

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.

Monday, January 17, 2011

Tenue à :

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

le lundi 17 janvier 2011

APPEARANCES / COMPARUTIONS

Wendy Baker, Q.C. Maia Tsurumi Line Christensen	Associate Commission Counsel Junior Commission Counsel Articled Student
Hugh MacAulay Jonah Spiegelman	Government of Canada
D. Clifton Prowse, Q.C.	Province of British Columbia
No appearance	Pacific Salmon Commission
Chris Buchanan	B.C. Public Service Alliance of Canada Union of Environment Workers B.C. ("BCPSAC")
No appearance	Rio Tinto Alcan Inc. ("RTAI")
Shane Hopkins-Utter	B.C. Salmon Farmers Association ("BCSFA")
No appearance	Seafood Producers Association of B.C. ("SPABC")
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")
Don Rosenbloom	Area D Salmon Gillnet Association; Area B Harvest Committee (Seine) ("GILLFSC")

APPEARANCES / COMPARUTIONS, cont'd.

Anila Srivastava	Southern Area E Gillnetters Assn. B.C. Fisheries Survival Coalition ("SGAHC")
Chris Watson	West Coast Trollers Area G Association; United Fishermen and Allied Workers' Union ("TWCTUFA")
Keith Lowes	B.C. Wildlife Federation; B.C. Federation of Drift Fishers ("WFFDF")
No appearance	Maa-nulth Treaty Society; Tsawwassen First Nation; Musqueam First Nation ("MTM")
No appearance	Western Central Coast Salish First Nations: Cowichan Tribes and Chemainus First Nation Hwilitsum First Nation and Penelakut Tribe Te'mexw Treaty Association ("WCCSFN")
Brenda Gaertner Leah Pence	First Nations Coalition: First Nations Fisheries Council; Aboriginal Caucus of the Fraser River; Aboriginal Fisheries Secretariat; Fraser Valley Aboriginal Fisheries Society; Northern Shuswap Tribal Council; Chehalis Indian Band; Secwepemc Fisheries Commission of the Shuswap Nation Tribal Council; Upper Fraser Fisheries Conservation Alliance; Other Douglas Treaty First Nations who applied together (the Snuneymuxw, Tsartlip and Tsawout) Adams Lake Indian Band Carrier Sekani Tribal Council ("FNC")
No appearance	Council of Haida Nation

APPEARANCES / COMPARUTIONS, cont'd.

No appearance	Métis Nation British Columbia ("MNBC")
Nicole Schabus	Sto:lo Tribal Council Cheam Indian Band ("STCCIB")
No appearance	Laich-kwil-tach Treaty Society Chief Harold Sewid Aboriginal Aquaculture Association ("LJHAH")
Lisa Fong Benjamin Ralston	Heiltsuk Tribal Council ("HTC")
No appearance	Musgamagw Tsawataineuk Tribal Council ("MTTC")

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Vancouver, B.C. /Vancouver (C.-B.)
January 17, 2011/le 17 janvier 2011

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

5 MS. BAKER: Good morning, Mr. Commissioner. Today
6 we're starting the hearings on harvest management.
7 I have a few housekeeping matters to take care of
8 before we get started, though.

9 Before Christmas there was hearings on the
10 Wild Salmon Policy, and members of the Wild Salmon
11 Policy implementation panel concluded their oral
12 testimony, but neither Canada nor the Commission
13 were able to conduct re-examinations due to time
14 constraints, so it was agreed that those re-
15 examinations would be completed in writing.

16 Canada provided their re-examination
17 questions to these witnesses on December 14 and
18 the witnesses answered their questions in writing
19 on December 17. Commission counsel then provided
20 their own re-examination questions to the
21 witnesses on December 17 and answers were provided
22 on December 21.

23 All participants have been copied with the
24 written questions and the written answers. And as
25 part of the record I'd like to tender those
26 written documents today as exhibits in the
27 hearing.

28 The first exhibit I'm proposing is going to
29 be dated December 16, 2010, and it is the letter
30 which contains Canada's re-examination questions
31 for Dr. Kim Hyatt, Dr. Jim Irvine and Mark
32 Saunders, and those witnesses' answers as well.

33 THE REGISTRAR: That will be marked as Exhibit Number
34 313.

35
36 EXHIBIT 313: Canada's re-examination
37 questions for Dr. Kim Hyatt, Dr. Jim Irvine
38 and Mark Saunders
39

40 MS. BAKER: The next exhibit to be marked is a
41 letter -- well, the next group, there's four
42 separate letters but I propose that they be marked
43 as one exhibit, but A, B, C, D, and they would
44 have four letters all dated December 21. The
45 first one is from Heather Stalberg. The second
46 one is Dr. Jim Irvine. The next would be Dr. Kim
47 Hyatt. And finally, the last one would be Mark

1 Saunders.

2 THE REGISTRAR: Those four documents in sequence will
3 be marked Exhibit 313 A, 313B, 313C, 313D.

4
5 EXHIBIT 313A: Answers to Canada's
6 re-examination questions by Heather Stalberg

7
8 EXHIBIT 313B: Answers to Canada's
9 re-examination questions by Dr. Jim Irvine

10
11 EXHIBIT 313C: Answers to Canada's
12 re-examination questions by Dr. Kim Hyatt

13
14 EXHIBIT 313D: Answers to Canada's
15 re-examination questions by Mark Saunders

16
17 MS. BAKER: Thank you, Mr. Commissioner. Now, to begin
18 the Harvest Management hearings, we have a few
19 documents to mark off the start.

20 The first document we would like to mark is
21 the Policy and Practice Report prepared by the
22 Commission, which is titled "Overview of Fraser
23 River Sockeye Salmon Harvest Management." Its
24 date is November 10, 2010.

25 THE REGISTRAR: Exhibit Number 314.

26 MS. BAKER: Oh, I'm sorry. They are not marked as
27 exhibits. They're marked as PPR, whatever the
28 next number is in the PPR.

29 THE REGISTRAR: That will be PPR number 5.

30 MS. BAKER: Sorry, if I said November 10, which I'm
31 advised I might have done that, it should be
32 November 9, 2010.

33
34 PPR-5: Overview of Fraser River Sockeye
35 Salmon Harvest Management dated November 9,
36 2010

37
38 MS. BAKER: And the last documents to be marked right
39 off the bat are two affidavits which were provided
40 to all participants before Christmas. These are
41 two affidavits which contain fairly technical
42 evidence, one from Michael Folkes, who is an
43 employee of the Government of Canada, and one from
44 Catherine Michielsens, M-i-c-h-i-e-l-s-e-n-s, and
45 she is an employee of the Pacific Salmon
46 Commission. Both these affidavits were proposed
47 to be tendered as exhibits, and all participants

1 were asked if they required these persons to come
2 and testify. I received no responses to that, so
3 I ask that these affidavits be tendered for use in
4 the hearings.

5 The first one is affidavit number 1 of
6 Michael Folkes, F-o-l-k-e-s, sworn December 14,
7 2010.

8 THE REGISTRAR: Exhibit or PPR?

9 MS. BAKER: This would be an exhibit.

10 THE REGISTRAR: That will be Exhibit Number 314.

11
12 EXHIBIT 314: Affidavit of Michael Folkes,
13 sworn December 14, 2010

14
15 MS. BAKER: And the next is the affidavit of Catherine
16 Michielsens, sworn December 15, 2010.

17 THE REGISTRAR: Exhibit Number 315.

18
19 EXHIBIT 315: Affidavit of Catherine
20 Michielsens sworn December 15, 2010

21
22 MS. BAKER: Thank you. And the last housekeeping
23 matter is we had planned this morning to start
24 with a panel of two witnesses from the Department
25 of Fisheries and Oceans, Mr. Jeff Grout and Mr.
26 Barry Rosenberger. We still hope to end the day
27 with that panel of witnesses, but unfortunately
28 this morning Mr. Rosenberger was unable to fly out
29 of Kamloops last night, also unable to get out
30 this morning. I guess they have a fog problem in
31 Kamloops, so he's driving down this morning. So
32 I'm not sure what time he'll get here, but when he
33 arrives, we'll add him to the panel. So what I've
34 asked Mr. Grout to do -- we can start with Mr.
35 Grout. In fact, many of the first line-up of
36 questions are directed to his evidence in any
37 event. But where there is a question which he
38 thinks Mr. Rosenberger has something to add on,
39 I've asked him just to flag that for us and we'll
40 come back to that when Mr. Rosenberger shows up.

41 So I'd like to begin, then, with Mr. Grout,
42 if he can be sworn.

43 THE REGISTRAR: I understand you wish to be affirmed.

44
45 JEFFREY ALEXANDER GROUT,
46 affirmed.
47

4
PANEL NO. 12
In chief by Ms. Baker

1 THE REGISTRAR: Would you state your full name, please.

2 A Jeffrey Alexander Grout.

3 THE REGISTRAR: Thank you. Counsel.

4

5 EXAMINATION IN CHIEF BY MS. BAKER:

6

7 Q First I'd to just review your qualifications. And
8 the c.v. for Mr. Grout is available in Ringtail.
9 It is CAN185399.

10 Mr. Grout, this is the c.v. you've provided
11 for yourself?

12 A That's correct.

13 MS. BAKER: Can we please have that marked as the next
14 exhibit.

15 THE REGISTRAR: Exhibit number 316.

16

17 EXHIBIT 316: *Curriculum vitae* of Jeffrey
18 Grout

19

20 MS. BAKER: Thank you.

21 Q Mr. Grout, you have a bachelor of science in
22 biology, specializing in animal biology?

23 A Yes.

24 Q And a master of natural resource management?

25 A Yes.

26 Q Thank you. Your current position is Regional
27 Resource Manager-Salmon with the Department of
28 Fisheries and Oceans?

29 A Yes.

30 Q Mr. Grout, you were a member of the Fraser River
31 Panel Technical Committee from 2001 to 2007?

32 A Yes, I was.

33 Q And you've been the Regional Resource Manager of
34 the Salmon Team for B.C., Transboundary and Yukon
35 since June 2007?

36 A That's correct.

37 Q And as part of your role, you're involved in
38 developing the Integrated Fisheries Management
39 plans for the South Coast?

40 A Yes. That's one of the plans I assist in
41 developing.

42 Q And you're also involved in the Integrated Harvest
43 Planning Committee? You chair that committee?

44 A Yes, I'm currently chairing that committee.

45 Q And you chair the Salmon Working Group as well?

46 A That's correct.

47 Q Can you describe what -- the Salmon Team, you're

- 1 the regional resource manager of the Salmon Team
2 in fisheries management. Can you explain what the
3 Salmon Team is?
- 4 A The Salmon Team is an internal DFO group that
5 contains members from the Salmon Team in
6 Vancouver. It also includes members from resource
7 management in each of the areas as well as stock
8 assessment staff. It includes science staff,
9 enforcement representatives. It's got
10 representation from our treaties group and --
11 there maybe a couple of individuals I've missed,
12 but they're laid out in the terms of reference
13 that we've got for the group.
- 14 Q What you just described, is that the Salmon
15 Working Group or the Salmon Team?
- 16 A That was the Salmon Working Group.
- 17 Q Okay. And what's the Salmon Team?
- 18 A The Salmon Team refers to the group at regional
19 headquarters in fisheries management in Vancouver.
20 It includes the Salmon Team lead, myself, the
21 salmon officer, and the recreational coordinator
22 also currently reports to the Salmon Team lead.
- 23 Q So now I just want to move to -- what I'm going to
24 do with you today is try and go through the
25 planning process for fisheries in B.C., so we'll
26 start with the pre-season planning process and
27 hopefully move into in-season management. Well, I
28 don't know if we'll get there today but we'll get
29 started anyway.
- 30 So I want to just start with the pre-season,
31 as it's described. Is it fair to say that for
32 Fraser River sockeye, the pre-season period begins
33 with the November review, but really the bulk of
34 the planning happens within January through to the
35 beginning of June?
- 36 A I think that's fair to say. The planning process
37 is quite fluid through the year and there isn't
38 one fixed date when we would say we've moved from
39 one element of the process to the next. In the
40 fall we're still completing our post-season
41 reviews as well, but it's fair to say with the
42 outlook document, we're also looking forward to
43 the next season as well.
- 44 Q Okay. And what we call in-season begins with the
45 first fisheries openings in June-ish and goes
46 through till around October?
- 47 A That's correct.

1 Q And then as we said, post-season ends when the
2 fisheries end and overlaps a little bit with some
3 of the pre-season in the fall, but it kind of goes
4 into January probably?

5 A That's correct.

6 Q And when is the IFMP, the Integrated Fisheries
7 Management Plan, when is that created?

8 A It's a document that is created as a result of our
9 consultation processes in the spring. We release
10 two drafts leading up to the final plan. The
11 first draft we typically release in March with a
12 subsequent draft towards the end of April, with a
13 final IFMP, we try to get that released by the end
14 of June or very early in July.

15 Q Okay. And just for the Commissioner's benefit, if
16 we can just look at what the final IFMP looks at.
17 We're going to come back to this in more detail,
18 but just so that the Commissioner knows what it
19 is. If you can turn to -- I think in the binder
20 we've given you it's tab 8, but the document is
21 CAN005186. This is the Integrated Fisheries
22 Management Plan for southern B.C. for 2009.

23 A Yes.

24 Q And it's hard to see when you're looking at it on
25 the screen, Mr. Commissioner, but this is a
26 document that is several hundred pages thick. Is
27 that right?

