything to add to that discussion
13 about the principles of joint or co-management?
14 Grand Chief Terry?

15 GRAND CHIEF TERRY: Yes. My comment is, you know, I
16 think these are all very well and good to have
17 recognized those kind of observations within an
18 organization; however, I observe them as the
19 status quo which exists within the Province of
20 British Columbia and that is that it is a
21 reflection of the relationship that has been
22 developed between the Government of Canada and the
23 First Nations, quote "bands" and essentially to me
24 that's what's reflected in here. It -- whereas I
25 think in terms, the Inter-tribal Treaty from where
26 I'm speaking, is that the Inter-tribal Treaty
27 organization had developed its treaty which
28 continues to live and exist and then developing
29 the Inter-Tribal Treaty organization which would
30 essentially be set -- put in place to implement
31 the objects and principles and values within the
32 treaty, then I see that as being quite a different
33 animal, if you will, or structure.

34 MS. PENCE: Thank you for those additions. Those are
35 my questions to the panel.

36 MR. EAST: Mr. Commissioner, Mark East for the
37 Department of Justice.
38

39 CROSS-EXAMINATION BY MR. EAST:
40

41 Q Good afternoon, Gentlemen. I have a few questions
42 for you today and I thank Ms. Pence, I think, for
43 very well setting up the issues and topics that I
44 want to start to ask you some questions about and
45 that's with respect to co-management.

46 First, though, I had to chuckle a bit, Chief
47 Terry, when you said earlier that you're

1 suspicious of acronyms and you were talking about
2 a different context, but I had to laugh because it
3 made me think that if there is such a thing as a
4 DFO world view it would surely involve a love of
5 acronyms. And Ms. Pence in her last few
6 questions, and your answers, Mr. Alexis, kind of
7 went through some of the more -- some acronyms
8 that we all toss around and unfortunately I'm
9 probably going to start my questions with some
10 more acronyms and perhaps for Canada's list of
11 documents, Tab 3, I'd like to call that up first.
12 And you'll see a whole bunch of -- I'll just
13 introduce the document.

14 I don't suppose you've seen this document
15 before because it's a DFO document. It's called
16 DFO Aboriginal Aquatic Resource and Ocean
17 Management (AAROM) - the first acronym we'll throw
18 out today - Program Fraser River and South Coast
19 Groups (with member bands and INAC band members,
20 as of August 2010). This is a DFO document, as I
21 said, but I thought it might be useful to just
22 identify some of the organizations in this
23 document that we're talking about and who their
24 component members are or participants.

25 Going down to the bottom of the first page,
26 Mr. Alexis, you mentioned and just now the Fraser
27 River Aboriginal Fisheries Secretariat or FRAFS,
28 our second acronym. And I see there it's
29 administered by the Nicola Tribal Association. I
30 believe that's an organization to which the Siska
31 belong; is that right, Chief Sampson?

32 CHIEF SAMPSON: Nicola Tribal Association?

33 Q Nicola Tribal Association.

34 CHIEF SAMPSON: Yes.

35 Q And actually, over on the next page, page 2, I
36 think there's a reference to the Siska and there's
37 also reference to the Tl'azt'en as members of the
38 -- of FRAFS. And I just wanted to read, this is
39 on page 2 a little further down, what -- this is,
40 I guess, DFO's perspective of the objectives. The
41 objectives:

42
43 To continue to provide communications and
44 biological/technical support services for
45 First Nations in the Fraser Watershed to:

46
47 - enhance First Nation knowledge of

1 issues around management of fisheries on
2 Fraser River salmon, and their ability
3 to engage with DFO at the local level on
4 a wide range of fisheries issues:
5

6 And the second bullet:
7

8 - enhance First Nation ability to engage
9 with DFO in the formation of watershed
10 collaborative fisheries management and
11 consultative processes.
12

13 Does that ascribe to your understanding of what
14 FRAFS does? Chief -- Mr. Alexis, sir?

15 MR. ALEXIS: I agree with most of the objectives,
16 except that in the consultative process there's a
17 different process that happens.

18 Q Okay.

19 MR. ALEXIS: And that process is normally done
20 bilaterally throughout the watershed, and if there
21 is going to be an issue raised at the watershed
22 level, then a Tier 1 process engages.

23 Q Okay. And that's -- and I will in the next
24 document get to, just as a foreshadowing, I'll
25 probably go back to the document that Ms. Pence
26 had up and talk a little bit about some of those
27 different processes, bilateral and multilateral.
28 I just want to finish with this document. If you
29 go to the next page, and I apologize if I don't
30 say this properly, the Secwepemc Fisheries
31 Commission or SFC is an organization that involves
32 the Skeetchestn First Nation; is that right, Dr.
33 Ignace?

34 DR. IGNACE: Yes.

35 Q Are you familiar with that? And I note at the
36 bottom, just in the brackets, that:
37

38 (This is a well established AAROM group
39 (since 2003) with excellent administrative
40 and technical capacity.)
41

42 So this is an organization that is funded at least
43 in part by AAROM funding that involves these First
44 Nations of the Secwepemc people; is that correct,
45 Doctor? Are you familiar with that organization?

46 DR. IGNACE: Yes. As far as I'm familiar.

47 Q Okay.

1 DR. IGNACE: I haven't had dealings with the Shuswap
2 Fisheries Commission for a number of years.

3 Q Okay.

4 DR. IGNACE: 'Cause I'm no longer chief.

5 Q Okay.

6 DR. IGNACE: And I think the person that would better
7 answer those type of technical questions would be
8 Pat Matthews.

9 Q Okay. Thank you.

10 DR. IGNACE: From the Shuswap Nation Fisheries
11 Commission.

12 Q Thank you. And then later on that -- the bottom
13 of the page, Mr. Alexis talked about the Upper
14 Fraser Fisheries Conservation Alliance or UFFCA,
15 and that's an AAROM-funded body and I see the
16 Tl'azt'en First Nation among others is listed
17 under that heading; is that right?

18 MR. ALEXIS: Right.

19 Q Mr. Alexis. And then over into the next page, and
20 I won't linger on the document, but some of the
21 other bodies funded by AAROM according to this
22 document are the First Nation Fisheries Council
23 and you'll see at the first -- just the first
24 paragraph there it says here that:

25
26 This is a province-wide group largely aimed
27 at facilitating Tier 1 and 2 (limited)
28 processes. Management and technical capacity
29 are being developed. Currently in capacity
30 building phase but with additional funding
31 support from other DFO programs such as
32 PICFI.
33

34 Is that -- Mr. Alexis, does that seem correct to
35 you?

36 MR. ALEXIS: Yes. It seems correct, but I think our
37 technical people would better --

38 Q Okay.

39 MR. ALEXIS: -- give you a better view on that.

40 Q Okay. And right at the very bottom, just as a
41 heading - it goes over to the next page - it says:

42
43 Pacific Salmon Commission - First Nation
44 Caucus support
45

46 And maybe this is a question for Chief Terry.
47 What is the First Nation Caucus as it relates to

1 the Pacific Salmon Commission?

2 GRAND CHIEF TERRY: These are folks that are part of
3 working groups or the panels from the various
4 Pacific Salmon Treaty, for example, Fraser River
5 Panel, Southern Panel, Northern Panel, Trans-
6 Boundary Panel and so on. These -- the aboriginal
7 representatives that's on these various panels.

8 Q And do the aboriginal representatives of these
9 panels, do they collaborate amongst themselves to
10 work with you as -- in your role as a Pacific
11 Salmon commissioner?

12 GRAND CHIEF TERRY: Yes. Well, we're -- essentially
13 what has been addressed by the First Nations folks
14 are much of the issues that were raised here this
15 morning with us or today and so these are issues
16 of concern for folks in the north central part of
17 British Columbia and the south, as well, so all
18 the rivers and streams and so on that are of
19 concern to them for the preservation and
20 conservation of the salmon and the management
21 really of the specially the Fraser River.

22 Q And how are these representatives of the different
23 areas of the aboriginal peoples of the province
24 for this purpose, how were they nominated or
25 appointed by the aboriginal community for this
26 purpose?

27 GRAND CHIEF TERRY: Currently they're essentially being
28 nominated from a particular region, if it's -- for
29 example, a trans-boundary area, then folks that
30 live in that particular region would nominate
31 someone and then -- and then they push forward the
32 nominations to the Department of Fisheries and
33 Oceans.

34 Q Okay. And perhaps of your own position as Pacific
35 Salmon Commissioner, Chief Terry, can you explain
36 the process by which you became to be nominated
37 and appointed as Pacific Salmon Commissioner?

38 GRAND CHIEF TERRY: My understanding is that a couple
39 of folks on -- for the Fraser Panel nominated
40 myself and then was then put forward as a nominee
41 to the minister.

42 Q Okay. And in your role as Pacific Salmon
43 Commissioner, is there a mechanism through which
44 you, I suppose, forgive the term if it's
45 incorrect, but report back or return to your
46 community in order to discuss what you've
47 deliberated on with the Pacific Salmon Commission?

1 GRAND CHIEF TERRY: Essentially if and when asked about
2 any particular issues that are arising affecting
3 the Fraser River especially, I do respond, yes.

4 Q Well, perhaps return just the last couple -- last
5 page on this document, scrolling down a bit, where
6 it says Lillooet Tribal Council, and it appears
7 that this is a body that involves the Xwisten,
8 Xwisten Nation and --

9 GRAND CHIEF TERRY: Xwisten.

10 Q Xwisten. Thank you. And that's -- and that's
11 another AAROM-funded body, the Lillooet Tribal
12 Council; is that a body that receives, in your
13 knowledge, funding from DFO through this program?

14 GRAND CHIEF TERRY: It used to.

15 Q Used to? Not any longer?

16 GRAND CHIEF TERRY: No. I don't -- I believe that
17 they're making arrangements to have a different
18 kind of an --

19 Q Okay.

20 GRAND CHIEF TERRY: -- an agreement.

21 Q I see. Okay. And the last one, and this is a
22 group that I'm not familiar with, and I apologize
23 to Chief Sampson because I know I'm not going to
24 say this correctly - Barry Huber (phonetic) has
25 been trying valiantly to try to teach me how to
26 say this properly, but the Nlha7apmx Nation Tribal
27 Council, is that a different organization
28 representing certain First Nations, Nlha7apmx
29 First Nations?

30 CHIEF SAMPSON: Yes, there are two tribal associations
31 within the Nlha7apmx nation. There is the NNTC as
32 seen here and there's also the Nicola Tribal
33 Association. And there is -- at one time there
34 was the Fraser Canyon Tribal Administration, as
35 well, but now I believe they are reduced to one
36 band so -- or two bands, so I don't know if
37 they're recognized as a tribal any more, so they
38 are independent.

39 Q I see.

40 CHIEF SAMPSON: And also, I believe the Lower Nicola
41 Indian Band and the Upper Nicola India Band are
42 also independent bands within the Nlha7apmx
43 Nation, meaning they have no tribal affiliation at
44 this point in time.

45 Q Okay. Thank you for that clarification. That's
46 helpful. I noticed the one organization that's
47 not on this list that we've talked about today is

1 the Inter-tribal Treaty Organization and I was
2 just wondering, is that simply because they don't
3 have an AAROM funding arrangement? Chief Terry?
4 GRAND CHIEF TERRY: No, they don't. And I think it
5 should be clarified too that just because that
6 we're not involved in the funding currently, we're
7 trying to make arrangements; however, I think that
8 it should be clearly understood that the Inter-
9 tribal Treaty Organization is an organization
10 that's been established whereby we can have a
11 voice within the management system in British
12 Columbia. We think we -- we have the
13 constitutional right as of now, and we haven't
14 been given the opportunity to lay out the kind of
15 arrangements that we would have within that in the
16 decision-making process, and so I think that we
17 are attempting to sort of wedge our way in, if I
18 could say that, Mr. Commissioner.

19 Q Thank you. The next document perhaps I will take
20 you to now is the one that Ms. Pence introduced
21 and that's Exhibit 295, the paper.

22 MR. EAST: Oh, I'm sorry. Thank you. I'd like to mark
23 this, this document here, as an exhibit, Mr.
24 Commissioner.

25 THE REGISTRAR: Exhibit number 296.

26
27 EXHIBIT 296: DFO Aboriginal Aquatic Resource
28 and Oceans Management (AAROM) Program
29 document
30

31 MR. EAST:

32 Q So if we could go to Exhibit 295, please? Now,
33 Mr. Alexis, I apologize if I'm focusing my
34 questions on you again. Ms. Gaertner indicated
35 that perhaps you were -- and you had indicated --
36 I'll wait. And you'd indicated that in your
37 answers to Ms. Pence that you were aware of this
38 diagram, and it's actually on page 8 of the
39 document. I'm not sure what the Ringtail page
40 number would be. That's it. And I'll read the
41 quote, but I just wanted to -- I like this
42 diagram. I'll return to it because I think it's
43 actually helpful on a number of levels, but
44 perhaps to introduce it, I'll just read the
45 paragraph and ask the panel to comment upon it.
46 This is right under:
47

1 AUTHORITY AND ACCOUNTABILITY
2

3 And again, this is a paper prepared by the First
4 Nation Fisheries Council, the one that Ms. Pence
5 just introduced. So I'll just read the first
6 paragraph:
7

8 For First Nation communities, the strength of
9 authority is concentrated at the local level,
10 as inherent title and rights flow from
11 attachment to land and marine space within a
12 specific territory. As modern governance has
13 pushed decision-making further way from the
14 community level (i.e. in many cases to a B.C.
15 wide scale), the recognized authority for a
16 First Nation community and/or organization in
17 decision-making has become diluted. In
18 contrast, the strength of authority in DFO
19 lies at the national level, with the Minister
20 having supreme jurisdiction. In the current
21 federal model the field staff who are the
22 primary point of contact for most First
23 Nations, are at the opposite end of the
24 spectrum from the Minister, and therefore
25 have little strength of authority to make
26 decisions at the community scale with the
27 proper First Nations' rights holders.
28

29 And before I throw this out, the comment, I note
30 that I think today and I think clearly were heard
31 by some of the panel members yesterday, that there
32 was a concern that most of the engagement seems to
33 be with -- at the community level and DFO is at
34 perhaps the lower level of the DFO hierarchy where
35 there is a need for engagement at a higher
36 political level with DFO. And I just wanted to
37 get a sense from the panel whether you see this
38 challenge of authority at the community level but
39 that DFO officials that speak to you don't come
40 with that kind of political level of authority
41 that you would like them to see. I wonder if you
42 could just comment on that before we go any
43 further.

44 MR. ALEXIS: Yeah. I reflected on it earlier by saying
45 that the two spectrums are very different in
46 management regimes. You know, if you see -- if
47 you see a chief at the local level wanting to

1 speak and make a decision instantaneously, then
2 that chief has to go to the ADM or the minister to
3 do that. If we do try to make decisions with the
4 field officer or somebody in a lower ranking, then
5 that time it takes for that person to get that
6 permission is a time wasted. So in our terms, in
7 our -- in -- in our mandates, we do get our
8 mandates from the people, they give us that
9 authority to speak on their behalf regardless of
10 which level we're at at this government regime
11 here.