28 A That's correct.

29 Q So I'm not going to take you any more to that
30 document right now. We'll come back to it later.

31 MS. BAKER: I think actually before we leave it, I will
32 mark this document as an exhibit but we will come
33 back to it later. So would that be --

34 THE REGISTRAR: Exhibit Number 317.

35

36 EXHIBIT 317: Pacific Region Integrated
37 Fisheries Management Plan, Salmon, Southern
38 B.C., June 1, 2009 to May 31, 2010
39

40 MS. BAKER:

41 Q All right. So what is the intention of this IFMP
42 in season? How is the final IFMP used in season?

43 A The IFMP itself is laid out in a number of
44 sections and it's meant to provide a guide for the
45 in-season process. And to do that, we lay out the
46 general context and the policies that are going to
47 guide our fisheries in the coming year. We lay

- 1 out specific management objectives that we're
2 trying to achieve for a number of things,
3 including managing stocks of concern, objectives
4 for the major fishery groups -- First Nations,
5 recreational and commercial. We also have
6 enforcement objectives included there and
7 enhancement as well, international objectives
8 under the Pacific Salmon Treaty. It also includes
9 a section that outlines the decision guidelines
10 and the specific management measures that we would
11 be considering for the use in the coming in-season
12 period. And then more detail on each of the
13 fishing plans for First Nations, recreational and
14 commercial harvesters in separate sections.
- 15 Q In terms of the decisions that are made pre-season
16 for Fraser River sockeye, can you identify what
17 pre-season decisions are made?
- 18 A In putting the plan together for Fraser River
19 sockeye, we have a number of pieces of information
20 that go into putting the plan together. In
21 particular, the department develops an escapement
22 plan for Fraser sockeye which lays out the number
23 of fish that we're wanting to reach the spawning
24 grounds in each of four major management units.
25 These are also referred to as harvest rules. We
26 provide forecast information, information on
27 potential adjustments to the escapements, called
28 management adjustments, that would help us in
29 achieving those objectives. And we also provide
30 other information on run timing as well as
31 numerous other pieces of information that guides
32 allocation, for example.
- 33 Q And the outcomes of some of those decision-making
34 pre season show up in the IFMP document?
- 35 A That's correct.
- 36 Q And I take it as the IFMP is being developed in
37 the pre-season period, Fisheries and Oceans is
38 obtaining data and information from a number of
39 different sources?
- 40 A Yes. The IFMP itself is the product of a broad
41 suite of consultations that the department
42 undertakes with a number of established advisory
43 processes as well as a number of meetings with
44 First Nations and others, and input from the
45 public.
- 46 Q And is there technical information provided by
47 Science that assists in the planning process?

- 1 A Yes. One of the primary -- well, we have Science
2 input into the development of the salmon outlook.
3 Science advice is also provided in developing the
4 salmon forecast for Fraser sockeye. We've also
5 had Science assistance on the technical work
6 around developing the escapement plan for Fraser
7 River sockeye as well.
- 8 Q Is that the Fraser River Sockeye Spawning
9 Initiative, FRSSI?
- 10 A Yes, that's correct.
- 11 Q We'll come to that in some detail. Does the
12 Fraser River Panel, part of the Salmon Commission,
13 provide any pre-season fishing plans as part of
14 the process?
- 15 A The department works quite closely with the Fraser
16 River Panel, and Barry would have been best placed
17 to speak to all of the details on this question,
18 so maybe it would be worth coming back to him.
19 But Canada is supplying the escapement plan as
20 part of the management of Fraser River sockeye and
21 we're also providing the forecast information. We
22 would be working with the Fraser River Panel on
23 developing pre-season management adjustments that
24 would be considered in the development or
25 implementation of the escapement plan. And they'd
26 also provide information on run timing overlaps
27 between the different management groups and
28 stocks.
- 29 Q Are allocation objectives considered in the
30 planning process?
- 31 A Yes. The PSC, Pacific Salmon Commission, and the
32 Fraser Panel uses this information in the
33 development of pre-season planning models. These
34 models are detailed. They make use of the inputs
35 and data from the escapement plan forecast and
36 other information to come up with some scenarios
37 for potential fisheries in season, and allocation
38 objectives are one of the considerations around
39 how those plans are developed.
- 40 Q Thank you. And we'll get into discussion of some
41 of those technical data that are used in the
42 planning process in a bit. You mentioned some of
43 the stakeholders that the department consults
44 with. Can you identify what are the bodies that
45 the department consults with during the planning
46 process?
- 47 A Okay. At the broad, regional level we work with

1 the Integrated Harvest Planning Committee, which
2 contains representatives or members from First
3 Nations, the Commercial Salmon Advisory Board, and
4 the Sport Fishing Advisory Board and the Marine
5 Conservation Caucus. We've got an ex officio
6 representative from the province there as well, as
7 well as a number of observers. We also work with
8 the Commercial Salmon Advisory Board, which has
9 representatives from each of the eight area
10 harvest committees, and representatives from
11 United Fishermen and Allied Workers Union,
12 processors. There's an ex officio provincial role
13 there. We also work with the Sport Fishing
14 Advisory Board, which broadly represents both the
15 primary level users, the sport fishery, that are
16 not deriving income from participation in the
17 fishery as well as secondary organizations that
18 have income derived from fishing.

19 Q Which would be fishing guides or lodges, that sort
20 of thing?

21 A Yes, that's correct. As well as some of the
22 supporting industries. The Marine Conservation
23 Caucus is another group that we work with, which
24 is an umbrella group with -- I believe it's nine
25 ENGO's represented. And then we have a number of
26 other processes with First Nations and -- well,
27 with First Nations throughout the areas. In
28 addition we have area advisory committees with the
29 sport fishing advisory committees that we meet
30 with and the area harvest committees and the
31 commercial group.

32 Q Okay. We'll go into each of those in a little bit
33 of detail, so let me just start by identifying a
34 schedule that you've prepared that sets out the
35 consultation schedule for the season. And the
36 reference for that is CAN003387, and it's, I
37 think, at tab 3 if you want to see a paper copy.

38 So is this a document that you're involved in
39 the preparation of?

40 A Yes. The Salmon Team, and in particular our
41 salmon officer, keeps a running -- well, we try
42 and lay out ahead of the season, typically in
43 August, for the coming year, when we expect some
44 of the meetings are going to be and we'd work
45 closely with some of the chairs with these
46 meetings to try and set them up so that they're
47 not substantially overlapping with each other.

1 Q All right.

2 A And so we try and then we provide this to our
3 First Nations and other groups to give them a
4 heads-up of the meeting schedule they can expect
5 for the coming year.

6 Q All right. And this schedule that you see before
7 you is September '09 to June 2010. So this covers
8 the 2009 fishing season; is that fair?

9 A That's correct. And typically we'll make some
10 updates to this schedule as we go through the
11 season. It's meant to identify the broad,
12 regional meetings that are occurring. It
13 certainly doesn't reflect a large number of our
14 bilateral meetings that occur with First Nations
15 in the areas. Various other advisory committees
16 that are at the sub-regional level would not be
17 listed in here.

18 MS. BAKER: Could I have that marked, please, as the
19 next exhibit.

20 THE REGISTRAR: Exhibit Number 318.

21
22 EXHIBIT 318: Tentative Salmon Advisory
23 Schedule, September 2009-June 2010
24

25 MS. BAKER:

26 Q Now, as I go through the documents with you today
27 to explain and go through the planning process,
28 we're using 2009 as an example year. If there's
29 been changes between 2009 and 2010, we'll try and
30 identify those just to see where things have
31 progressed. But for the most part we're using
32 this 2009 year as a sample to see how a year
33 unfolds.

34 A Okay.

35 Q So just looking at this schedule, if you look in
36 the November period, that identifies some of the
37 post-season review meetings and then it moves over
38 to January where you begin -- sorry, post-season
39 continues into January. And then finally the pre-
40 season planning begins around the March period and
41 carries on down through the June?

42 A That's correct. As I pointed out earlier, there
43 is a substantial amount of overlap in the post-
44 season and pre-season period. Typically at the
45 post-season review we'll be hearing from our
46 clients about issues that they'd like to see
47 addressed in the coming year. So even as early as

1 the November meetings we're starting to get a
2 sense of what some of the main issues are that
3 we're going to need to address in the pre-season
4 planning for the coming year.

5 Q All right. So let's go through some of the bodies
6 that you just identified. First of all, starting
7 with the Commercial Salmon Advisory Board or the
8 CSAB, who meets with the CSAB from Department of
9 Fisheries and Oceans?

10 A I've been chairing the CSAB meetings that occur in
11 the south and deal with Fraser River sockeye on
12 behalf of the department. Typically the salmon
13 officer would also participate in those meetings
14 as well as the key DFO managers for each of the
15 commercial harvest areas in the south. So this
16 committee in the southern part of B.C. would also
17 have members from each of the area harvest
18 committees for those fisheries, so we have the
19 Area B seine fleet in the south. We have two
20 gillnet fleets, the Area D gillnets, which is
21 primarily in the Johnstone Straits area. The Area
22 E gillnet, which is Fraser River primarily, in
23 Area 29 off the mouth. And then two troll fleets:
24 the Area H troll, which is in primarily the inside
25 waters of Johnstone Strait and Georgia Strait, and
26 then Area G troll, which is on the west coast of
27 Vancouver Island. We also have representatives
28 from the United Fishermen and Allied Workers
29 Union, processors and an ex officio member from
30 the Province.

31 Q That's all part of the CSAB?

32 A That's correct. So the membership of the
33 committee is actually laid out in the terms of
34 reference for that committee.

35 Q And how often does the department meet with the
36 CSAB pre season?

37 A It can vary from year to year, the meetings that
38 we have with this group. We usually do a post-
39 season review meeting in January to review the
40 southern B.C. fisheries, including Fraser sockeye.
41 The next meeting after that is typically in April,
42 where we go over the commercial salmon harvest
43 sharing arrangements with the group and negotiate
44 the allocations for the different gear types. So
45 those are the primary meetings in developing the
46 IFMP.

47 Q And then also, of course, the different IHPC full

- 1 meetings, which would be the November issues
2 outlook meeting and then a South Coast IHPC
3 meeting in January and then the two meetings where
4 you review the IFMP?
- 5 A Right. So the Integrated Harvest Planning
6 Committee typically meets four times a year. It
7 meets as a full committee in November, March and
8 May. That includes the northern members as well.
9 The January meeting is the post-season review and
10 that meeting's just with the southern committee,
11 and the northern committee has its own meeting in
12 December in the north.
- 13 Q Okay. Does the department have any role in
14 determining who will be represented on the CSAB,
15 which groups are represented in that process?
- 16 A Again, for the IHPC we've laid out or developed a
17 terms of reference for that committee and it
18 specifies the membership from each of the
19 different components of the groups. We have four
20 members specified for First Nations, three for the
21 Sport Fishing Advisory Board, two for the Marine
22 Conservation Caucus. This is just for the
23 southern --
- 24 Q No, I was asking about the --
- 25 A -- committee --
- 26 Q -- CSAB.
- 27 A Oh, sorry.
- 28 Q Does the department have any role in setting who
29 are the representatives on the CSAB?
- 30 A The Commercial Salmon Advisory Board also has as
31 part of its terms of reference area harvest
32 committees representing each of the eight
33 commercial gear types. So for an example, the
34 Area E gillnets would have an area harvest
35 committee representing the Fraser River gillnet
36 fleet. And we have harvest committee elections
37 and they elect representatives to their harvest
38 committee, and from there they would determine who
39 their representatives were going to be on the
40 Commercial Salmon Advisory Board. So the
41 department has a role in setting out the terms of
42 reference with the group but they take control of
43 identifying their members.
- 44 Q The CSAB members control who's going to be --
- 45 A That's right.
- 46 Q -- who's going to be sitting on the board, okay.
- 47 In your view, or the department's view, does the

- 1 Commercial Salmon Advisory Board adequately
2 represent the interests of the commercial fishing
3 industry in the planning process?
- 4 A We've got a broadly representative process. Every
5 licence-holder in the commercial fleet has an
6 opportunity to elect members to their area harvest
7 committees, and the committees' elections are
8 actually every year where they re-elect half of
9 the committee for a two-year term. So there's
10 frequent opportunities to elect new members to the
11 committee potentially. And one of the items in
12 the terms of reference for the Commercial Salmon
13 Advisory Board is adequate representation. And I
14 think it's fair to say that for the commercial
15 salmon fleets, there's good representation and
16 perspective from both the area harvest
17 committees -- or all of the area harvest
18 committees as well as the processors and the
19 union. That's not to say they're all going to
20 agree on issues that may arise at that committee,
21 though.
- 22 Q Now, one thing I was going to ask Mr. Rosenberger
23 about -- since he's not here I haven't yet, but
24 maybe I can just ask you. What is the Fraser
25 River Integrated Management Team, FRIMT as it's
26 called?
- 27 A It's a departmental body that includes
28 representatives from the department's areas and
29 regional offices that are directly involved in the
30 management of Fraser River sockeye. There's a
31 terms of reference for that committee as well that
32 lays out the people that are involved in that
33 committee.
- 34 Q Okay. And is that committee involved in either
35 receiving information from the consultation
36 process you've described or directly involved in
37 that consultation process?
- 38 A Yes. The FRIMT committee primarily interacts with
39 the Fraser River Panel and the Canadian caucus
40 representatives there. The Canadian caucus would
41 be the Canadian members of the Fraser River Panel.
42 So they would meet with the Integrated Management
43 Team to discuss issues jointly specifically
44 related to the management of Fraser River sockeye
45 and pink salmon.
- 46 Q And the consultation that we just talked about for
47 the Commercial Salmon Advisory Board, in

1 particular the commercial fishing interests, is
2 there a relationship between that consultation and
3 what happens on FRIMT? Does that information get
4 through the FRIMT?

5 A There's overlap in some of the members on the
6 committees, and certainly on the department side,
7 I'm aware of what's happening with FRIMT either
8 through speaking directly with Mr. Rosenberger or
9 on occasion I'm also attending those meetings as
10 well. But we're communicating the issues
11 internally within the department, and there's also
12 opportunity for the commercial representatives and
13 others on the Integrated Management Team to
14 communicate back to their sector organizations as
15 well.

16 Q I'd like to move to the Sports Fishing Advisory
17 Board and go through some of the same questions.
18 Does the department meet with the Sport Fishing
19 Advisory Board?

20 A Yes, it does.

21 Q And how often does it meet pre-season?

22 A At the Sport Fishing Advisory Board level, in the
23 pre-season period -- again, the Sport Fishing
24 Advisory Board is divided into a north and south
25 subcommittee, and then there's what's called the
26 main board, where the north and south groups come
27 together. We've got -- in the pre-season process
28 the main board will meet in January typically for
29 a post-season review and pre-season planning.
30 Typically in the south we'll have a south coast
31 advisory board meeting in the late March/April
32 timeframe - typically it depends when Easter falls
33 when that meeting occurs - to go over the IFMP
34 planning and review of the first draft. And then
35 the final meeting of the year for the SFAB in
36 terms of developing the IFMP occurs in April in
37 the main board meeting.

38 Q And in addition to those individual consultations,
39 they're part of the IHPC process as well?

40 A Representatives from the SFAB participate in the
41 IHPC process as well. I should also point out
42 that there's also sport fishing advisory
43 committees at the sub-regional level and our
44 departmental staff are meeting with those groups
45 as well. And motions that are put forward by
46 those groups would be brought forward to their
47 respective north and south coast committees, and

1 then from there to the main board.