12 Q Then looking at the diagram, maybe you can blow
13 that up a little bit for the panel, it's an
14 interesting -- it's interesting because, I mean,
15 looking at the left side of the panel it says
16 "First Nations Geographic Scale, Strength of
17 Authority". And clearly on this diagram, and I
18 should introduce the diagram. This is a diagram,
19 as I understand it, from this document, it was
20 created by Brigid Payne of DFO, so this is a -- I
21 guess it's been used in DFO presentation
22 materials. And it suggests that the strength of
23 authority is high at the local -- and it says
24 nation level, and I just wanted to ask a question
25 of -- about what we mean by nation in this
26 context? And perhaps to put that into
27 perspective, go back to page 4 of that document,
28 to the list of principles that Ms. Pence asked you
29 about. And the third one, it says scale:

30
31 Recognition that the proper title and rights
32 holders are at the community level in the
33 chiefs and community members at each nation.
34

35 Now, when we're talking about nation here, I've
36 heard nation used today in a couple different
37 contexts. It could be the community, for example,
38 the Tl'azt'en, or it could be the Secwepemc
39 Nation, at a level of, I guess, a common language
40 and community group, and perhaps nation even more
41 broadly than that. But in this definition, are
42 you talking about the community, the local --
43 sometimes called the band, sometimes called the
44 First Nation, but the -- the community that would
45 be considered, for example, a band under the
46 **Indian Act**, the Tl'azt'en, the Xwisten? Is that
47 what's -- is that what's referred to in this

1 definition of nation?

2 MR. ALEXIS: You're asking me that?

3 Q Yes, or anybody who wants to answer it.

4 MR. ALEXIS: Yeah, they're one and the same. When we
5 get our authority from the community level, I
6 guess the definitions of nations are skewed by
7 definitions under the **Indian Act** and other
8 documentations in Canada but there is a -- we call
9 ourselves Tl'azt'en Nation is because there was
10 five bands under our administrative organization
11 and these five bands are amalgamated in 1958, to
12 make it easier for the government to deal with us.
13 So there's that terms in -- at the community level
14 as a nation, but in a broader perspective, when
15 you look at decision-making by either the tribal
16 chair or by the tribal chief in some terms, you
17 get the whole community or all the bands together
18 to make that decision and give that mandate.

19 Q Great. That's exactly where I wanted to go next.
20 If you look at the chart, go back to page 8, the
21 way I read this, the arrow getting narrower and
22 going down is that as you get to aboriginal
23 organizations at the regional and aggregate level,
24 some of the organizations that we just referred to
25 now, like the UFFCA, use that as an example, or at
26 the B.C.-wide level, the BCAFN is maybe another
27 example, the authority of those organizations gets
28 somewhat -- I think the term they used here was
29 diluted, unless they can demonstrate that they
30 have been given a mandate from the communities
31 that compose the greater whole. Is that right?
32 Would you agree with that?

33 MR. ALEXIS: Yes, I'll agree with that. The authority,
34 when you get into a regional or aggregate level or
35 B.C.-wide level stems from the resolutions that's
36 passed, by all the chiefs in British Columbia or
37 either all the chiefs in the sub-region.

38 Q Mr. -- Dr. Ignace?

39 DR. IGNACE: You know this whole thing about how this
40 whole thing about First Nations started off was in
41 mid-1980s we were at Assembly of First Nations
42 Chiefs and we wanted to make it clear that we, for
43 example, the Secwepemc Nation collectively, all
44 the Secwepemc communities together collectively,
45 that's what makes up the Secwepemc Nation, nothing
46 other than that. But what the government -- we
47 said we're here as a nation and we're here first

1 and hence, First Nation was referring to us
2 collectively all the Secwepemc together.

3 Q Mm-hmm.

4 DR. IGNACE: Okay? But then the government
5 appropriated that term and began applying it to
6 the reservations and hence the reservations became
7 -- and confounding the politics of it all, of what
8 a nation is, much like what Grand Chief Saul Terry
9 talked about, the confounding of our political
10 field, which the government likes to do. So my
11 definition of a nation is that we, all of us
12 Secwepemc collectively as one united, and that's
13 how our laws speak and that's how our rights are
14 defined, that we -- I as a Secwepemc person have
15 the right to all the resources within the whole
16 Shuswap territory, not a part of it, not here, not
17 there, but to all of it.

18 Q And I guess what I'm hearing you say, Dr. Ignace,
19 and this is for the whole panel, but I guess one
20 of the greatest challenges right now for First
21 Nations nations in British Columbia, tribal
22 organizations up to the regional level, is finding
23 those mechanisms, those processes by -- whereby
24 organizations like the ITO or the FNFC, any of
25 those larger-scale aggregated political
26 organizations have the mandate to represent all
27 the communities and getting that mandate. Would
28 you agree that that is -- that's not been easy.
29 That's been a challenge. And I would just like to
30 hear your thoughts about your vision for how to
31 ensure that these organizations -- that those
32 organizations are able to have the mandate to
33 represent the community, where perhaps the
34 political and legal power lies.

35 DR. IGNACE: Well, if the government would quit trying
36 to use divide and rule tactics continuously and
37 allow us to internally decide and define how we're
38 going to represent ourselves, it would be very
39 simple. And I think it would be simple for the
40 government to be dealing with 30 different nations
41 within B.C., rather than 300, 299 bands, First
42 Nations. You know, that's where the confounding
43 comes in. Confounding is with the government,
44 it's not with us. And we know that, for example,
45 we extend certain authorities to the Union of B.C.
46 Indian Chiefs to represent us, but they don't have
47 the authority to make the final decision with us

1 as Secwepemc Nation. We have that final say.

2 Q Anybody else?

3 CHIEF SAMPSON: Yeah, it kind of brings me back in
4 time, sitting down at the river with my
5 grandfather before he passed away and he talked
6 about Nlha7apmx people and he talked about what he
7 remembers and what he was told by his grandparents
8 of the past. For example, even right in my area,
9 there's the Siska Indian Band, there's the Skuppah
10 Indian Band, and there's the Kanaka Indian Band,
11 but prior to that, it was just the Skuppah. But
12 because they -- at least this is the way he
13 understood it. But because they were a powerful
14 group and they controlled such a productive piece
15 of the river, that it was then easier for the
16 department to split that community into three and
17 create three communities with three sub-chiefs
18 that would then play a part in the divide and
19 conquer, where they would segregate the
20 communities into numbers, this band being bigger
21 than this other band, and they getting more
22 resources through the Department of Indian
23 Affairs, further to fragment the nation.

24 Hence, within Nlha7apmx tribal or within the
25 Nlha7apmx Nation you now have two tribals. And
26 these -- these divisions were intentionally done
27 and that was to weaken the nation; I mean, to the
28 point right now that I'm also the political
29 portfolio holder for fisheries within the NTA, but
30 every time that we need to make a decision, it has
31 to go back to the communities, back to the
32 grassroots people who are impacted by these
33 decisions. Then it goes back up to the larger
34 table and that allows us to say this is the voice
35 of our people. It's not our own opinion on how
36 these things -- I do not make the decisions for my
37 people, my people assist me to make those
38 decisions.

39 So I think that, you know, we need to be able
40 to move forward in the future as Ron has said, Dr.
41 Ron Ignace, is the provincial bodies and the
42 federal bodies have got to stop trying to fragment
43 the communities and the nations and allow them the
44 time to rebuild. I mean, it's like the
45 residential school situation right now where
46 they're starting to close down all of the
47 aboriginal healing foundations and yet the wounds

1 that were created by the residential schools are
2 very much alive in our communities and will be
3 alive for many, many years to come. And yet
4 there's no recourse for us as aboriginal people
5 other than to go into the courts.

6 I look at this commission and I do not mean
7 any offence, but the astronomical amount of money
8 that's being spent to do this could have been
9 directed to on-the-ground positive, positive work
10 and not always end up in these commission states.
11 If people would just sit down and work with First
12 Nations and create and have the true open
13 dialogue, we could save a heck of a lot of money
14 and save the resource at the same time.