2 Q Who's represented on the SFAB, the Sports Fishing
3 Advisory Board?

4 A Devona Adams is our recreational coordinator that
5 is primarily responsible for that committee, and I
6 understand she'll be testifying later. But in a
7 broad sense, the committee's intended to have
8 majority representation for primary level users as
9 the resource. So these are fishing interests that
10 are not deriving income or a substantial part of
11 their income from the resource. And the terms of
12 reference lays out a number of positions for those
13 individuals. We've got typically -- or in the
14 terms of reference, I believe, it's seven
15 representatives in the north plus a chair and then
16 seven in the south plus a chair. There's also
17 representatives from the Pacific Salmon Commission
18 process and the various -- Fraser Panel, for
19 example, would be one spot where there's a
20 representative there. There's also ex officio
21 representation from the province. And then for
22 the secondary level representation, there's a list
23 of organizations that supply representatives to
24 the SFAB and these are groups that derive income
25 from the sport fishery. So the B.C. Wildlife
26 Federation would be there with a fresh water and
27 salt water representative, the Sport Fishing
28 Institute, marine trades, lodge and campgrounds,
29 and a number of other organizations would -- the
30 Federation of Drift and Fly Fishers also have
31 representatives as well.

32 Q And does the department have any role in
33 determining who will be represented by the SFAB?

34 A The department can have a role in determining the
35 representation there. Typically we're looking to
36 see that the representation is balanced. And to a
37 large extent the committee manages that, but the
38 department has been involved in setting up the
39 terms of reference for the committee.

40 Q And in your view, or the department's view, does
41 this board, Sports Fishing Advisory Board,
42 adequately represent the interests of the sports
43 fishers?

44 A Again, Devona might be able to provide you some
45 more specific feedback on specific issues there,
46 but it's a long-standing committee that's been
47 around since the 1960s. It's intended to be

- 1 broadly representative of the recreational fishing
2 interests, and I think the committees have largely
3 been successful at doing that.
- 4 Q And does the department conduct meetings with any
5 sport fisher groups other than through the SFAB
6 itself?
- 7 A It may be that we do have some meetings that are
8 set up in the various areas. I couldn't speak
9 specifically to what those might be, though.
- 10 Q Okay. And I'm moving to the Marine Conservation
11 Coalition. Who's represented on that organization
12 or that body? I'm not sure if it's a society of
13 itself, but that coalition?
- 14 A This is an umbrella group that was put together to
15 represent environmental non-governmental
16 organizations. In the terms of reference that's
17 listed on the department's consultation
18 secretariat we've got nine or ten groups covered
19 there. The David Suzuki Foundation would be an
20 example, Canadian Parks and Wilderness Committee,
21 Watershed Watch, Raincoast Conservation, and a
22 number of other groups that I'm not going to be
23 able to name off the top of my head. But they're
24 listed on essentially a terms of reference for the
25 group.
- 26 Q And did the department have a role in deciding
27 which groups would be part of that coalition?
- 28 A This group largely came together independently as
29 a way to try and represent environmental non-
30 governmental, or ENGO, interests -- environmental
31 non-governmental organization interests in the
32 various planning processes that the department
33 has, but it was pulled together independently and
34 it's got an executive steering committee.
- 35 Q And how long has it been part of the planning
36 process?
- 37 A I believe the committee dates back to 2003.
- 38 Q And when does DFO meet with the Marine
39 Conservation Coalition?
- 40 A The Marine Conservation Caucus participates in our
41 Integrated Harvest Planning Committee meetings and
42 has representatives there. They also participate
43 at the Fraser River Panel as an observer and we --
44 in the pre-season planning process, we
45 typically -- or we've made efforts to set up a
46 meeting to go over specific concerns and issues
47 that the MCC may have in the spring planning

1 process as well.

2 Q Is that before or after the first draft IFMP?

3 A My recollection in recent years is that the
4 meeting has occurred after the first draft of the
5 IFMP is released.

6 Q And, in your view, does the Marine Conservation
7 Coalition adequately represent the interests of
8 the conservation community?

9 MR. GROUT: At the IHPC level, I think it is doing a
10 good job of representing the interests. I haven't
11 personally had complaints from groups that felt
12 they aren't being fairly represented or the -- or
13 the MCC was not doing a good job representing
14 them.

15 Q Okay. Does --

16 MR. GROUT: So I don't have any evidence to suggest
17 that that's not the case.

18 Q Does the Department conduct meetings with
19 different conservation groups in addition to the
20 MCC?

21 MR. GROUT: I'm not specifically involved in -- I have
22 not been specifically involved in those meetings,
23 but they may have occurred from time to time.

24 Q Now, the consultation with First Nation groups, is
25 that an area that is better suited to Barry
26 Rosenberger answering those questions, or do you
27 want to go through some of the overview of that?

28 MR. GROUT: That might be a good topic to do when Barry
29 comes as well, 'cause I know he's got a number of
30 good points that he can probably add.

31 Q Okay. Other than the groups -- I know we haven't
32 discussed the First Nations consultation process
33 yet, but other than the First Nations consultation
34 process which Mr. Rosenberger will speak to, the
35 Commercial Salmon Advisory Board and the other
36 meetings that you've described, Sports Fishing
37 Advisory Board and other meetings you've described
38 and the Marine Conservation Coalition, is there
39 other opportunities for input? Do you receive
40 consultation or information from others within the
41 Department or external?

42 MR. GROUT: Yes. In terms of developing the Integrated
43 Fishery Management Plans each year, we do provide
44 opportunities for input directly from the public.
45 We have had input and advice from researchers or
46 organizations that have done research in the past.
47 The Pacific Fisheries Resources Conservation

1 Council is an example of a group where we've had
2 input from. So there's a number of other ways the
3 Department can get advice on developing the
4 management plans each year.

5 Q And what about internally from managers within
6 DFO? Is there an avenue to receive input from
7 area managers and --

8 MR. GROUT: Yes. In terms of the Integrated Fishery
9 Management Plan itself, for the southern plan we
10 coordinate the production of that plan across our
11 three areas in the south. The Department has
12 south coast, lower Fraser and the B.C. Interior,
13 and then the region as well.

14 We typically have set it up with a lead
15 alternating from year to year in one of the areas,
16 in terms of bringing together the elements in the
17 Integrated Fishery Management Plan, and we have
18 subject experts identified for each of the
19 components of the plan. So it's a case of a
20 number of our staff, largely represented on the
21 Fraser River Integrated Management Team that are
22 pulling together the different sections that go
23 into developing the plan.

24 Q And we've talked -- we've referenced the
25 Integrated Harvest Planning Committee a few times
26 already this morning. But just to identify, what
27 is that actual body? What's its purpose and where
28 did it come from?

29 MR. GROUT: The Committee was formed in response to
30 recommendations - my understanding, anyway -
31 stemming from the 2002 sockeye fishery review and
32 also the Institute for Dispute Resolution,
33 recommendations there. It was put together in --
34 or I believe the first meeting was in 2004.
35 Really, the Committee is intended to provide an
36 opportunity for the different interests to come
37 together and work on coordination of fishing plans
38 and identify potential conflicts in areas where
39 they need to work together across their fisheries
40 to try and work things out.

41 Q Can you prepare -- or your Department has prepared
42 a document which sort of outlines this for people
43 and it's CAN006515, and in your binder there, it
44 would be Tab 9, and they can see it on the screen
45 as well. So this just outlines the structure of
46 the committee, and it also identifies the meeting
47 schedule and the committees, and also that there's

1 an independent facilitator of the meetings; is
2 that right?

3 MR. GROUT: That's correct. I wouldn't know -- the
4 province has also been involved in this committee
5 as well as an *ex officio* member and that doesn't
6 appear to be shown here.

7 Q Right. So there should be a little box after --
8 on the same line as "DFO Commercial, Rec, First
9 Nations and Conservation"?

10 MR. GROUT: That's correct.

11 Q Okay. The first meeting in this planning cycle is
12 in November; is that -- oh, sorry, yes, we should
13 mark this Advisory Process document as an exhibit.

14 THE REGISTRAR: Exhibit number 319.

15
16 EXHIBIT 319: Salmon Advisory Process
17 document
18

19 MS. BAKER:

20 Q The first meeting in the planning process -- or at
21 least the way I'm thinking of it is in November.
22 Maybe in your mind that's the end of the season,
23 but what happens in that November meeting with
24 respect to planning going forward?

25 MR. GROUT: The November meeting at the Harvest
26 Planning Committee is primarily focused on a
27 preliminary review of issues from the past season
28 while they're still fresh in people's minds. It's
29 too early to get into a detailed post-season
30 review of the season at that meeting. We also --
31 I should point out that the Integrated Harvest
32 Planning Committee has a subcommittee that
33 develops the agenda for each of these meetings
34 consisting of representatives from each of the
35 groups.

36 So while we've got a broad purpose for the
37 meeting which I'll outline, they can also request
38 to have specific information on other topics added
39 to the agenda, at least the Department to
40 consider.

41 So this meeting in November is primarily an
42 opportunity to identify issues from the past
43 season that they'd like to see the Department
44 provide more information on the post-season review
45 or follow up on for the coming year, as well as
46 provide a preliminary salmon outlook for the
47 potential salmon returns in the coming season.

1 Q Does the Department also look to the participants
2 for advice on different issues at that meeting?

3 MR. GROUT: Yes, we would.

4 Q And the Salmon Outlook document is CAN 003053 and
5 it'll be up on your screen in a minute, but if you
6 want to see a paper version, it's the very first
7 item in that binder you're looking at.

8 So this is a document that is the Salmon
9 Stock Outlook. It's dated November 8, 2008, so
10 this is the document that would be forward-looking
11 for the 2009 year?

12 MR. GROUT: That's correct.

13 Q Okay. And who prepares this outlook -- and,
14 sorry, would this document be presented at the
15 November meeting?

16 MR. GROUT: Yes. We would provide a hard copy of the
17 -- or a paper copy of this document, as well as a
18 presentation of the key information that it
19 contains.

20 MS. BAKER: Okay. Could I have that marked, please, as
21 the next exhibit?

22 THE REGISTRAR: Exhibit 320.

23
24 EXHIBIT 320: 2009 Salmon Stock Outlook dated
25 November 8, 2008
26

27 MS. BAKER:

28 Q And who prepares that Salmon Outlook document?

29 MR. GROUT: This document is put together by our core
30 Science staff and as well as Area Stock Assessment
31 staff.

32 Q And how is that -- or what's the purpose of this
33 document? It's -- it's fairly long and fairly
34 detailed.

35 MR. GROUT: The intention of the document is to provide
36 a broad scan of the status category on a scale of
37 1 to 4 for a number of salmon stocks in the
38 region. I believe this document contains up to 93
39 of those stocks, so by the major species as well
40 as major stocks within each of those.

41 In 2009, we hadn't aligned this with the Wild
42 Salmon Policy conservation units, but that's work
43 that's being developed.

44 In terms of the information provided, there's
45 four status categories, from status 1 being a
46 stock of concern. The criteria there are listed.
47 The criteria are somewhat subjective, but they're

1 meant to give you an indication of stocks that are
2 less than 25 percent of their target where those
3 are identified or has been declining rapidly, up
4 to a category 4 population which is considered
5 abundant and is forecast to be well above target.

6 Q Okay. So would people like Timber Whitehouse be
7 involved in developing this document for Fraser
8 River sockeye?

9 MR. GROUT: It's my understanding Timber and a number
10 of his staff would be providing specific inputs
11 for populations specifically returning in the
12 Fraser watershed. It could also be similar inputs
13 from staff in the Lower Fraser office as well as
14 in the south coast and north coast in this case.

15 Q And Timber Whitehouse and his staff and the other
16 people that are in similar positions are all part
17 of the Stock Assessment; is that right?

18 MR. GROUT: Yeah, yes. So this is primarily a Science
19 and Stock Assessment staff activity.

20 Q And is the analysis of the stocks based on
21 quantitative forecast information, or is it also
22 -- does it also contain a qualitative assessment?

23 MR. GROUT: In November, we typically are still waiting
24 for post-season information to come in on the
25 number of spawners that have reached the spawning
26 grounds, information from survival rates on a
27 number of stocks and it's too early to have that
28 information in November, so what usually happens
29 is this provides a preliminary scan and then --
30 for a number of populations = Fraser sockeye is
31 one of the notable ones - we have a quantitative
32 forecast that's provided later.

33 Q Is the document, the Outlook document, revised
34 after it's been presented in the November meeting?

35 MR. GROUT: In some past years, this document has been
36 revised a number of times as the information gets
37 updated, and so there will be different versions.
38 Quite often we'd see one in January or February
39 and even after that in some years.

40 What we're trying to do, though, is move this
41 to a document that's done once in November, and
42 then one final update in the spring, rather than a
43 whole series of versions and updates with -- as
44 minor changes are made. Really, the main
45 intention of this document is to provide people a
46 sense of where the problem areas are going to be
47 in the coming year, stocks that are category 1,

1 but also to provide -- or 2 -- and then also to
2 provide an indication of what populations are at
3 target or abundant levels and can support harvest.
4 Q Moving to the January south coast IHPC, what's on
5 the agenda for that meeting?

6 MR. GROUT: The January south coast IHPC is primarily
7 focused on the post-season review although the
8 Agenda Committee has, at times, identified other
9 topics that they would like to see discussed at
10 that meeting. The Department can also propose
11 additional topics that they'd like to see
12 discussed there as well.

13 The main focus of the meeting is the post-
14 season review of south coast fisheries.

15 Q Okay. Do you -- at that time, does the Department
16 respond to any of the issues raised in November?

17 MR. GROUT: At the November meeting, there's quite
18 often issues that are raised that the Department
19 has been asked to follow up on, and depending on
20 whether it was a north coast or south coast item,
21 we may respond at the January meeting.

22 What we've been doing to try and streamline
23 the process is to respond by email or
24 electronically with action items that we can
25 follow up on as we get them done. So it's --
26 quite often we'll have action items that are
27 being followed up on and sent to the committee
28 members in between meetings as well.

29 Q Okay. Is any pre-season forecast information
30 available at the January south coast meeting?

31 MR. GROUT: Usually, we'd have the -- let me think
32 here. The schedule for the Fraser River sockeye
33 forecast was delayed last year, but typically we
34 would try and have that quantitative information
35 for this meeting.

36 Q And following that meeting, what's the next phase
37 in the development of the IFMP? Do you -- are you
38 able -- are you in a position at the end of
39 January to start putting that document together?

40 MR. GROUT: Yes. So the Department lays out a table of
41 contents for the Integrated Fisheries Management
42 Plan, and we will -- we will have been meeting --
43 we typically meet in December to outline the table
44 of contents and where we're going -- the lead
45 authors for the various components. So people
46 will be -- will have started working on some of
47 the elements of the IFMP, identifying where

1 changes need to be made, information needs to be
2 updated. Some of the issues raised will have --
3 preliminary exploration of those will have
4 started, so if issues were raised at the November
5 meeting of the IHPC or elsewhere at any of our
6 other consultation meetings, we can start
7 evaluating some of those issues and we may be able
8 to bring them back to the January meeting or they
9 would come at a subsequent one.