15 Thank you.

16 Q Thank you. I want to return to this -- the
17 answer that DFO or Canada, the Crown, has been
18 responsible for a divide and conquer situation
19 among aboriginal groups, and I want to look at
20 today and perhaps if we can go to the very last
21 page of this document, page 14, and it's Appendix
22 1, "Co-management process currently in place in
23 B.C." And one of the reasons I showed you the
24 earlier document that had the list of First
25 Nations and the organizations is because those are
26 all organizations that are funded by DFO and the
27 purposes of that funding is to assist these
28 different First Nations to work together and to a
29 large aggregation in order they could talk to DFO
30 and talk to each other; is that right?

31 CHIEF SAMPSON: Well, that's kind of the way it comes
32 out on paper, but if I had my technician sitting
33 here in the room, Neil Todd and Tracy Sampson,
34 they would certainly relay the frustrations to you
35 in what it is like to be in an AFS agreement, and
36 the level of frustration they feel in managing a
37 very limited resource, constantly held accountable
38 to meet the bar in regards to reporting, there
39 would be a different picture. I think if all of
40 our technicians were right here right now and
41 talked about AFS agreements, it wouldn't be nearly
42 as rosy as it's sounding through this report
43 coming from DFO.

44 And going back to that initial article that
45 was placed up just before, in regards to AAROM
46 agreements and the Nicola Tribal Association
47 doesn't have an AAROM agreement. We actually had

1 to move our communal commercial fisheries project
2 through the Secwepemc Fisheries Commission,
3 because they had an AAROM agreement. PICFI
4 wouldn't even allow four First Nations who have
5 actively been engaged in communal commercial
6 fisheries to look after a project on our own. So
7 it was restrictive in nature. We had to go
8 through a body that had an AAROM agreement,
9 notwithstanding that we already had AFS agreement,
10 we still couldn't access PICFI funds.

11 Q Okay.

12 CHIEF SAMPSON: So very...

13 Q Dr. Ignace?

14 DR. IGNACE: Yeah, in another area where, you know,
15 DFO's funding has -- is -- causes difficulties
16 within our communities is when it funds a
17 community for fish monitors and calls upon it to
18 apply -- in order -- the condition for that to get
19 that funding is to apply DFO rules and
20 regulations, which then in turn violates our
21 Secwepemc law for -- we had communities in our law
22 that we have a right to go and fish or utilize the
23 resources anywhere within Shuswap Territory, but
24 because -- and we -- some of our people from down
25 Chase area went up to the High Bar area to go
26 fishing and they had their vehicles, nets and
27 everything confiscated and caused a squabble
28 between the two communities. That doesn't lead to
29 very -- and makes it difficult at the political
30 table to sit down and talk about comprehensive
31 strategies when those type of scenarios exist
32 between people. And DFO needs to recognize that
33 and move away from that type of approach. And
34 then we can lead to some positive dialogue.

35 Thank you.

36 Q Maybe this is a question for Mr. Alexis, give him
37 a chance to answer this one, as well. In going
38 back to this document, 'cause I think setting this
39 up, I want to look at the second column which says
40 Tier 2, and the Tier 2, as I understand it, are
41 processes and forms for First Nations and
42 aboriginal people to speak to DFO. And I want to
43 ask Mr. Alexis if you can tell us a little bit
44 about the Forum for Conservation and Harvest
45 Planning on Fraser Salmon; have you participated
46 in that organization?

47 MR. ALEXIS: No, I don't. But what I'll tell you is

1 this, these are the current regimes that's
2 happening here today and -- but they're not
3 inclusive for everybody. The conservation and
4 harvest planning forum or the harvest planning
5 group are basically an invitation organization
6 that's dealing with sharing arrangements. That's
7 what I understand. The roadmap process is another
8 process that's developed by DFO but it's not
9 inclusive. It doesn't give the whole picture in
10 how First Nations would like to see the Fraser or
11 fish being managed.

12 Q Would you describe those processes as
13 collaborative ground up type of processes?

14 MR. ALEXIS: No.

15 Q No? It's --

16 MR. ALEXIS: It's just -- some of these processes
17 that's happening are ad hoc. They have no clear
18 mandates on where they should be going. There's
19 some -- I think there's some -- maybe terms of
20 reference that need to be developed to move some
21 of these initiatives forward but it's -- I think
22 DFO are trying their best to, I guess, to get
23 inclusivity in these processes, but it's not
24 happening. They're using organizations like FNFC
25 or FRAFS to help them guide them along in those
26 processes and it's a slow process. But I don't
27 know too much about all these other processes, but
28 maybe some of our technical folks would know about
29 it.

30 Q Okay. Well, I'll leave -- oh, sorry, Dr. -- Chief
31 Terry?

32 GRAND CHIEF TERRY: Thank you. I don't belong to this
33 particular organization that put this paper
34 together, but I think that what we're seeing here
35 is a small example of the kind of confusion that
36 permeates the structure of the department and also
37 affects many of our peoples. And I believe that
38 that is one of the main reasons why that those
39 that are proponents for the inter-tribal fishery
40 being implemented are seeking something that is
41 much more simple and straightforward.

42 In my experience, the idea of having one
43 person mandated from a particular nation coming
44 and sitting down with the department is almost to
45 the point of repugnant, being repugnant, I would
46 think, because of the fact that as you asked
47 earlier, do we have an AAROM agreement, it's been

1 very difficult for the St'at'imc, for example, for
2 which -- for whom I'm speaking right now, in that
3 who would like to have a different kind of an
4 arrangement that is quite different than what has
5 been proposed by the department. And we feel that
6 there is a better way to do things and we're
7 certainly making efforts to go in that direction
8 and it's certainly not a helter-skelter kind of
9 groups and organizations in the region being
10 developed. It should be a much more strengthened
11 nation recognition than moving to set up an
12 artificial structure that doesn't really represent
13 or has no -- bears no resemblance to who we really
14 are as nations within this region.

15 Q Anybody else want to wade in on that subject? And
16 if not, I'll move to some more targeted questions.
17 Perhaps maybe go to -- I'll start with Chief
18 Terry, your witness summary, and that's Exhibit
19 293. And this is perhaps just maybe a concrete
20 example of -- I'm interested in the process of
21 dialogue between First Nations as decisions are
22 being made on the ground. And you indicated,
23 Chief Terry, in your testimony today and I believe
24 it's on page 2 of your witness summary a difficult
25 decision you had to make in 2009 with respect to
26 your community, to go out and fish, and I just
27 want to talk a little bit about the process that
28 happened. First of all, this is in 2009, what
29 time of the year was this, the incident we're
30 talking about, where you, after talking to as you
31 said a number of chiefs and communities, decided
32 to go out fishing?

33 GRAND CHIEF TERRY: Yes. It was right at the onset of
34 the fishing season for our people and that would
35 probably have been into July, because of the fact
36 that the runs are so poor now that we only, when
37 we used to at one point be able to fish June, July
38 and August, now we're only fishing in August and
39 sometimes it's only three weeks in August. The --
40 so the time that was being talked -- I was talking
41 about was the -- when the openings would have been
42 expected for the early summers and summer runs.

43 Q And this is early summer sockeye that we're
44 talking about?

45 GRAND CHIEF TERRY: Yes.

46 Q Where --

47 GRAND CHIEF TERRY: That would have been at the latter

1 part of those particular runs, I believe.

2 Q So would some of them be, for example, early
3 Stuart in this run or would they have been --

4 GRAND CHIEF TERRY: No.

5 Q -- earlier probably?

6 GRAND CHIEF TERRY: No, they should have passed by our
7 area by then.

8 Q Should have passed by then. How many fish --
9 well, first of all, when you said that after
10 discussions with the chiefs, we went out fishing
11 or we ordered our people to go fishing, were you
12 talking on behalf of the Bridge River, the
13 Xwisten, or on behalf of the groups, the Lillooet
14 groups generally?

15 GRAND CHIEF TERRY: The whole tribe or the nation. The
16 majority of the communities met, that is the
17 chiefs, came together and we discussed this matter
18 amongst ourselves with the department as well and
19 then gleaned as much information as we could and
20 then determined -- made the decision and then we
21 also requested the department to acknowledge the
22 kind of decision that we had made. And because we
23 had negotiated or tried to negotiate, one might
24 say, I guess, with the department in saying we
25 would like to have all of the nations along the
26 river receive -- be able to access 80,000 fish and
27 out of that each nation would take their take.
28 That -- this was on a conference telephone call,
29 right? And we're trying to bring on the
30 department to get into this kind of a discussion
31 of whether or not that was appropriate.

32 Where did this 80,000 come from? It came
33 from the notion that out of a total amount of fish
34 that were returning, they determined that -- or
35 the resource sector determined that I believe it
36 was in the area of about .32 percent was for total
37 allowable mortality and that is number of fish
38 that they expected would die along the way. And
39 so we put forward the notion that maybe about 50
40 percent of that would be our target for
41 harvesting, so that our people will get some fish
42 for the winter.

43 Q And DFO, I assume, disagreed and said no?

44 GRAND CHIEF TERRY: They -- yes, they disagreed. And
45 they said that every fish that went up the river
46 should be allowed to get to their spawning
47 grounds, and so we reduced the request. We said

1 all right, if you feel that that's a little too
2 much for your folks and our people are in need,
3 perhaps we can talk about 40,000 fish. Well, they
4 still wouldn't agree, just to shorten the story,
5 they wouldn't agree; however there was really no
6 consensus either from any of the other
7 representatives on the telephone call, that is
8 from the other nations, other than St'at'imc - all
9 of our chiefs were listening on a line - and so we
10 said then that look, we have made a decision. Are
11 you going to be part of our decision or not, we
12 asked DFO and they didn't respond, and so we took
13 it upon ourselves then collectively as chiefs and
14 speaking to our people we indicated that we were
15 going to go fishing and that our target was going
16 to be about 5,000 fish. And with that, then we
17 adjourned from the conference call and conveyed
18 the message out to our people and then they went
19 fishing.

20 Q How many sockeye did you -- did your communities
21 catch in that fishery?

22 GRAND CHIEF TERRY: The -- we, actually over a period
23 of about four days, I believe, we were able to
24 harvest about close to what we were targeting as
25 5,000 fish. I believe it was less than that that
26 we got through that period. And because of the
27 fact that I was in communication with the Pacific
28 Salmon Commission as well, and we had put forward
29 the notion that perhaps there's going to be a late
30 arrivals or late numbers of fish to come forward
31 at -- in this run, and I found out that that was
32 not going to be the case. And I didn't know how
33 many fish our people had caught by that point and
34 so I called up Chief Mike Leech who is the
35 chairman of the St'at'imc Nation and so I conveyed
36 to him, I think we better stop our people from
37 fishing and have an assessment of how many fish
38 that we have caught. And so that's what
39 transpired.

40 Q Okay. I guess the key question I'm interested in,
41 and sorry if I missed your answer on this, what
42 discussions did you have with your neighbours to
43 -- downstream of you and upstream about this
44 decision, that your communities made to go fishing
45 at this point?

46 GRAND CHIEF TERRY: I made an effort, I actually went
47 and visited with Fred and his people over there in

1 Merritt and conveyed to him the process that we
2 had inaugurated to make that decision and also
3 shared that with the other representatives on the
4 commission. I shared it with Thomas, Chief Merlin
5 Camille (phonetic) and the other Nlha7apmx people
6 from the Main Stem Fraser.

7 Q And was there a consensus that this was acceptable
8 among the people you talked to?

9 GRAND CHIEF TERRY: Well, the -- I think we were well
10 ahead of the game in terms of understanding what
11 needed to be done in order to carry out this
12 fishery, and maybe Fred could fill it in, but at
13 that point the Nlha7apmx weren't really as a whole
14 weren't ready to proceed on that basis. As a
15 matter of fact, I believe he did try and get his
16 people to go fishing but -- but the other faction
17 was opposed to that and therefore, I believe the
18 department was sort of in there, as well. So, for
19 us, I thought we were the most organized of -- to
20 do the fishing that time.

21 Q Thank you. Chief Sampson?

22 CHIEF SAMPSON: Yeah. Most certainly, I'd like to
23 speak to that fishing season of 2009. Most
24 certainly Terry was moving the information around.
25 As we got it, received it at the Nicola Tribal
26 Association, we had a meeting of chiefs, seven
27 chiefs got together and we looked at what the
28 St'at'imc were doing and we said we too need to
29 engage in a rights-based fishery. But the big
30 difference is as Terry and their communities went
31 fishing, DFO stayed right out of their face. We,
32 the seven communities of the NTA went down and
33 fishing and they threatened our people, they were
34 threatened with charges. They, in fact, charged
35 myself. And it was such a fly in the face of all
36 of the processes that DFO carries forward. I
37 mean, to be approached by a conservation officer
38 down on the river telling me that the river is
39 closed but, Chief, you can keep your fish, you can
40 keep your fish. I said, "Is this river open or
41 closed? Make up your mind." I told him, "You
42 have to charge me." "No, Chief, take your net out
43 of the water, take your fish and go home." And I
44 said, "The minute you go away in your boat, my
45 net's going back out into the water." So they did
46 formally charge me, but I've never had my day in
47 court in regards to that 2009 fishing season.

1 On one hand, the St'at'imc went fishing
2 because the dire needs of their community. We
3 were in the same boat. It was a terrible fishing
4 season. My community was striving and just
5 looking for fish. So we went fishing, but it was
6 a totally different scenario. What happened at
7 Siska, helicopters flying around, boats, people
8 harassing our fishermen on the river, and yet none
9 of that happened up there in the St'at'imc.

10 I don't understand that. How do you
11 categorize it? What is that, systemic racism
12 amongst racism? I don't understand. But it
13 certainly showed that, you know, communications
14 not only amongst First Nations, it is happening.
15 The real challenge is the communications and DFO
16 on how they approach the different communities or
17 the different nations. There is a huge difference
18 on that scenario that happened that summer.

19 We supported their fishery. He in turn
20 supported ours, but they were treated totally
21 different. It was the first time in my life that
22 I actually felt like I was a criminal in my own
23 territory on my own river trying to feed my people
24 with our own fish. And yet they wouldn't even
25 give me the courtesy to have my day in court. How
26 can DFO have the ability to, when things aren't
27 working for them in court, they can throw it out?
28 It was a very frustrating summer.

29 Q Did anybody else want to comment on their
30 experiences that summer?

31 I'd like to -- and I'm conscious of the time,
32 so perhaps just one more question, and this is
33 just a -- for Mr. Alexis, and this is, Mr. Alexis,
34 Exhibit 292, this is your witness summary. Now,
35 one thing that we haven't discussed today in any
36 detail is some of the history behind what is
37 referred to in your witness summary, Mr. Alexis,
38 is the Barricade Treaty. And I don't propose to
39 get into it, but as you've indicated here, your
40 grandfather was a signatory to this agreement that
41 your community or your forefathers anyway had with
42 the Department of Fisheries with respect to the
43 use of weirs and other kind of selective fishing
44 methods called barricades, I suppose.