10 Q Okay. When is the first draft of the IFMP
11 prepared then?

12 MR. GROUT: Our objective in producing the first draft
13 of the IFMP is to have it publicly available one
14 week prior to the Integrated Harvest Planning
15 Committee meeting in March to give people time to
16 review it. And then we typically provide
17 approximately one month for public review as well.

18 Q After the March meeting?

19 MR. GROUT: So it should be on this schedule that's
20 been entered here as an exhibit, a date when the
21 -- well, in this version of the schedule, we
22 didn't have the date marked, but there's public
23 posting listed there. "Draft No. 1, IFMP, for
24 review and comment."

25 So the date would have been approximately one
26 week prior to the full IHPC meeting which is
27 listed on March 24th, 25th.

28 Q And then the public would have a month from the
29 day it was posted?

30 MR. GROUT: Give or take. That's typically the amount
31 of time we provide for comment.

32 Q Do any of the people with interest in the
33 fisheries or the public have an opportunity to
34 provide input in the creation of the first draft?
35 How does their input get incorporated into the
36 first draft before it's posted?

37 MR. GROUT: In terms of the first draft of the IFMP, we
38 will have been incorporating potentially any
39 revisions that have been requested or potential
40 options that groups would like to see explored.
41 So to the extent that those issues have been
42 raised and the Department's been made aware of
43 those prior to the first draft coming out, some of
44 that information will be captured in the first
45 draft.

46 There will be other things that are not
47 raised until after the first draft goes out, and

1 they would not be dealt with until after the first
2 draft is gone. So it's a mix of the two. We do
3 have some input that's incorporated before, but we
4 also receive new input as well after it's
5 released.

6 Q One of the issues, I take it, that has to be
7 settled before you do the first draft is the pre-
8 season forecast which is prepared by Science; is
9 that right?

10 MR. GROUT: That's correct.

11 Q Okay. So I'd like to look at that process now.
12 Who does the -- who, within the Department of
13 Fisheries and Oceans, is responsible for doing the
14 pre-season forecast?

15 MR. GROUT: Currently, Sue Grant with Stock Assessment
16 in the Lower Fraser office has been putting the
17 forecast document together.

18 For a number of years before that, it was Al
19 Cass, Science.

20 Q Okay. And this -- she prepares a pre-season
21 forecast paper; is that right?

22 MR. GROUT: There's one of two things that can happen
23 with our forecast documents. If the forecast is
24 being done with an approved methodology that's
25 been used in the past and has a previous research
26 document supporting it, then a shorter -- a
27 shorter update of the forecast is done. It's
28 called a SAR document, and I can't recall if --

29 Q Science Advisory Report?

30 MR. GROUT: Science Advisory Report, thank you. If
31 there's been a substantial revision or change to
32 the methodologies, then a longer research document
33 would be done with -- typically a Science Advisory
34 Report is also produced to summarize the research
35 document for the public as well.

36 Q Okay. And that document, the Science Advisory
37 Report, is provided to who in your organization?
38 Is it provided to your -- to you or to Mr.
39 Rosenberger or who?

40 MR. GROUT: A number of individuals in the Department
41 would participate in the scientific review
42 process. It's also open to the public as well.
43 Once the paper has been reviewed and approved,
44 it's circulated quite widely in the department.
45 Certainly in developing the IFMP, Barry and I are
46 paying close attention to the development of the
47 forecast. He's using it and taking it to the

1 Fraser Panel process, and I'm keeping my eyes open
2 for it going to the IFMP document.

3 Q Okay. Now, Sue Grant will be coming here and
4 we'll have a session with her on the development
5 of pre-season forecasts, so we don't need to get
6 into a lot of detail of that process with you
7 because we'll have her here to talk about exactly
8 how that modelling is done and what documents are
9 produced.

10 But I think it would be useful for this
11 session to understand how the output is used by
12 you in planning. So just in terms of -- just from
13 an overview sense, what information is generated
14 by that forecasting process that is used by you in
15 the IFMP?

16 MR. GROUT: The forecast provides detailed information
17 of the range of returns expected for salmon, a
18 number of key salmon stocks, 19 of them to be
19 precise. It provides information on ranges of
20 returns, specified probability levels to give
21 people a sense of the uncertainty of the potential
22 returns, and it provides some information on the
23 overall returns for Fraser sockeye that might be
24 expected, given the combination of the stocks that
25 make up the forecast.

26 Q Okay. Does it include information about numbers
27 of -- health of juvenile fish?

28 MR. GROUT: The forecast methodology uses a number of
29 different potential models and it -- in going
30 through that, Sue Grant is probably the best one
31 to give you the details of those, but one of the
32 primary models that's used is the relationship
33 between the number of spawners four years prior
34 and the number of returns that you might expect
35 given that most Fraser sockeye mature as four-
36 year-olds.

37 So a number of the models make use of that
38 information. There are some populations where we
39 have juvenile information and smolt-out migration
40 which can inform the forecast, Chilko Lake in
41 particular, and also Cultus Lake. We get
42 information for those populations from fences at
43 the outlets of those lakes where the juveniles can
44 be counted.

45 So in the cases of those populations, those
46 are actually the best models to use in the
47 forecast.

1 Q Okay.

2 MR. GROUT: And there's also some models that just look
3 at averaging over previous years so they're not
4 explicitly biological mechanisms to do the
5 forecasts. They're looking recent averages or
6 recent cycle-line averages as ways to produce the
7 forecast information.

8 Q Okay. And, as I said, we'll get into some of the
9 detail of all that when Sue Grant is here.

10 Does the forecasting information contain
11 information about the status of the marine
12 environment, where the fish live for a couple of
13 years?

14 MR. GROUT: In the past, the forecast document may have
15 included commentary on some of those issues, but I
16 think in a very limited way. In recent -- in the
17 last couple of years in particular, the Department
18 has been looking at how we might incorporate
19 information from some of the various different
20 marine indexes that could be used to perhaps
21 strengthen the power of the forecasting. But I
22 think it's preliminary efforts of that work, and
23 it's a work in progress.

24 Q You mentioned that -- and again, if this is a
25 question for Barry Rosenberger, just let me know.
26 You mentioned that the forecast document is taken
27 to the Fraser River Panel. Do you know why that
28 is, or what use they make of it?

29 MR. GROUT: Fraser River Panel makes use of the
30 forecast information for pre-season planning
31 purposes.

32 Q Does the Fraser River Panel have any involvement
33 in setting probability levels?

34 MR. GROUT: The Fraser Panel does recommend which
35 probability levels they're going to use for
36 planning purposes at the Fraser Panel.

37 Q Okay. And is there communication between the
38 Fraser River Panel on the probability levels to be
39 used back to Department of Fisheries and Oceans or
40 -- do you put forward your planning using the
41 recommendations from the Fraser River Panel, or do
42 you do it independently?

43 MR. GROUT: We're working typically closely with the
44 Fraser Panel on that.

45 Q So if there's a probability level chosen by the
46 Fraser River Panel, we would expect to see that in
47 the IFMP as well?

1 MR. GROUT: In recent years, we have been consistent on
2 that.

3 Q Now, we haven't spent any time talking about what
4 those probability levels are or what they mean, so
5 what I want to do is look at the first draft of
6 the IFMP for 2009 and look at the forecast
7 information that's contained in there, and we can
8 go through some of the data.

9 So the first draft of the IFMP is CAN 004017,
10 and that should be in Tab 6 in your binder.
11 You'll see at the bottom of the page a number, CAN
12 number with an underscore and then a page number.
13 I'm going to use those page numbers as references,
14 so if you go to 64, you'll see a -- whoops! Yeah,
15 yeah, there, stop.

16 Table 9 has pre-season forecast for 2009 by a
17 stock timing group and probability. So looking at
18 that document, is this information which is taken
19 from the Science Advisory Report that's prepared
20 by Sue Grant?

21 MR. GROUT: Yes.

22 MS. BAKER: Okay. I should mark this first draft of
23 the IFMP as an exhibit.

24 THE REGISTRAR: Exhibit number 321.

25 MS. BAKER: Thank you.

26
27 EXHIBIT 321: First draft, Pacific Region
28 Integrated Fisheries Management Plan, Salmon,
29 Southern B.C., June 1, 2009 to May 31, 2010
30

31 MS. BAKER:

32 Q All right. So let's just go through some of the
33 columns to help people understand what's being
34 shown here. If we look across the headings,
35 you'll see mean run size, all cycles, 2009 cycle.
36 What is that referring to and what are those
37 columns referring to?

38 MR. GROUT: Maybe a bit of context here. For Fraser
39 River sockeye, as I mentioned, they primarily
40 mature as four-year-olds. In some of these
41 stocks, we do see a four-year period of abundance
42 which can have quite different levels of abundance
43 on the different cycle lines. So in terms of the
44 mean run size here, "all cycles" means overall
45 historical year, so all four cycle lines.

46 The 2009 cycle refers to returns from 2009,
47 2005, 2001, just on that individual cycle. So it

- 1 gives you an idea of whether you're on a dominant
2 or an abundant cycle line of abundance for some of
3 these stocks relative to the average abundance.
- 4 Q All right. And if we look on the far left side,
5 it says "Sockeye stock timing group", and then it
6 has all the different stocks that are measured in
7 this model; is that right? Within their run
8 timing groups, so the four run timing groups are
9 Early Stuart, Early Summer, Summer, and Late, and
10 within it are the different stocks on those run
11 timing groups?
- 12 MR. GROUT: That's correct.
- 13 Q Okay. And there's a number that are just listed
14 as miscellaneous stocks?
- 15 MR. GROUT: Yes.
- 16 Q Okay. And the next table has CU's, table 2, those
17 are referencing the conservation units that are
18 contained within those stocks that are used in the
19 model?
- 20 MR. GROUT: Yes.
- 21 Q Okay. And forecast model, I'm not going to ask
22 you to go through that. I'll deal with that
23 through Ms. Grant when she's here.
- 24 The next column over, "Probability of
25 achieving specified run sizes," .1, .25, .5, .75
26 and .9. What is that that referencing?
- 27 MR. GROUT: This information refers to the cumulative
28 probability distribution which gives you a sense
29 of the likelihood of different returns occurring.
30 So on the Early Stuart line under 0.1, it's
31 telling you there's a ten percent chance, or a 1
32 in 10 chance of having a return 645,000 or more.
33 At the 0.5, it's saying there's a 50 percent or a
34 1 in 2 chance of having a return of 255,000. At
35 0.9, it's saying there's a 90 percent chance, or 9
36 out of 10 chance your return will be 107,000 or
37 more.
- 38 Q Okay. And just because that's going to be
39 confusing, I just want to identify there's been a
40 change to the way those probabilities are
41 described in the 2000 year's forecast document and
42 going forward. Can you explain what that change
43 is?
- 44 MR. GROUT: What has been done is we've essentially
45 used the inverse of the probability levels here in
46 terms of reading through the table for 2010. So
47 when you look at a 2010 IFMP, the probability

1 levels will be of achieving the run or less. So
2 it's really the inverse of what's shown here in
3 this table.

4 Q Okay. So we have to be careful when we're looking
5 at these documents and talking about probabilities
6 which method we're referring to, because there was
7 this switch which creates the reverse in 2010.

8 MR. GROUT: That's right.

9 Q Okay. Now, why is this information presented?
10 How is it expected to be used by people reading
11 the document and by the Department in planning?

12 MR. GROUT: Well, the forecast information explains
13 some fraction of the variation in potential
14 returns based on the historical data. The amount
15 of variation that's explained can vary across
16 stocks. In some, it can explain quite a lot of
17 the variation, and some not as much. So the
18 forecasts can give you an idea of the range of
19 returns that are possible for the population and
20 the probabilities of those returns occurring.

21 The information is used at the Fraser Panel
22 for pre-season planning purposes and developing
23 potential fishing plans for the various groups if
24 in fact a specified return level were to occur
25 during the upcoming season.

26 Q It talked about one change in 2010 to the
27 forecasting, the way the data is presented, but
28 there were some other changes required in 2000 --
29 or not required, but implemented in 2010 and I
30 will ask Sue Grant to explain what those are, but
31 I'm wondering if you could just explain why
32 changes were deemed needed to the forecasting
33 model after the 2009 year?

34 MR. GROUT: In 2010, there were some substantive
35 changes made to the methodology for forecasting
36 which required a research document to be done. In
37 that document, there was concern about the recent
38 declines in productivity and forecasts essentially
39 being higher than what was actually returning.

40 So in the new work in 2010, there were some
41 new models introduced that included the sort of
42 historical basis for forecasting, which was to
43 include all years. There was another suite of
44 models that were using just the recent
45 productivity for the last -- since the late '90s.
46 And then there was a third model which was
47 essentially extremely poor returns would be

1 repeated similar to the past year that had just
2 come back.

3 So return rates, if they're similar to the
4 year that had just gone by, there was also another
5 category in the models that they looked at.

6 Q And so it was -- the change was a response to the
7 declining productivity that was being seen?

8 MR. GROUT: I think that was one of the items that had
9 driven the look at that potential change in the
10 methodology.

11 Q And the result was to produce a couple of
12 different cases, one which looks at all the
13 historical data, one which looks at a more recent
14 subset, and one which looked at the most recent
15 and the poorest return year?

16 MR. GROUT: That's right.

17 Q Okay. And, as I said, I'll talk to Sue Grant
18 about all the details of how that was put together
19 when she's here. I just felt it was important to
20 understand the reason why that work was done.

21 Typically, is it fair to say that there's
22 often variations in season from the pre-season
23 forecasts?

24 MR. GROUT: Yes.

25 Q And sometimes they can be very significant
26 variations from the forecasts?

27 MR. GROUT: In some cases, yes. Although I should
28 clarify that we have to be careful, because what
29 the forecast is providing is a distribution of
30 potential returns, so maybe you could clarify your
31 question. Were you referring to the midpoint of
32 the forecasts there or something else?

33 Q Well, if you're planning, you will choose one of
34 these probability columns as the probability for
35 which you will do your planning, correct?

36 MR. GROUT: Yeah, typically the Panel will look at a
37 number of probability levels through the forecast,
38 but historically the 25 -- .25 and the .5 levels
39 have been done -- or, sorry, the .5 and the .75
40 levels were done using the -- this terminology
41 from 2009.

42 Q Okay. And so you would settle on a probability
43 and plan based on that probability for developing
44 your pre-season planning, correct?

45 MR. GROUT: Yeah, so pre-season planning would look at
46 different slices, if you will, through the
47 distribution and the returns associated with

1 those. So if your question was have the in-season
2 returns differed from some of those sort of
3 discrete estimates at times, the answer is yes.
4 But Sue could better give you a sense of how well
5 the whole distribution has captured the range of
6 outcomes.