45 MR. ALEXIS: Yes.

46 Q Now, and I'm just really just doing this for the
47 record. You, on behalf of your First Nation and I

1 believe the Nak'azdli First Nation have commenced
2 a lawsuit against the Government of Canada with
3 respect to this agreement that was signed back in
4 1911; is that right?

5 MR. ALEXIS: Right.

6 Q And it's just fair to say that on some issues
7 anyway, with respect to this, what we would call
8 -- what DFO would call, I suppose, the Barricade
9 Agreement, and is referred to here as the
10 Barricade Treaty, that there is a difference of
11 opinion about what this agreement is and what it
12 means; would you agree with that?

13 MR. ALEXIS: Well, DFO has a different opinion on it.

14 Q Okay. Thank you. I was interested in your
15 testimony, Mr. Alexis, about -- about the current
16 situation with respect to weirs. Clearly, the
17 purpose and I don't think this is -- it comes out
18 in your witness summary that the Barricade
19 Agreement or Treaty of 1911 had the -- certainly
20 the intent of having the Tl'azt'en people and
21 other people switch from using barricade weirs and
22 other kind of traditional methods to using nets
23 and I think I heard you say today that that's
24 still the method of fishing that your community
25 uses today; is that right?

26 MR. ALEXIS: No. I said that after we signed the
27 agreement and the barricades were outlawed, we
28 resorted to gillnet fisheries, but DFO still uses
29 the concept of barricade to manage their
30 enumeration projects.

31 Q So DFO uses barricades for their selective fishing
32 studies? Just seems kind of ironic then that
33 they're using traditional aboriginal methods to do
34 their studies.

35 MR. ALEXIS: Yes, that's what I said earlier, is that
36 yet there are some concepts that DFO uses that's
37 similar to our weirs and traps and they are still
38 used today and the enumeration fences, for
39 example, is one form of a barricade that our
40 people utilized. I made reference to the incline
41 plane trap. That's a similar trap that were used
42 in -- by our people for deep water fisheries.

43 Q Thank you. I was interested in your comment - I
44 just maybe want to explore this a bit, about how
45 you indicated that today the Department of
46 Fisheries and Oceans is -- I don't have the exact
47 words but essentially preventing your community

1 from fishing with weirs and other kind of methods
2 such as the barricade today. And I was wondering
3 if you can explain how that is, why -- in what way
4 is DFO preventing that from taking place?

5 MR. ALEXIS: Well, under the terms of the Barricade
6 Treaty, our forefathers signed an agreement saying
7 that they would stop using the weirs and traps
8 that they normally utilized and in place of the
9 gillnet fisheries. The reason for that was that
10 they -- when the fishing industry and the
11 commercial industry got really good back in the
12 1800s the canneries and the commercial industry
13 resorted to DFO or their fishing officers and
14 asked them to dismantle these weirs back in our
15 own territories, because they deemed that these
16 weirs were unsustainable and that they were
17 catching all the fish and that there will be
18 nothing going back to the spawning grounds, which
19 wasn't true. If -- if the Government of Canada
20 did the research and took a look at all the
21 traditional knowledge our people had, this
22 Barricade Treaty wouldn't have been in place
23 today.

24 Q And this is my final question on that then.
25 Speaking today, my understanding is that if the
26 Tl'azt'en Nation and other communities that uses
27 those kind of traditional methods in the past were
28 to approach DFO today, there would certainly at
29 least be a willingness to discuss the approaches
30 of using those fishing methods today; would you --
31 would you agree with that?

32 MR. ALEXIS: Yes. We tried under a few occasions, as
33 Tl'azt'en Nation, to re-invigorate the weir system
34 for our communities because, like I said earlier,
35 when we fished with the weirs and the traditional
36 traps, it was a communal event. Our young people
37 built the traps, they built the weirs and they
38 learned how to do all this stuff. They help with
39 gathering the salmon and did all the processing
40 and all that and it's not there now with the
41 individualized effort under the gillnet system.
42 And I made that reference to the same thing as the
43 commercial fisheries. You have one rich person
44 owns about 20 different boats. It's an individual
45 effort. It's not a communal effort any more.

46 MR. EAST: Well, I'll leave it there. And thank you
47 very much all of you for your thoughtful answers

1 to my questions and that's my questions, Mr.
2 Commissioner.

3 THE COMMISSIONER: Thank you, Mr. East. We're going to
4 take a ten-minute break and then I would suggest
5 whichever counsel are remaining to ask questions
6 would divide up the balance of the 25 minutes or
7 so when we come back, so that there's some
8 evenness between them in terms of time-sharing.
9 Thank you very much.

10 THE REGISTRAR: Hearing will now recess for ten
11 minutes.

12
13 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)
14 (PROCEEDINGS RECONVENED)
15

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

17 MS. SCHABUS: Mr. Commissioner, Nicole Schabus, co-
18 counsel Sto:lo Tribal Council and Cheam Indian
19 Band. Kukwpi7s, Chiefs, I just have a few brief
20 questions.
21

22 CROSS-EXAMINATION BY MS. SCHABUS:
23

24 Q My first question is specifically to Kukwpi7
25 Ignace, but I also have a more general part of the
26 question for all of you, and that's regarding the
27 traditional knowledge and indigenous knowledge you
28 have regarding habitat protection and examples of
29 that. And Kukwpi7 Ignace, specifically, your
30 nation has initiatives to protect spawning grounds
31 and in the case of the Lake Suquokmok (phonetic)
32 Division to protect some of the last remaining
33 river deltas, such as the Salmon River, and I
34 would ask you just to briefly speak to that if you
35 feel in a position to do that.

36 DR. IGNACE: No, I mean, you know, like I pointed out
37 earlier, in the Deadman River we worked hard to
38 try to rehabilitate spawning grounds, rearing
39 channels, we created rearing channels, fish
40 hatcheries, all of those, and fencing off
41 riverbanks from insurgence by cattle, so they're
42 very destructive to the spawning grounds and fish
43 habitat. Those are important.
44 And I also pointed out earlier that we fought
45 CN, who intended to build a twin track from Jasper
46 down into Vancouver, that would have been in the
47 river, in the North Thompson and South Thompson

1 and in the Fraser River, and we fought that
2 because, again, of the -- it would have narrowed
3 the channels, sped up the river, destroyed a lot
4 of the salmon and rearing habitat, and especially
5 those areas in the Shuswap Lakes areas. It's
6 important, they're key areas for the rearing of
7 the fish and the salmon have fry, the salmon
8 habitat, to live there until they're strong enough
9 and able enough to go into deeper waters.

10 And I commend those communities for standing
11 up and protecting those wetlands. It's very, very
12 important.

13 Q Any of the other panellists, if you wanted to
14 comment on the habitat protection, your
15 traditional knowledge, or even habitat
16 restoration?

17 CHIEF SAMPSON: Well, I think a part of the, you know,
18 the habitat most certainly is the people. We are
19 the land and the land is us, as First Nations
20 people, and the efforts that we make collectively,
21 just to maintain the stocks that we have
22 currently, and I'll use the example of the Spius
23 Fish Hatchery in the Nicola Valley, which
24 introduces 250,000 Chinook smolt into the system
25 every year and get absolutely no benefit of that
26 back to their communities. And, indeed, the
27 250,000 fish that get returned into the system
28 seem to be to the sole benefit of the rec fishery,
29 as there's been a steady decline in those systems,
30 irregardless of that effort.

31 So most certainly the effort's being done on
32 the other end, but it's being totally diminished
33 when it comes through the ocean. I mean, and
34 that's just one example. For sure you could have
35 many, many communities sitting here that could all
36 tell basically the same kind of story of how they
37 have tried to engage in enhancement and protection
38 of the fish resource, only to have it taken by
39 another user, and to the point where it's not
40 conservation or First Nations, it's the commercial
41 sport rec fishery. Thank you.

42 MR. ALEXIS: Thank you. Yes, we do a lot of projects
43 within our area to maintain habitat and to
44 maintain the pristineness of the habitat. We do
45 have policies in place, as a nation, to allow a
46 certain part of development, but there's some
47 guidelines that they have to go by. That's our

1 guidelines, it's not the province guidelines, it's
2 not the federal jurisdiction guidelines, it's our
3 own that we developed in negotiations with both
4 levels of government to ensure that there is
5 proper protection in any watershed.

6 One example would be for the logging industry
7 there's some very big buffer zones and no machine
8 free zones that we impose on them to ensure that
9 the water quality and the habitat quality is still
10 there. We even located a logging road to protect
11 one of our spawning streams. We shut down a jade
12 mine to protect the spawning habitat within our
13 territory.

14 So that's how important it is to us. We were
15 taught as youth and as we were growing up, that
16 the connection to the land is more important than
17 the connection to the current, modern stuff we
18 have now, because like our elders always said, "If
19 you take care of the land, the land will take care
20 of you."

21 Q Thank you. My next question would be -- unless --
22 I can't see if Grand Chief Terry wanted to speak
23 as well?

24 GRAND CHIEF TERRY: Yes, thank you. I just wanted to
25 comment that, yes, habitat, I think, is critical
26 and it is important and, you know, I've heard it
27 said that, you know, that there's a tremendous
28 over-abundance of escapement some were saying;
29 however, I think that nature will look after
30 itself as long as we take care to make certain
31 that the habitat to which the fish return is well
32 looked after, and I think that that's critical and
33 important for, you know, the enhancement of the
34 stocks as they are, and I think that we need to
35 take care of that. That's a very important agenda
36 matter.

37 Q My next question goes to the importance that
38 salmon plays in your indigenous economies. If you
39 could speak to the central role that salmon play
40 in your economies, both in terms of diet but also
41 economically to sustain your communities and the
42 concerns you have in that regard and how you see
43 that continuing in the future?

44 CHIEF SAMPSON: Yes, thank you. Chief Fred Sampson.
45 Yeah, most certainly, if I look back at the
46 historic activity, especially in the Siska area as
47 a wind-dried salmon industry, so to speak. On

1 record, in Fort Kamloops, I believe that anywhere
2 between 25,000 and 50,000 wind-dried salmon were
3 taken to Fort Kamloops in the form of trade
4 commodity, and at that point in time, the Siska
5 community, there was over 500 people living in the
6 Siska area and community.

7 And when that economic -- social economic
8 opportunity was removed and we were no longer
9 allowed to sell our wind-dried salmon, the
10 community was just decimated. We went from 500
11 people living on that reserve down to maybe 40
12 people, because the economy had taken away.

13 When the reserves were allotted, and I worked
14 on a book with Cole Harris out at UBC, *The*
15 *Allotments of Indian Reserves in British Columbia*,
16 they were directly related to historic fishing
17 sites and the economy attached to those sites.
18 And then so Siska only got 1,200 acres of land.
19 It's not farmland; it's riverbank; it's
20 mountainside, it was because of the fishing sites.
21 And then that economy was taken away from us, so
22 the people left the community. They moved into
23 the farming industry in the Lower Mainland and
24 Chilliwack and they moved into the ranching areas
25 in the Merritt area, and the community was just
26 reduced to almost nothing, because it was directly
27 attached to our economy that was attached to the
28 wind-dried salmon industry. Thank you.

29 MR. ALEXIS: Yes, we did have an economy with the
30 salmon that came back to our territory as well.
31 Our people used to bring about 60,000 sockeye to
32 the Hudson's Bay Company in Fort St. James for
33 sale and barter to ensure that their people had an
34 economic regime happening. It's the same thing
35 with our people. Once the economics went down and
36 was disallowed, then our people moved away and
37 went for jobs that's in the general population, so
38 it did decimate our people. It did make sure --
39 it disconnected us from our culture and whatnot,
40 and our people always thought that to preserve
41 this regime and to ensure that the people know
42 about this stuff, they keep telling these stories
43 over and over again. They told us how they made
44 the people survive in Fort St James. You know, it
45 was a desolate place. In 1806, there was
46 starvation and our people helped those guys to
47 survive and live off the land.

1 So those stories are there, and there's
2 economic value, even on the resident fish that's
3 there. 80,000 kokanee was sold to Hudson's Bay
4 company by our people and that value was there.
5 DR. IGNACE: You know, up until 1860, after the Oregon
6 Treaty was signed, our people's laws were still
7 enforced in which there was only Shuswap people
8 that could catch fish or go hunting. The Hudson's
9 Bay people were not allowed to, by our law, to go
10 hunting or fishing.

11 And trade was the fundamental engine of our
12 economy, even before the Hudson's Bay Company or
13 the Europeans came along. And when the fur-
14 trading company, Hudson's Bay came along, they --
15 all they had to do was just like taking an
16 extension cord and plugging it into a socket. The
17 trading system and everything, the whole system of
18 trade, transportation and routes was all there.
19 All they had to do was plug in, that's all they
20 did. And with salmon was a value of currency for
21 us. For example, you could have three dried
22 salmon for a tan deer hide, or four to five
23 salmon, dried salmon, for a large elk hide. That
24 was the measure of the value of these other
25 materials that we traded for.

26 So it was fundamental to us, and when that --
27 when the law came down and the hand rose -- lay
28 down on us, that our whole economy collapsed, and
29 we were reduced to beggary and white slavery, if I
30 may use our chief's words of 1910.

31 Q And thank you. Commission counsel has pointed out
32 I'm coming to the end of my time, but I have a
33 very quick clarifying question for Grand Chief
34 Terry. Just in regard to you are a member of the
35 Fraser River Panel, but you are appointed by
36 Canada, correct? Sorry, I --

37 GRAND CHIEF TERRY: I'm a member of the Fisheries
38 Commission.

39 Q Of the Pacific Salmon Commission, sorry, a
40 commissioner. But just to clarify that indigenous
41 people from Canada do not have separate or
42 independent representation at the Pacific Salmon
43 Commission, like the U.S. tribes, and they do not
44 have separate decision-making power, like the U.S.
45 tribes?

46 GRAND CHIEF TERRY: That's true, but I think, though,
47 that the folks that are represented either on a

1 panel and on my commission, we're working as hard
2 as we can to work together with the other sectors
3 to make certain that we all have fish to eat
4 tomorrow.

5 MS. SCHABUT: Thank you. Those are all my questions.

6 MR. GERELUK: Mr. Commissioner and the respected panel,
7 my name is Gereluk, initial J. Gereluk is spelled
8 G-e-r-e-l-u-k. I represent the Métis Nation,
9 British Columbia, and I want to thank the west
10 coast peoples for permitting me to represent my
11 people on this occasion. We will have a witness
12 on the panel tomorrow.
13

14 CROSS-EXAMINATION BY MR. GERELUK:
15

16 Q I have just a couple of questions of the panel, in
17 particular, Mr. Alexis, if I may. We've heard
18 from the management through collection process,
19 but we haven't heard much about what the
20 traditional method of enumeration of sockeye
21 salmon in the Fraser has been, so perhaps, Mr.
22 Alexis, you can describe what the traditional
23 method or process of enumerating sockeye salmon,
24 or fish in general, in your particular areas?

25 MR. ALEXIS: Yes, our methods are the visual methods,
26 the life counts and that of the sorts. Most of
27 the streams in our area are pretty shallow. It
28 could be walked with a gumboot on. But there's
29 some deep pockets in there that fish accumulate.
30 And that's how we do it. There's other first --
31 there's other parts of our people that, you know,
32 just observe our -- observe the conditions,
33 observe the abundance. I guess you could say by
34 the way we catch our fish, we know that there's
35 high abundance, and that's our enumeration, tool.
36 We're always on the land. There's not one stream
37 that's never been not looked at, because every
38 family within our territory had a little chunk of
39 land to take care of, and that's the way it was.
40 They call it the Keyoh system, and that Keyoh
41 system is a system where one family is allowed to
42 take a chunk of land and maintain stewardship over
43 it.