7 Q Okay. Well, my next question just is are fishing
8 decisions for Fraser River sockeye in-season based
9 on the pre-season forecasts which are shown in the
10 IFMP document?

11 MR. GROUT: There may be specific cases where the pre-
12 season information is providing some information
13 at the start of the season, but the Department and
14 the Fraser Panel focuses its management on the
15 assessment of actual returns in season.

16 Q Okay. So if the in-season management is really
17 being completed based on what's appearing in
18 season and not on the forecast, why is so much
19 time spent on the forecast? Is it -- what's the
20 point of it?

21 MR. GROUT: Well, this is a point Barry may want to
22 comment on as well when he gets in later. But the
23 forecast does provide information. The
24 relationships do provide some explanatory power in
25 terms of explaining the number of returns that may
26 come back from previous years' spawners or the
27 number of juveniles that migrated out from some of
28 the systems. It does give you a probability
29 distribution on the range of potential returns.
30 This can provide assistance to people considering
31 how their fisheries might unfold in the summer.

32 In particular, you can look at each of the
33 different management units and see if one of the
34 management units is not very abundant relative to
35 another one. You'll have to consider how you
36 might harvest the more abundant management unit
37 relative to others. You can also see individual
38 stocks, the abundance of those relative to others
39 in their management unit. In some cases,
40 additional management action has been planned for
41 those reasons.

42 MS. BAKER: Okay. Mr. Commissioner, it's almost 20
43 after 11:00. Should we take our break now?

44 THE COMMISSIONER: Yes. Thank you, Ms. Baker.

45 THE REGISTRAR: The hearing will now recess for 15
46 minutes.

32
PANEL NO. 12
In chief by Ms. Baker

1 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)
2 (PROCEEDINGS RECONVENED)
3

4 THE REGISTRAR: Order. The hearing is now resumed.
5 MS. BAKER: If we can go to the CAN page number?
6 MR. LUNN: I think that's -- oh, I'm sorry. Yes.
7 MS. BAKER: Yeah, that's it.
8 MR. LUNN: How's that?
9 MS. BAKER: Yeah.

10
11 EXAMINATION IN CHIEF BY MS. BAKER, continuing:
12

13 Q So Section 5.4.9 of this chapter sets out a table
14 which looks sort of like what we saw on the
15 Outlook document. Is this information in the IFMP
16 related to the Outlook document we saw earlier?

17 MR. GROUT: It's different in the sense that what we're
18 doing here is laying out the considerations for
19 the pre-season planning of the fishery and what
20 potential scenarios we need to look at for the
21 coming year.

22 Q But is this information informed in any way by the
23 Outlook document that we saw earlier?

24 MR. GROUT: Usually, what we would have in the
25 "Comments" box would be similar to what was in the
26 Outlook and/or informed by the forecast
27 information, if we had that available, the time of
28 the draft.

29 Q Okay. If you'd turn to page 72. Yeah, stop
30 there. You see there's two stocks that are
31 identified as conservation concerns. Do those
32 relate to one of the categories in the Outlook
33 document?

34 MR. GROUT: Yes, these would have been classified as
35 Category 1 in the Outlook document.

36 THE COMMISSIONER: Ms. Baker, I wonder if I could just
37 ask just for some clarification so I can follow
38 this. Could you go back to the table we were
39 looking at just before the break?

40 MS. BAKER: This is the pre-season forecast table?

41 THE COMMISSIONER: Right.

42 MS. BAKER: That's CAN 60 -- 64.

43 THE COMMISSIONER: 64, right. Right. In that table,
44 there, in the second column, it refers to CU's.
45 Earlier on, the witness mentioned that the 2009
46 information was not adjusted or aligned for the
47 Wild Salmon Policy. And I notice in the document

1 you've just referred the witness to, at page 68,
2 at -- it was referenced, I believe, there, again
3 to stocks not CU's and I just want to understand
4 what he meant earlier by not aligning it with the
5 Wild Salmon Policy, but there is a reference to
6 CU's in that particular table.

7 MR. GROUT: Mr. Commissioner, when I mentioned this
8 point earlier, it was in the discussion of the
9 2009 Salmon Outlook, and in the past, that
10 document's been put together for 93 stocks. What
11 we did in this most recent year was start aligning
12 those stocks with the CU's that are contained in
13 those. That had not been done in the 2009
14 Outlook, but it's something that we've included
15 for 2010.

16 THE COMMISSIONER: I see. Thank you.

17 MS. BAKER:

18 Q So the s. 5.4.9 in the draft IFMP which sets out
19 the prospects for 2009, and you said that it has
20 some of the information in the comments part of
21 that document, comes from the Salmon Outlook
22 document, I mean, how -- is this table in the
23 draft IFMP really a condensed form of the
24 information contained in the Outlook document? Is
25 that what the intent is, identifying particular
26 items of concern?

27 MR. GROUT: It's intended to summarize at the
28 Management Unit level, as well as the specific
29 stocks of concern, the information from the
30 Outlook in the forecast.

31 Q Okay. And what determines whether a specific
32 stock will be identified in the summary form that
33 shows up in the IFMP?

34 MR. GROUT: In this case, Cultus and Sakinaw were both
35 designated by COSEWIC, and they were stocks that
36 we were paying special attention to in the
37 development of the Management Plan.

38 Q Okay. So that's why they got their own special
39 identification on this table?

40 MR. GROUT: That's correct.

41 Q Now, the next management tool I wanted to look at
42 is the Fraser River Sockeye Spawning Initiative,
43 which goes by the name FRSSI, F-R-S-S-I. And we
44 will be going into this model in some depth again
45 later in the hearings. This is one of the topics
46 where we have a panel put together to deal with it
47 in detail, but if you could, just for our purposes

1 and understanding of the planning process, give us
2 a high level summary of what the FRSSI model is,
3 and the process is and what it's intended to
4 achieve.

5 MR. GROUT: Okay. The FRSSI --

6 MS. BAKER: It's never a hearing if somebody doesn't
7 dump water.

8 MR. GROUT: So to answer your question, first off, I'd
9 start by saying that FRSSI, if I can refer to it
10 as that, is really a framework for assessing the
11 long-term harvest rules for Fraser River sockeye.
12 The reason I've clarified it from model to
13 framework is that a model is a component of the
14 work that we've got there, but it was also a
15 process to incorporate feedback from our First
16 Nations and various stakeholders as we developed
17 the work. The intention of the work was to really
18 lay out long-term harvest plans that could be used
19 for the management units that took into account
20 the maintenance and protection of the stocks or
21 CU's in those groups. It was also intended to
22 provide an explicit way to balance the interests
23 of conservation of low abundance with providing a
24 more stable harvest as abundance increased, and
25 incorporate input from the various stakeholders on
26 how they thought that balance should be achieved.

27 In addition, the model, itself, has been
28 developed extensively over about an eight-year
29 period and it's increasingly been developed and
30 it's had two scientific reviews as the
31 Department's tried to incorporate feedback that
32 we've received on, initially, shortcomings in the
33 model, or additional things that people would like
34 to see addressed. So as the process has unfolded,
35 we've also increasingly made modifications to the
36 modelling tool, itself, to try and incorporate
37 some of the concerns people had.

38 Q Canada is responsible for setting escapement goals
39 under the Salmon Treaty. Is this one of the tools
40 that's used to assist Canada in setting those
41 goals?

42 MR. GROUT: Yes, we've been using the outputs from the
43 FRSSI process from 2007 for the purpose of setting
44 escapement targets for Fraser sockeye.

45 Q Okay. How are conservation objectives defined in
46 the context of FRSSI?

47 MR. GROUT: In terms of the work we did, maybe I should

1 just add some context here. We had a steering
2 committee that included external people from each
3 of the First Nation recreational, commercial and
4 for part of the process, the Marine Conservation
5 Caucus providing advice on various benchmarks we
6 might use to make those assessments. We also had
7 a technical working group that was involved in
8 trying to develop the model to provide the metrics
9 that people were looking for. In a broad sense,
10 what we were doing for conservation units, or
11 stocks, was looking at the impact of a particular
12 harvest rule on the conservation objectives for
13 individual populations. And the way we did that
14 was set benchmarks for spawner abundance and we
15 looked at the probability of those being exceeded
16 over time.

17 Q And those are interim benchmarks under the
18 program; is that right?

19 MR. GROUT: Yes, we -- at the time that the work
20 started, we did not have benchmarks that were
21 defined necessarily consistent with the Wild
22 Salmon Policy methodologies or conservation units
23 that were approved for use after the work started.
24 Some of the more recent work will be to
25 incorporate -- or some of the upcoming work we'll
26 have to do will be to incorporate those
27 benchmarks, but at the time, we were using the
28 advice of our steering committee and others to
29 develop a range of benchmarks that we use to look
30 at abundance of spawners.

31 Q In terms of in season, looking at the conservation
32 objectives in season, are they the same thing as
33 these escapement targets that we're talking about?

34 MR. GROUT: I'd maybe clarify that. So what we're
35 doing is laying out a harvest rule for each
36 management aggregate of Fraser sockeye, so Early
37 Stuart, Early Summer, Summers and Lates. And the
38 harvest rule is really intended to -- or the
39 performance of that harvest rule can be assessed
40 to see how well we're ensuring escapement and
41 production for the individual component stocks in
42 that aggregate. So we're not looking at stock-
43 specific level, we're looking at the performance
44 of the harvest rule developed for the aggregate.

45 Q How many stocks or stock groupings are modelled
46 using the FRSSI model?

47 MR. GROUT: I think currently, there's approximately 19

- 1 stocks in the model.
- 2 Q And these are grouped into the management groups
3 that you've referred to?
- 4 MR. GROUT: Yes, the model uses spawner and recruitment
5 data. So we -- the stocks that are included have
6 a sufficient time series of that data available
7 that they can be used in the model and those --
8 the model can accept inputs in terms of which
9 stocks go into which management groups.
- 10 Q Okay. And these are the same 19 stocks that we
11 see in the pre-season forecast model?
- 12 MR. GROUT: It's my understanding that they line up
13 closely with what's there, if not identically.
- 14 Q And it's based on long-time series data that has
15 been collected by the prior Commission, and the
16 current Commission and Department of Fisheries and
17 Oceans over years, going back to the 1950s or
18 earlier?
- 19 MR. GROUT: Right, and one of the key elements that the
20 model uses is a forward simulation which looks
21 historical spawning and recruitment data to try
22 and understand what the performance might be of
23 different harvest rules into the future. In terms
24 of the stocks we were using, the time series has
25 to include spawning information, but also
26 recruitments, which includes the reconstructed
27 catch and total run, and the Salmon Commission
28 developed -- Pacific Salmon Commission develops
29 that information that we use.
- 30 Q Right, and the historical information that you use
31 in this model is the same information that's been
32 collected under the prior Commission and the
33 current Commission?
- 34 MR. GROUT: That's correct.
- 35 Q Okay. And what percentage of the fish in the
36 Fraser River system are represented by those 19
37 stock groupings?
- 38 MR. GROUT: The vast majority of the abundance that's
39 returning would be represented by those. It may
40 be -- it may vary from year to year. In the IFMP,
41 they're primarily stocks that are associated with
42 the miscellaneous groups that are not included.
- 43 Q If you were to say what -- can you give me a
44 percentage? Is it 50 percent of the fish in the
45 Fraser River system that are represented by those
46 19 stock groupings, or is it more or less?
- 47 MR. GROUT: If I was to put a rough average on it, I'd

1 say it's probably in the range of five to 10
2 percent each year that's comprised of this early
3 -- well, maybe I'll say it the other way, 90 to 95
4 percent of the abundance is covered by the
5 populations that have the spawning and recruitment
6 data.

7 Q Okay. And why do you not include specific data or
8 specific relationships for that five to 10 percent
9 that are not included in the 19 groups? Is there
10 a data deficiency or is there some other reason?

11 MR. GROUT: As I was pointing out, for the model to do
12 its simulations, it needs to have the time series
13 of spawning and recruitment data. So there'd be
14 deficiencies in one or both of those that might
15 preclude the use of the data.

16 Q Do you expect to obtain data on any of those
17 smaller stocks that can be then -- in the future
18 that could then be fed into this model?

19 MR. GROUT: I would expect over time, there may be
20 opportunities to improve the way that we get data
21 for some of those populations. I can't speak
22 specifically for your question, but I would -- my
23 own assessment would be if we have that data and
24 it becomes available in the future, then it's
25 something that could be used.

26 Q And we touched earlier that the 19 stocks are
27 grouped into the four management groups which we
28 have seen over and over again in this hearing.
29 How are they divided into those different groups?
30 Like, how do you decide which stocks fit into
31 which groups?

32 MR. GROUT: The stocks themselves are fit into the
33 timing groups primarily based on their return
34 timing through the fisheries and there have been
35 changes, I think, over time to the way some of
36 those stocks have migrated, potentially, or which
37 groups people have argued they should be in. The
38 model's got the flexibility to evaluate different
39 groupings of stocks in each of the management
40 units.

41 Q So you could move stocks around between the groups
42 if you wanted to and run an output from that
43 simulation?

44 MR. GROUT: I believe that work has been done from time
45 to time with this model, as well, but I couldn't
46 comment on the specific details.

47 Q Okay. For the smaller percentage of stocks that

1 aren't specifically addressed with a data set, as
2 in the 19, those smaller stocks, how are they
3 dealt with in the modelling process, or in the
4 FRSSI process?

5 MR. GROUT: They aren't -- it's my understanding that
6 those small stocks that don't have the long time
7 series of spawner and recruitment data are not
8 explicitly accounted for in the modelling, but
9 what we're then doing is when we put the
10 escapement plan together, we're making adjustments
11 to the harvest rules to account for the abundance
12 of those populations.

13 Q Now, as I understand it, the model does a forward
14 projection as to impacts on certain harvest rules
15 on the different stocks going into the future; is
16 that right?

17 MR. GROUT: That's right.

18 Q And the timeframe for which the forward modelling
19 runs are done is 48 years into the future?

20 MR. GROUT: That's correct.

21 Q Why was 48 years chosen?

22 MR. GROUT: Well, I guess there's a certain amount of
23 arbitrariness to the selection of a long timeframe
24 into the future, but in terms of the modelling
25 work, there's a number of uncertainties associated
26 with the model, including uncertainties about what
27 the best model parameters would be to describe the
28 population dynamics of these populations. There
29 may be patterns in the annual abundance of the
30 spawners that may change in the future associated
31 with a particular harvest rule. So we were
32 wanting to look at the performance over a longer
33 timeframe to see what we might expect to occur.
34 Through the various workshops, I think we also
35 looked at different timeframes during the planning
36 period, as well, but one of the reasons, another
37 one of the reasons is using a longer timeframe
38 gives you a better sense of where you expect the
39 populations to potentially equilibrate for from
40 applying a particular harvest rule.