44 Q All right. And Mr. Alexis, in your witness
45 summary, on page 2, you discuss a year back in
46 1869, when there was a starvation time. Do you
47 recall putting that in your witness summary?

1 MR. ALEXIS: Mm-hmm.

2 Q And at that year, your people weren't permitted to
3 catch any fish, I take it?

4 MR. ALEXIS: We were permitted. We did it on our title
5 and rights. We did fish our fish. But at that
6 year it dropped or it crashed in the run sizes.
7 I don't know by what. I hear these stories, it
8 might be ocean or it might be the end route
9 mortality, or it might just be some sort of a
10 virus. But at that year there was hardly any
11 salmon that went back into the territory, and our
12 people were in the starvation mode at that time.

13 Q And one other thing, Mr. Alexis, you referred to
14 was a messenger that could communicate in a number
15 of different languages and could communicate with
16 the nations and tribes that neighboured your
17 nation and also up and down the Fraser Watershed.
18 Is there such a person in existence, today, that
19 could communicate in all the languages of the
20 various nations?

21 MR. ALEXIS: No. I made reference to it a little
22 earlier with a joke, I guess. I said I'm the one
23 that drives up and down the river, now, and
24 communicates with the chiefs and all the other
25 tribes in the river, but I'm doing it in English.

26 Q All right. Thank you. And one final question has
27 to do with the traditional use of hatcheries. Is
28 there, Mr. Alexis, was there a traditional use of
29 fish hatcheries in your nation, with your nation,
30 in your area?

31 MR. ALEXIS: No, we have never had any hatcheries in
32 our territory. The only hatchery that was built
33 back in the seventies, I guess, under the Salmon
34 Enhancement Program, was a Chinook hatchery that
35 was built in Fort St. James and run by the
36 Nak'azdli First Nation.

37 MR. GERELUK: Thank you very much. That's all my
38 questions.

39 THE COMMISSIONER: Thank you.

40 MR. MCGOWAN: Thank you, Mr. Commissioner, I just have
41 a couple of questions in re-examination.

42

43 RE-EXAMINATION BY MR. MCGOWAN:

44

45 Q Chief Alexis, you were asked a question by your
46 counsel, Ms. Pence, about the ITO, and she asked
47 you, "Is the ITO a mandated political body?" and

1 your answer was, "Yes, it was." And I just wanted
2 to understand what you meant by that answer. Is
3 your answer intended to communicate that the ITO
4 has a mandate to engage with DFO on behalf of
5 First Nations, generally, or that it's intended in
6 the future to attain that goal?

7 MR. ALEXIS: Yes, under the terms of the agreement that
8 the commissions or the executive that sits on the
9 ITO would be mandated from their nations, and that
10 the process might be putting forth names to pick
11 from, but at this time, in formative stage, my
12 organization, the Carrier Sekani Tribal Council,
13 appointed me to that to help the ITO in developing
14 the structure.

15 Q Okay. And maybe, Grand Chief Terry, you can
16 assist with this. At present, does the ITO have a
17 mandate to engage with DFO on behalf of all First
18 Nations along the Fraser River, or is it limited
19 to only some?

20 GRAND CHIEF TERRY: Do we have the mandate to interface
21 with DFO --

22 Q On fisheries-related matters.

23 GRAND CHIEF TERRY: -- on behalf of all the nations?

24 Q Yes.

25 GRAND CHIEF TERRY: We have the mandate to do that by
26 the Carriers coming to the table in Siwakmookh
27 (phonetic), we have representatives there, and
28 Sikukmookh (phonetic), as well, and St'atl'imx,
29 and the latest addition has been the Okanagans,
30 who have also chosen their representatives. We
31 have yet to receive a direct representation or
32 identification of representation from the
33 Chilcotin National Government, but they are
34 indirectly involved through the UFFCA. So in
35 terms of direct, we are working on how that is
36 going to work and we have had policy discussions
37 as well as ways in which we could interface with
38 the department. It's work in progress, one might
39 say.

40 MR. MCGOWAN: Okay. Mr. Lunn, I wonder if you could
41 please bring up Exhibit 295.

42 MR. LUNN: Certainly.

43 MR. MCGOWAN:

44 Q Thank you for that assistance, Grand Chief Terry.
45 Chief Alexis, you're involved with the First
46 Nations Fisheries Council; is that correct?

47 MR. ALEXIS: Yes.

1 Q Okay. And you spoke to this document that's on
2 the screen, earlier; do you recall that?

3 MR. ALEXIS: Yes, I did.

4 Q Now, I'm just looking at the cover. It says it
5 was prepared by the FNFC Co-Management Staff. Is
6 that your understanding?

7 MR. ALEXIS: Yes.

8 Q Okay. So this document was prepared by the First
9 Nations Fisheries Council?

10 MR. ALEXIS: It was prepared by the First Nations
11 Fisheries Council with a working group that's
12 developed under the Co-Management Action Plan.
13 There are six DFO members on there, and there are
14 five or six First Nations members on there.

15 Q Okay. And this document is intended, I take it,
16 in part to communicate a message to DFO and other
17 First Nations about factors that ought to be
18 considered when exploring co-management; is that
19 correct?

20 MR. ALEXIS: Yes, that's correct.

21 Q Okay. And who is the message being delivered on
22 behalf of?

23 MR. ALEXIS: I guess both parties, because this is a
24 joint initiative between DFO and the First Nations
25 in British Columbia.

26 Q Is it your understanding that the First Nations
27 Fisheries Council, in delivering this, is speaking
28 for all First Nations in British Columbia?

29 MR. ALEXIS: Not all. I won't say all. But we did get
30 a mandate in our assemblies to move these
31 initiatives forward and were adopted at those
32 assemblies to make sure that we are doing the
33 right thing for the people of British Columbia.

34 Q Thank you, Chief Alexis. Grand Chief Terry, does
35 the First Nations Fisheries Council speak on
36 behalf of the St'atl'imx Nation?

37 GRAND CHIEF TERRY: No.

38 MR. MCGOWAN: Thank you. Those are my questions in re-
39 examination.

40 THE COMMISSIONER: Thank you very much to counsel, and
41 I want to thank each of the members of the panel
42 who came here, today, to speak your voice in
43 answer to the questions, as well as to provide
44 your views through your statements. I thank you
45 very much.

46 We'll now, then, adjourn until 10:00 a.m.
47 tomorrow morning. Thank you.

1 THE REGISTRAR: The hearing is now adjourned until
2 10:00 a.m. tomorrow morning.
3

4 (PROCEEDINGS ADJOURNED TO WEDNESDAY, DECEMBER
5 15, 2010, AT 10:00 A.M.)
6

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

14
15 _____
16 Diane Rochfort

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18 true and accurate transcript of the
19 evidence recorded on a sound recording
20 apparatus, transcribed to the best of my
21 skill and ability, and in accordance
22 with applicable standards.
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25 _____
26 Karen Acaster

27 I HEREBY CERTIFY the foregoing to be a
28 true and accurate transcript of the
29 evidence recorded on a sound recording
30 apparatus, transcribed to the best of my
31 skill and ability, and in accordance
32 with applicable standards.
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35 _____
36 Susan Osborne

37 I HEREBY CERTIFY the foregoing to be a
38 true and accurate transcript of the
39 evidence recorded on a sound recording
40 apparatus, transcribed to the best of my
41 skill and ability, and in accordance
42 with applicable standards.
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46 Karen Hefferland
47