41 Q The model assumes -- and correct me if I'm wrong,
42 but the model, I take it, assumes that the past
43 history of stocks, the productivity of stocks and
44 the relationships of stocks in the past will be
45 predictive of future behaviour of those stocks; is
46 that fair?

47 MR. GROUT: The model, itself, uses the information

1 from spawning and recruitment and the distribution
2 of the annual variations about that. In the
3 initial formulations of the model, we were just
4 looking at the historical spawner and recruitment
5 data, but in recent revisions to the model, we've
6 added -- or it's my understanding elements have
7 been added that would allow you to look at
8 different productivity scenarios moving forward
9 into the future. And by that, I mean you could
10 look at a continuing decrease in recruits per
11 spawner, potentially, or maybe something that goes
12 back to -- more similar to the historical pattern,
13 or you could even put in your own series of
14 productivity in the future to see what the
15 potential impacts of that would be. So that's one
16 of the more recent revisions that's been made.

17 Q Okay. Up in 2009, and previously, I take it that
18 revision was not in place and decisions were made
19 assuming that the past data set was reflective of
20 what would occur in the future?

21 MR. GROUT: It might be a better question to ask the --
22 one of the panellists for that particular session.

23 Q All right.

24 MR. GROUT: I can't recall specifically.

25 Q In terms of this new refinement that you've
26 described that does allow you to make assumptions
27 about future productivity, those are still based
28 on assumptions that you make about what might
29 happen in the future, right? You can plug in
30 different assumptions, but they're still just
31 assumptions?

32 MR. GROUT: That's right. And to my knowledge, we
33 don't have anybody that can tell us what exactly
34 is going to happen during the 48 years to come.
35 So the reason for maybe looking at some of those
36 different scenarios would be you could look at a
37 pessimistic scenario where productivity continues
38 to decline, and you could maybe look at something
39 where it maybe wanders around, but around some
40 mean level, and you could look at whether there's
41 large differences in the harvest rules that might
42 be resulting from that kind of evaluation of the
43 scenarios.

44 Q The model allows you to measure the performance of
45 the stock against certain management objectives,
46 correct?

47 MR. GROUT: Yes.

1 Q And the management objectives include things like
2 catch or spawner abundance?

3 MR. GROUT: Well, maybe I would clarify that I would
4 call those performance measures.

5 Q Okay.

6 MR. GROUT: So we can assess the performance of these
7 populations against performance measures.

8 Q Okay.

9 MR. GROUT: A couple of the key categories of
10 performance measures, and we looked at dozens, if
11 not more of potential different ways to look at
12 this over the course of the production of the
13 work, but one of the key ones we look at is
14 whether the population's above an escapement
15 benchmark. However that might be set, and there
16 were some different options for setting those. So
17 avoiding low spawner abundance is the way I would
18 characterize it. And the other one of the key
19 ones that we were looking at was stabilizing
20 catch. So how often does your catch in any given
21 year exceed some level. And a million fish was
22 used for at least some of the simulations, but
23 other levels could be looked at, as well.

24 Q And how were these performance measures
25 determined?

26 MR. GROUT: The performance measures, themselves, were
27 the outcomes of the numerous workshops and
28 discussions we had with our stakeholders during
29 the development of the model.

30 Q Does the Department have any performance measures
31 that it wants to achieve when it's doing its
32 planning?

33 MR. GROUT: Well, I will say the Department was an
34 active participant in the Fraser Sockeye Spawning
35 Initiative workshop process, as well, as we also
36 contributed benchmarks that we thought would be
37 important to look at. Over time, in the process,
38 we were able to narrow down the benchmarks to some
39 of the ones that we thought were the most
40 informative. So I think the ones that we have now
41 are consistent with the Department's thinking in
42 terms of looking at conservation of populations
43 and avoiding low numbers of spawners, stabilizing
44 catch. There's some subjectivity to those
45 benchmarks, but our clients were able to agree on
46 some benchmarks that could be looked at there.

47 Q When you say your clients could agree, who are you

1 referring to?

2 MR. GROUT: These are -- by that, I mean the
3 participants that were involved in the workshop
4 series and those that we maybe consulted on as
5 part of the broader consultative process around
6 what we were doing with this process and model.

7 Q Okay. Are they groups similar to the groups that
8 we talked about earlier when looking at the IHPC
9 process and the parties that you meet with through
10 that process?

11 MR. GROUT: Yes. There would have been quite a large
12 number of presentations on the work we were doing,
13 including to First Nations and technical staff
14 that are supporting First Nations, as well as
15 commercial recreational harvesters and the marine
16 conservation caucus.

17 Q The avoiding low numbers of -- avoiding low
18 escapement was one of the objectives or
19 performance measures that were important for the
20 Department, and then stabilizing catch was the
21 other one you referred to. Does that -- can you
22 give me some sense of what that means from the
23 Department's perspective?

24 MR. GROUT: The Department had a strong interest and
25 role in shaping the form of the harvest rule that
26 was used. We had a number of different ways. We
27 tried to come up with the harvest rule for Fraser
28 Sockeye from when the process started to where
29 we've come now. I think the shape of the harvest
30 rule that we've got, which specifies the total
31 allowable mortality versus run size is consistent
32 with the objectives that the Department's trying
33 to achieve. So we've got a zone with no fishing
34 or limited fishing up to a higher level of
35 abundance, where we'd go into a sort of fixed
36 escapement regime, if you will, and then a cap on
37 the total mortality at high abundance. So the
38 Department was really ensuring that these harvest
39 rules captured our interest with the shape of the
40 harvest rule.

41 Q But I'm just trying to understand what was meant
42 by the -- what is the Department's interest in
43 stabilizing catch, like is there a number, is
44 there a value that you're trying to reach each
45 year? What is the objective?

46 MR. GROUT: That would be an important question, I
47 think, to follow up on the FRSSI panel, but it's

- 1 my understanding that one of the numbers that was
2 used was, roughly, one million fish, which aligns
3 similarly to the communal licence harvest targets
4 that are outlined in the IFMP for First Nations
5 for Fraser sockeye.
- 6 Q So you would be looking -- the Department would be
7 looking at whether any of these harvest rules
8 would provide at least one million fish each year
9 to a fishery?
- 10 MR. GROUT: One of the -- that was one of the
11 performance measures that could be looked at. And
12 these were all provided in a probabilistic sense.
13 So you could look at the probability of avoiding
14 low catch in terms of a probability value, which
15 gives you an indication of how many years out of
16 10 you might avoid falling into that scenario.
- 17 Q All right. How many times you might go lower than
18 one million fish available for catch, how many
19 times out of 10 you may go beyond a certain
20 benchmark for escapement targets, that sort of
21 thing?
- 22 MR. GROUT: That's right.
- 23 Q Okay. Now, when the first draft of the IFMP is
24 presented, there are certain options contained in
25 it that are generated through the running of the
26 FRSSI model; is that right?
- 27 MR. GROUT: That's correct. The four options in the
28 draft IFMP were some of the options that were
29 looked at as part of the process.
- 30 Q Okay. If I can ask you to go to pages 64 and --
31 sorry, 66 and 67. Well, starting there with --
32 which is page 66, Table 10a, this comes from the
33 draft IFMP that's provided to all of the
34 participants in the fishery, correct?
- 35 MR. GROUT: Yes.
- 36 Q And it sets out -- see, 50p shows at the top,
37 that's a 50 percent probability; is that right?
- 38 MR. GROUT: That's right. This is a copy of the table
39 that would be produced assuming the 50p or
40 midpoint of the pre-season forecast was --
41 occurred for each of the management groups listed
42 there.
- 43 Q Okay. And then the options that you see for each
44 of the run-timing groups, there's four, three,
45 depending on what you're looking at, these are all
46 options that were -- the numerical values that are
47 presented are generated through the running of the

1 FRSSI model; is that right?

2 MR. GROUT: That's right. Those are specific -- the
3 two -- for example, in Early Stuart Option 1, the
4 4,000 -- the 10,000 numbers are the two points
5 that would -- inflection points that would
6 describe the shape of the harvest rule. So each
7 one of those options describes a different harvest
8 rule than might be used for that management unit.

9 Q So just to try and put some diagrams in front that
10 may help explain this a little better, could you
11 go to the 2009 Escapement Strategy Memo, that I
12 think may be helpful in helping to understand
13 this. So that would be found at Tab 11, and the
14 CAN number is CAN 015976. So if I go to page 14
15 of this document, and while we're turning to there
16 -- just to back up, this document is created
17 following the running of the FRSSI model, is that
18 right, in preparation of the drafting of the IFMP?

19 MR. GROUT: This memo is put together by our technical
20 working group, summarizing their work for the --
21 in developing options for the IFMP.

22 Q Okay. So if we turn -- so this is just some text,
23 sort of introductory text. If we turn to the next
24 page, that sets out for the Early Stuart, two
25 tables. I don't know if you can show them both at
26 the same time. Yeah, one that shows the
27 performance indicators, and one that shows the
28 escapement strategies and it has the options set
29 out. So you can you relate those -- describe
30 what's being shown on the escapement strategy
31 table to the performance indicators, and then also
32 to those options that we were just looking at in
33 the IFMP.

34 MR. GROUT: I can do that. I wonder if I might make a
35 suggestion that we go back to page 9 in this
36 document.

37 Q Yeah.

38 MR. GROUT: And I can maybe walk you through that first
39 because it --

40 Q Sure.

41 MR. GROUT: I think if you understand the first figure,
42 which is Figure 1 --

43 Q Okay.

44 MR. GROUT: -- page 9, it might help the understanding.

45 Q Okay. Sounds good. You know better than me so
46 whatever makes sense to explain it.

47 MR. GROUT: So the top figure here, which is the total

1 allowable mortality gives you a sense of the shape
2 of the harvest rule, which you're going to see in
3 the subsequent figure. There's two key reference
4 points that describe the shape of the curve. One
5 is the no-fishing point, which is at about 0.4
6 million in this curve, and to that point, we're
7 trying to maximize escapement. There might be
8 some minimal harvest for food, social and
9 ceremonial harvests, potentially ceremonial
10 fisheries and test fisheries, but up until about
11 0.4 million, we're trying to maximize the
12 escapement, which is what you see in the lower
13 figure. So the top figure shows you the total
14 mortality you can apply to the run. The lower
15 figures shows you the escapement that's going to
16 result from that.

17 For the next sort of middle stanza between
18 the no-fishing point and the cutback point, we
19 enter in a period from 0.4 million to 1 million
20 where we're applying a fixed escapement. So over
21 this run size return, we're allowing 400,000
22 spawners to go back to return to spawn, and so you
23 see the total allowable mortality increasing over
24 that point. And then the final stanza of
25 abundance, we have above one million, we've capped
26 the total allowable mortality at 60 percent, and
27 it splits the benefits, essentially, 60/40 between
28 catch and escapement. So that's the context of
29 the harvest rules that I think leads into the
30 options, then, that you were going to show me.

31 Q Okay. Thank you. So then if we go back to page
32 15 which sets out the actual curves that are
33 ultimately going to be presented in a numerical
34 way in the IFMP, can you then explain this?

35 MR. GROUT: Yeah. So if you just focus on the lower
36 figure for now, which is the total allowable
37 mortality rate versus the run size, it's not
38 showing the escapement in this figure. It's
39 showing you the amount of mortality you can apply
40 and it's got four different curves listed there
41 from option 1 to option 4. And option 1 is a
42 curve where you would start fishing sooner and
43 you'd place a higher importance on avoiding low
44 catch, for example. Option 4 would be you'd wait
45 longer to fish. You can see the no-fishing
46 reference point is shifted over to over 150,000,
47 and then you would gradually build harvest. So

1 you'd be much more interested in avoiding low
2 spawners in that case.

3 In terms of the performance indicators, at
4 the top, the access on the top figure is the run
5 size which the total allowable mortality is
6 reduced. So it's the -- essentially, the cutback
7 point. So you can read off there what the
8 performance of the different options would be. So
9 Option 1, for example, has a cutback point that's
10 quite low here, and -- well, maybe I'll just use
11 the example that's provided here.

12 Maybe going back to the lower figure, the
13 vertical dotted lines and the solid vertical bars
14 show you the probability range on the forecast,
15 with the solid bar being the midpoint of the
16 forecast. The lower dotted line, the p75
17 probability and then the -- I believe the p90 on
18 the other side.

19 What you can then do is look at the figure
20 above at the run size at which the total allowable
21 mortality is reduced. So each of figures --
22 options 1, 2, 3, and 4 has a different level and
23 it shows you the probability of avoiding low
24 catch, or probability of catch less than the low
25 catch benchmark.

26 So for option 4, it's got a high point so the
27 -- if you look on the lower figure, at option 4,
28 there's a solid circle. That's sort of just under
29 400,000. If you were to look at the above figure,
30 at 400,000, you can see it's got a higher -- or C
31 less and C low is higher than, say, Option 1. And
32 so that's indicating to you that the probability
33 of your catch, less than the lower benchmark is
34 higher in Option 4 and -- but your probability of
35 your spawners less than the lower benchmark is
36 lower.

37 Q So the bottom -- the probability S, less than
38 S_{BM2} is the spawner value and --

39 MR. GROUT: Oh, okay, thanks. That might be helpful.

40 Q Okay. And then the top level is the catch. Those
41 are the two benchmarks, spawners and catch?

42 MR. GROUT: That's right. So it's showing -- it's
43 essentially giving you the comparison of the
44 performance for the harvest rules.

45 Q Okay. And then what is the vertical line going
46 from Option 3 on the escapement strategies table
47 up to the -- it seems to be a horizontal line that

1 goes all the way through both tables -- sorry, a
2 vertical line that goes through the two tables.
3 What is that indicating? Is that showing --
4 MR. GROUT: Yeah. So that's giving you the example of
5 how you would read the curves for Option 3.
6 Q Okay.
7 MR. GROUT: So that's maybe what I should have focussed
8 my -- so for Option 3, here's the cutback point
9 where you're going to start -- or what's called
10 the run sizes which the total allowable
11 mortalities reduce. So it's going from here,
12 saying it's 60 percent, and we start reducing it
13 at this point. Here's the performance of that
14 value upon on this figure. Option 4 would be over
15 here to the right, and Option 2 and 1 are over
16 there.
17 Q And what is the bottom dotted horizontal line on
18 the performance indicator table?
19 MR. GROUT: The -- this line here --
20 Q The horizontal line on the top table.
21 MR. GROUT: Oh, this one, here?
22 Q Yeah.
23 MR. GROUT: That's the probability of a four-year
24 average of spawners being lower than a particular
25 benchmark for abundance.
26 Q All right. Is this management escapement memo
27 provided to all participants in the process, or do
28 they simply get the table in the IFMP?
29 MR. GROUT: We typically circulate the memo separately,
30 as well as provide it in the Integrated Fishery
31 Management Plan.
32 MS. BAKER: We should mark the escapement memo,
33 strategy memo as the next exhibit.
34 THE REGISTRAR: Exhibit number 322.
35
36 EXHIBIT 322: Fraser Sockeye Escapement
37 Strategy 2009
38
39 MS. BAKER:
40 Q All right. So can you relate that table, then to
41 what we see in page 68 of the IFMP, looking at
42 that -- I took you to the Early Stuart stock as an
43 example.
44 MR. GROUT: So if we were to look at the Early Stuart
45 rows on the table so the four options and the four
46 curves that we were just looking at are
47 represented by Option 1, 2, 3, and 4. Each has

1 their own row. The first column represents the
2 no-fishing point, or the fixed -- essentially,
3 it's equivalent to the fixed escapement target.
4 And maybe if we just keep focussing on Option 3.
5 So at that point, it's 108,000 for Option 3. So
6 it's essentially a fixed escapement target of
7 108,000 and we want no fishing, or minimal fishing
8 below that point.

9 From there, the -- we'd go through that next
10 phase, which is a fixed escapement phase where
11 we're trying to maintain 108,000 and up to a run
12 size of 270,000. Over that range, we would have
13 an increasing allowable mortality, but the
14 escapement would be fixed.

15 The next column shows the total allowable
16 mortality at the run size. So this is saying if
17 you were to use the 50p forecast for the year and
18 looked it up on the harvest rule, what would be
19 the total allowable mortality of the run size. So
20 for Option 3, it's 58 percent. The escapement
21 target associated with that is 108,000.

22 In the escapement plan, we also include some
23 provisions in the preseason for management
24 adjustments. And maybe it would be a good point
25 here to describe what that is, but that's a
26 provision to account for the fact that we quite
27 often have fewer fish than past Mission in the
28 Lower Fraser show up on the spawning grounds once
29 accounting for catch. So it's essentially a
30 buffer that's added to try and help improve the
31 achievement of the escapement target. That
32 proportional adjustment is just multiplied by the
33 escapement target to get the actual management
34 adjustment in a quantity of fish, which in this
35 case is 63,720.

36 After accounting for the escapement target
37 and essentially, this management adjustment buffer
38 you're putting on it, the exploitation rate then
39 for fisheries available would be 33 percent under
40 this option, or 83,300 fish for this option.

41 Q Okay. So we are going to have people come and
42 talk to us in detail about management adjustments,
43 but just for our purposes here, the number that
44 you see under the management adjustment number is
45 a number that gets added onto the escapement
46 target number to make sure that at the end of the
47 day, that 108,000 fish actually do make it to the

1 ground and spawn, that's the goal?

2 MR. GROUT: It's not a guarantee that we're going to
3 achieve that escapement target, but given the
4 target in this case is 108,000, and looking at
5 historical information and/or preseason
6 information on historical differences between
7 Mission and upstream, the models used there would
8 suggest, at least the basis here is .59 is used
9 for the management adjustment, which tells you to
10 add almost 64,000 fish to the escapement target,
11 essentially, to try and improve your chances of
12 getting 108,000 to the ground.

13 Q Okay. And Option 3 in this example is highlighted
14 and why is that highlighted?

15 MR. GROUT: The options that are highlighted were the
16 options that were ultimately chosen for the
17 Integrated Fishery Management Plan for 2008, the
18 year prior.

19 Q Okay. Now, each of the different management
20 groups has the same thing, some of them only have
21 three options. Looking at -- that would be that
22 the Summer has only three, I guess? And BK Group,
23 what's that? That's not a run timing group.
24 What's that one?

25 MR. GROUT: This is Birkenhead, stocks that are
26 returning and migrating through the lower Fraser
27 up through into the Harrison system and beyond --

28 Q And they --

29 MR. GROUT: -- but not including Harrison.

30 Q And why did they get their own line on this table?

31 MR. GROUT: Well, Birkenhead was a group that we were
32 considering separately for a couple of reasons.
33 One is that it didn't appear to have the same
34 early entry and high mortality of the late run and
35 so we weren't applying a management adjustment to
36 this group. And also with its migration, it
37 wasn't likely going to be subject to the same
38 constraints, or it wasn't going to be exploited
39 similar to the late run group for that reason and
40 so we just -- and because we're passively managing
41 it, essentially, we just bookmarked the Summer Run
42 exploitation as the upper end on what would occur
43 for the stock and then provide the associated
44 information.

45 Q How is the decision made to provide these four
46 options? Is there a process to decide which
47 options will be presented every year, or are they

- 1 a standard set of options that are run every year?
2 MR. GROUT: I may not recall the specifics of how they
3 were developed originally, but we worked with the
4 steering committee and workshop participants to
5 try and identify a range of options that came
6 close or provided an indication of the interests
7 that were being expressed from the groups for --
8 and provided some contrast for comparison
9 purposes. And then I can't comment specifically
10 how much the options changed from year to year,
11 but in some cases they're quite similar from year
12 to year.
- 13 Q So the actual options will stay the same in terms
14 of -- I think you gave some examples, like, with
15 the early Stuart, when we were looking at the
16 table, and then in the management, or sorry, the
17 escapement strategy memo, you said, okay, the one
18 on the -- with Early Stuart, the 4,000 no-fishing
19 point is one where you would favour harvest over
20 escapement and then Option 4 was one where you
21 sort of weigh it more in favour of escapement over
22 harvest, and I guess a couple of variations in
23 between there?
- 24 MR. GROUT: That's right.
- 25 Q Okay. Those are set by the Department, I take it,
26 when they present the IFMP?
- 27 MR. GROUT: Yeah, the Department was ultimately making
28 the decision on the options that went into the
29 draft plan.
- 30 Q Okay.
- 31 MR. GROUT: Based on feedback that we've had from the
32 working group and the steering committee, and
33 others.
- 34 Q Okay. I take it the values -- the options may be
35 the same, but the values change depending on the
36 run size; is that fair?
- 37 MR. GROUT: The two points that describe the shape of
38 the harvest rule would not change from year to
39 year, but the way the table is filled out for the
40 50p probability level, for example, might change
41 from year to year, depending on what the forecast
42 was.
- 43 Q Okay. And the management adjustments, they would
44 change year to year, as well; is that fair?
- 45 MR. GROUT: We have made changes to the management
46 adjustments from year to year.
- 47 Q Okay. And then you do this same table, but at a

1 75 percent probability. If you could turn to the
2 next page? So that's laid out, as well. And
3 again, this 75 percent probability means what,
4 again, in this version?

5 MR. GROUT: It's the probability of the return being at
6 or above that run size. So it's actually a lower
7 level of abundance than the 50 percent
8 probability.

9 Q Okay. All right. So these are both presented to
10 people who participate in the IHPC through the
11 draft IFMP. Is there a discussion around these
12 different options, then, with the different
13 stakeholders?

14 MR. GROUT: Yes, we would present this information at
15 the IHPC, but also to our other advisory processes
16 and meetings, as well, and we have developed -- we
17 typically would develop a presentation and provide
18 the memo, as well, the escapement plan memo for
19 the various different groups to discuss this.
20 Where the capacity is in place for technical
21 groups to meet to discuss, as well, we do do that,
22 too.

23 Q And who -- what is that? Can you explain that?

24 MR. GROUT: First Nations, for example, have some
25 technical advisory processes that the Department
26 would meet and present this information to. For
27 the Sport Fishing Advisory Board and the
28 Commercial Salmon Advisory Board, and others, it
29 would typically be departmental staff providing
30 the technical support to help understand the
31 information.

32 Q So would there be separate meetings with those
33 different organizations, or would it all happen at
34 the IHPC?

35 MR. GROUT: It would happen at all of those. So we
36 would take the information to the IHPC, but also
37 to the other processes, as well. So there'd be
38 some overlap depending on who the representatives
39 were at each meeting.

40 Q Sorry to back up. One thing I meant to ask you is
41 the Late Run seem to have a different format than
42 the other run management groups. Can you explain
43 why that is?

44 MR. GROUT: The Late Run had a couple of considerations
45 that are important that were identified in the
46 table. One is that the Shuswap stock group, which
47 includes Adams River, has strong evidence of

1 cyclic variations in abundance. So there's one
2 year which is a very strong return called the
3 dominant cycle line, followed by a sub-dominant
4 line and two off year cycles. And when you looked
5 at the harvest rules, the two off years in
6 particular would quite often fall well below the
7 no-fishing point. So if you were to look at the
8 four options at the bottom, in years -- and this
9 was an example of one of the off years here, you'd
10 see a zero percent total allowable mortality
11 across all of the options. And one of the
12 considerations that was made was whether there'd
13 be some harvest allowed of these stocks to provide
14 access to more abundant Summer Run stocks. So one
15 of the things we considered was looking at floors
16 on the exploitation rate that would be allowed on
17 this Late Run group to allow harvest of the more
18 abundant Summer Run group. And 20 percent was one
19 of the objectives that was looked at, among
20 others. But 20 percent was ultimately put in the
21 plan. 20 percent was also consistent with what
22 the Department proposed for the exploitation rate
23 for Cultus Lake sockeye. So those were the two
24 considerations that are shown here.

25 Q I take it a 20 percent exploitation rate is not
26 really a FRSSI-generated option. It's a different
27 mathematical process, right?

28 MR. GROUT: Using the FRSSI model, we were able to look
29 at a fixed floor on the exploitation rate so that
30 was something the model could simulate. We did
31 also have a population viability model that we
32 used for Cultus Lake sockeye which incorporated
33 potential harvest, but also enhancement,
34 improvement to the freshwater habitat that might
35 improve survival, and then hatchery
36 supplementation. So for Cultus Lake sockeye, we
37 also had a separate tool that was able to assess
38 the impact of the exploitation rate on that
39 particular stock.

40 Q Is that process that you've just described, that
41 thinking outlined in the escapement strategy memo?
42 If you turn to page 19 of that document, which is
43 at Tab 11. It says, "The strong cyclic pattern
44 ...". It explains the information on the 20
45 percent exploitation rate floor that was in place
46 for 2008. Is that the same reasoning as to why it
47 was being suggested for 2009?

1 MR. GROUT: Yes, and the two bullets underneath that
2 were referring to the points I made about the
3 strong cyclic pattern in abundance for the -- in
4 the Late Run, which is driven by Shuswap, which
5 includes the Adams River, and then also on the
6 consistency with the Cultus Lake management.

7 Q Sorry, going back to one more question on the
8 table that's in the IFMP, with the probabilities,
9 if you look at the Early Summers, there's two
10 numbers under the no-fishing point and the cutback
11 point for each of the options. Why is that?

12 MR. GROUT: That's actually a good question and point
13 to clarify. So for each option, you'll see -- for
14 example, Option 1 has got a no-fishing point of
15 80,000 and a cutback point of 200,000. Those
16 reference points are for the stocks that are
17 included in the spawning initiative model. We're
18 recognizing here, though, that we don't include
19 all of the populations in the model and so there's
20 a contribution to the abundance of the groups from
21 a number of miscellaneous stocks that are shown in
22 the forecast table. And so what we're essentially
23 doing is shifting the harvest rule to account for
24 the abundance that's going to contribute -- be
25 contributed from these miscellaneous other stocks.
26 So they're getting the same harvest rule applied
27 to them, but we're basically making sure we don't
28 apply the harvest rule at a too low of an
29 abundance. And I hope I've explained that
30 correctly or in a way that makes sense. We're
31 trying to account for the fact that the model
32 develops a harvest rule for only the stocks with
33 stock recruitment data. We recognize that a
34 contribution to the returning abundance will come
35 from these miscellaneous other stocks and so we're
36 adjusting the harvest rule upwards to account for
37 that. If we didn't do that, you would start
38 fishing sooner than you otherwise should have
39 based on the --

40 Q Because the --

41 MR. GROUT: -- simulation.

42 Q -- the numbers would come back at what would be an
43 artificially high number in a sense, because it
44 would include all these --

45 MR. GROUT: You would have the contribution -- if you
46 were to use the harvest rule of 80,000 and 200,000
47 as your reference points, when you're assess the

1 abundance of the Early Summers in season, it would
2 have these miscellaneous stocks contributing to
3 that abundance. And in effect, you would move
4 past your no-fishing point too quickly. So what
5 we're doing here is inflating the reference points
6 to account for the miscellaneous stocks that we're
7 not modelling directly.

8 Q All right. So the two probability scenarios that
9 are available for people to consider are the 75
10 percent probability, which is a more conservative
11 possibility, and then the 50 percent probability,
12 which is 50 percent, correct?

13 MR. GROUT: That's right. At times, we've looked at
14 other probability scenarios, but by convention and
15 in past practice, we've typically shown these two
16 tables in the IFMP.

17 Q Now, if the run sizes actually turn out to be
18 quite different from one of these two
19 probabilities, they're not 50 percent or 75
20 percent, they're some other number, does any of
21 this have relevance to real run size numbers?

22 MR. GROUT: So when we get to the final IFMP, what's
23 going to be shown is one option for each of the
24 management units. The no-fishing point and the
25 cutback point will then be determined or will be
26 stated for each management unit, and those are the
27 basis for determining how you'll manage no matter
28 what return or run size comes back. So if
29 Option 3 was selected here, if the return in
30 season differed from the 50 or 70p and was less
31 than 108,000, it would be in the no-fishing zone.
32 If it was between the 108 to 270,000 range, we'd
33 be at the fixed escapement of 108,000, and above
34 that, it would split the benefits between harvest,
35 our total allowable mortality at 60 percent to
36 that, and 40 percent would be added on
37 incrementally to the escapement, fixed escapement,
38 which was 108.

39 MS. BAKER: Mr. Commissioner, it's 12:30. I was hoping
40 I could get through FRSSI before lunch, but I've
41 got a couple of more pages to go so maybe we
42 should stop now.

43 THE COMMISSIONER: Thank you.

44 THE REGISTRAR: The hearing will now recess until two
45 o'clock.

46
47 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

(PROCEEDINGS RECONVENED)

1
2
3 MS. BAKER: I see that the registrar just left but we
4 need to swear in Mr. Rosenberger. So we can maybe
5 just wait for a few seconds till he's back.

6 Thank you, Mr. Commissioner. We now have
7 with us Barry Rosenberger. So what I propose to
8 do is we'll have Mr. Rosenberger sworn in and then
9 I'll complete the area I was covering with Mr.
10 Grout and then we'll go back and deal with the
11 area that was left for Mr. Rosenberger to deal
12 with.

13
14 BARRY ALLAN ROSENBERGER,
15 affirmed.

16
17 THE REGISTRAR: Would you state your full name, please?

18 MR. ROSENBERGER: Barry Allan Rosenberger --

19 THE REGISTRAR: Thank you.

20 MR. ROSENBERGER: -- R-o-s-e-n-b-e-r-g-e-r.

21 THE REGISTRAR: Thank you. Counsel?

22 MS. BAKER: Thank you. And I'll also just review Mr.
23 Rosenberger's background as well so that that
24 introductory piece is finished. So his c.v. has
25 been provided and it's before you on the screen.

26
27 EXAMINATION IN CHIEF BY MS. BAKER, continuing:

28
29 Q Mr. Rosenberger, this is the c.v. you've provided
30 to the Commission?

31 MR. ROSENBERGER: It is.

32 MS. BAKER: Okay. Can I have that marked, please, as
33 the next exhibit?

34 THE REGISTRAR: Exhibit 323.

35 MS. BAKER: Okay.

36
37 EXHIBIT 323: *Curriculum Vitae* of Barry Allan
38 Rosenberger

39
40 MS. BAKER:

41 Q And just to summarize, you've been with the
42 Department of Fisheries and Oceans since 1978?

43 MR. ROSENBERGER: Correct.

44 Q And you've held a variety of positions with the
45 Department from fisheries officer into management
46 over the years?

47 MR. ROSENBERGER: That's correct.

- 1 Q Okay. And you've been involved in stock
2 assessment, habitat protection, enforcement and
3 fisheries management?
- 4 MR. ROSENBERGER: That's correct.
- 5 Q And you've been all over the province from Alert
6 Bay to Prince Rupert and presently in Kamloops?
- 7 MR. ROSENBERGER: That's correct.
- 8 Q Your current role within the department is area
9 director for the B.C. Interior and you've been in
10 that role since 2002?
- 11 MR. ROSENBERGER: That's correct.
- 12 Q You've been involved with the Pacific Salmon
13 Commission from '85 to '89 as part of the Northern
14 and Southern Boundary Technical Committee?
- 15 MR. ROSENBERGER: Northern Boundary Trans-Boundary
16 Technical Committee.
- 17 Q And in 2001, you became the Canadian co-chair of
18 the Southern Boundary Panel?
- 19 MR. ROSENBERGER: That's correct.
- 20 Q And in early 2009, you became the Canadian chair
21 of the Fraser River Panel?
- 22 MR. ROSENBERGER: That's correct.
- 23 Q And as part of -- and as a Canadian chair of the
24 Fraser River Panel, who do you report to?
- 25 MR. ROSENBERGER: As the Panel, I report to the chief
26 commissioner, which is the regional director
27 general of the Department of Fisheries and Oceans.
- 28 Q Okay. And you chair the operations side of things
29 for the Fraser River Panel in that role?
- 30 MR. ROSENBERGER: That's correct. That's what we call
31 the Fraser River Integrated Management Team.
- 32 Q Okay. That's -- that's on the domestic side?
- 33 MR. ROSENBERGER: That's correct.
- 34 Q Okay. And what is the -- that's the FRIMT, we
35 call it, F-R-I-M-T?
- 36 MR. ROSENBERGER: That's correct.
- 37 Q All right. And what's the responsibility of that
38 committee or group?
- 39 MR. ROSENBERGER: As the -- one of the -- the roles the
40 department did was make sure that the Fraser River
41 Panel chair and the chair of the Fraser River
42 Integrated Management Team, which is DFO's
43 collection of managers responsible for Fraser
44 sockeye and pinks, is the same person. So it's
45 coordinating all of the Fraser sockeye and pink
46 management within Canada.
- 47 Q Okay. Thank you.

1 MS. BAKER: So Mr. Commissioner, I'll now move back to
2 the questions I was going through with Mr. Grout
3 before we broke.

4 Q I had just asked you how in season or in practice
5 you dealt with a situation where the run sizes, as
6 they came in, differed from one -- either of the
7 probability levels and you explained how the rules
8 were established through that process and they
9 would apply to whatever the run was when it came
10 in. The IFMP -- we looked at the escapement
11 strategy document, which is now marked as, I
12 think, Exhibit 322. That -- and you took us -- or
13 we went through the example of the different
14 harvest rules and the TAM rule table and that.
15 Why do you not have a copy of that kind of a TAM
16 rule in the IFMP to help explain how the rule is
17 developed and how it can be applied to any run
18 size?

19 MR. GROUT: The primary reason we've got an escapement
20 table listed in the IFMP is that's the approach we
21 took in previous years to present the information
22 to -- to people. I think it's a suggestion that
23 has come forward that we should maybe consider
24 putting in the actual harvest rules themselves
25 showing the plot of total allowable mortality
26 versus run size. So that's something I'm going to
27 consider in the development of this year's plan.

28 Q Okay.

29 MR. GROUT: That information was only provided in the
30 drafts of the IFMP as part of the escapement memo
31 that was appended to the plan, though, in 2009.

32 Q Okay. Now, you've described this, I think,
33 already as the strategy creating a TAM rule, or a
34 Total Allowable Mortality rule; is that right?

35 MR. GROUT: That's correct.

36 Q Okay. And does that -- did the TAM rules account
37 for all harvest mortality?

38 MR. GROUT: The total allowable mortality has two main
39 components, one, the harvest mortality that's
40 permitted and then en route -- it also accounts
41 for any en route mortalities that occur between --
42 or en route losses that occur between Mission and
43 the spawning grounds.

44 Q Okay. And as I said earlier, we will have -- or I
45 hope I said earlier, we're having somebody come to
46 talk to us about management adjustments and how
47 those are created. Dave Patterson will be here to

1 talk about that so maybe I'll just leave that
2 topic for now. Is the March IHPC meeting the
3 first times any stakeholder groups have the
4 opportunity to comment on the IFMP?

5 MR. GROUT: As I mentioned earlier, we indicate in our
6 schedule and to clients that we try and post the
7 IFMP for comment on our consultation web page
8 about one week prior to the IHPC meeting itself.
9 So that is intended to give our participants at
10 the IHPC an opportunity to review the document
11 prior to coming into the meeting.

12 Q All right. But the meeting is the first time you
13 start to get any real substantive comments, I take
14 it, on that draft?

15 MR. GROUT: Yes, that's correct.

16 Q Okay. And at the March IHPC meeting, you go
17 through the draft IFMP that's been presented?

18 MR. GROUT: Yes, the key objective of that meeting is
19 to go over the components of the IFMP. In
20 particular, we draw people's attention to the key
21 revisions that have been made from the subsequent
22 year. Those are also summarized on one of the
23 preface -- or one of the early pages in the plan.
24 We highlight the management changes from the
25 previous year so we try and draw people's
26 attention to some of the main changes we're
27 contemplating making from one year to the next.

28 Q Okay. And then what actually happens once the
29 people are all in the room together and the plan
30 is on the table, so to speak? What's the
31 discussion that takes place?

32 MR. GROUT: The IHPC meeting in March, that's a meeting
33 of the -- the main IHPC so it includes both the
34 northern and the southern subcommittees. They're
35 analogous groups. One covers the northern part of
36 the province and one's the southern area from the
37 top end of Vancouver Island into the Fraser River.
38 We have a plenary there where we discuss
39 management issues that would be north and south.
40 Fraser sockeye tends not to be an issue that's
41 discussed at the -- the plenary that way.

42 And then we do breakout sessions where we
43 have two rooms. Half of the committee meets to
44 discuss northern issues and half to discuss
45 southern issues. And in the southern plenary
46 session would be where we'd -- usually issues
47 around Fraser sockeye would be discussed but also

1 for other species contained in the plan. And what
2 we're trying to do there is discuss coordination
3 of fishing plans and any potential conflicts or
4 concerns, additional options that people would
5 like to see explored in terms of developing the
6 plans further.

7 Q Is there a discussion at that meeting about the
8 different options? Those four options that you
9 identified in the plan, are there -- is there a
10 debate about which is the appropriate option to
11 use?

12 MR. GROUT: The department does try and get feedback
13 from the various groups and we seek agreement
14 where we can on the -- the options for the
15 escapement plan. Typically, the perspectives
16 differ among the groups, though.

17 Q Do -- do you ever have a consensus coming out of
18 that meeting as to which option is preferred for
19 the -- any of the management groups?

20 MR. GROUT: I can't recall the -- the group reaching
21 consensus on all of the management units there.
22 There may be more agreement on the Early Stuart
23 Management Unit, though, than on the other ones.

24 Q Okay. And after the March IHPC meeting, what
25 happens in terms of planning for the IFMP?

26 MR. GROUT: After the -- the March meeting at the IHPC,
27 the department is also engaging with a number of
28 its other consultation processes to get feedback
29 on the -- on the management plans, including
30 meetings with First Nations, both in some of our
31 processes that are more regional in nature, as
32 well as bilateral meetings with our area managers
33 and -- and First Nations. We also have meetings
34 with area harvest committees, area commercial
35 harvest committees and sport fishing advisory
36 board interests.

37 We try and -- we usually have a meeting with
38 the Marine Conservation Caucus as well to discuss
39 the management plan. And then in the -- the
40 period of about a month between the release of
41 that draft and the deadline for feedback, the
42 department's trying to synthesize the -- the key
43 issues that have been raised, do any additional
44 analysis that would be required to evaluate some
45 of the options that have been brought up and make
46 any revisions to the IFMP that would go into the
47 second draft.

1 MS. BAKER: Okay. Before I get to the second draft of
2 the IFMP, I'm going to take Mr. Rosenberger back
3 to deal with some of the meetings and input that's
4 received from different groups. Mr. Grout has
5 already covered the input received from the
6 commercial sector, the sports fishing sector and
7 the Marine Conservation Coalition. The one area
8 that we didn't deal with was First Nations and
9 that was left for you to -- to talk to us about.
10 So can you identify how First Nations' interests
11 are brought into the pre-season planning?

12 But before I do that, if I can just advise
13 the Commissioner that we -- the Cohen Commission
14 lawyers have actually organized another series of
15 days, which will be dealing with First Nation
16 interests and fishing interests. So I'm not
17 asking Mr. Rosenberger to get into any level of
18 depth on this but simply to identify what -- by
19 name, you know what the processes are and then
20 they will be dealt with in some depth later. So I
21 don't want us to get sidetracked on that because
22 we will have a full session on that particular
23 topic.

24 Q So with that in mind, can you review some of the
25 meetings and inputs that you get from First
26 Nations?

27 MR. ROSENBERGER: We have three levels of process
28 around the consultations with First Nations. The
29 broadest level, highest level, is called the First
30 Nations Forum on Conservation, Harvest and
31 Planning, which encompasses First Nations from
32 within the Fraser River, as well as southern
33 approach areas. So primarily from the east coast
34 of Vancouver Island, Johnston Straits but also the
35 west coast of Vancouver Island, First Nations
36 attend at times. We also have meetings that are
37 sub-regional in nature. The -- a number of the
38 First Nations groups have amalgamated, in
39 particular, in the upper Fraser.

40 There's a group called the Upper Fraser
41 Fisheries Conservation Alliance. The lower Fraser
42 has a group that's functioned periodically that
43 they call "LFRM", which is Lower Fraser Resource
44 something Management Group. And then the east
45 side of Vancouver Island has been working on
46 bringing themselves together in a -- in an
47 aggregate group. So those groups have met

1 periodically and then we also meet what we refer
2 to as bilaterally. It's not necessarily as an
3 individual First Nations to DFO but if that's the
4 level that they choose or in -- it's often in
5 tribal council or geographic area amalgamations.
6 And so we go -- try to go through all the same
7 types of information at those various levels.

8 Q Okay. And how many of those bilateral meetings
9 that you've just described would you -- would the
10 department undertake for this -- for the southern
11 region and the Fraser River sockeye?

12 MR. ROSENBERGER: All of the meetings around all those
13 groups?

14 Q Or how many different groups would you be meeting
15 with?

16 MR. ROSENBERGER: The total number of First Nations is
17 probably 130, 140, and potentially at the forum
18 level meetings the -- each of the subgroups
19 probably ranges from 20 to 30 or 40, probably the
20 largest size. And then individual First Nations
21 or aggregates, you know, might be one to 12, 13 in
22 some of the tribal council groupings. The -- the
23 amalgamations of all those meetings is -- there's
24 four forum meetings each year. There's -- the
25 sub-regional meetings tend to be -- some of them
26 have three or four, some of them only one or two
27 in the preseason/post-season process. But
28 overall, it's probably 40 to 60 meetings to
29 accomplish all of those different processes in the
30 preseason planning aggregate process.

31 Q And who at DFO is responsible for undertaking
32 those different meetings?

33 MR. ROSENBERGER: Most of the meetings are arranged to
34 be done by the area staff so within the geographic
35 area. So it's the -- at the bilateral level,
36 there's a resource manager that has a geographic
37 area of responsibility that would meet with the --
38 their -- the First Nations within their areas.
39 The sub-regional and the forum process we tend to
40 have people like myself, Jeff would attend forum
41 meetings and the chiefs of resource management
42 from each of the areas. We try to bring -- when
43 we're having presentations that require scientists
44 or people who are going to hit on more in-depth
45 discussions, we make sure that they attend at
46 those larger meetings and then often the staff
47 have to carry that information to their best of

1 their abilities into the bilateral sessions.

2 Q Okay. have you -- is one of those processes that
3 you just have run through the Fraser Watershed
4 Joint Technical Forum?

5 MR. ROSENBERGER: The Fraser River Joint Technical
6 Forum Group is -- is a sub-group under the Fraser
7 River Aboriginal Fisheries Secretariat. And so it
8 -- it's the technical process that's co-chaired by
9 First Nations and DFO to deal with technical
10 matters trying to support the forum. There's not
11 a -- at this stage, there's not a formal link to
12 the Island folks.

13 Q And would that technical committee review
14 materials such as the technical work that supports
15 the IFMP that we've reviewed today?

16 MR. ROSENBERGER: That's correct. In all those types
17 of materials, there's a secretariat with the --
18 with the Fraser River Aboriginal Fisheries
19 Secretariat. And all that information is released
20 on newsletters and as needed basis out for
21 information to everyone.

22 Q And who are the people in the technical forum?

23 MR. ROSENBERGER: DFO has a co-chair, one of the -- one
24 of our management biologists. It's also co-
25 chaired by a First Nations person, currently Grand
26 Chief Ken Malloway. The -- each of the First
27 Nations groups can bring their technical
28 representatives. They also have -- contract
29 biologists and other technical people like Mike
30 Staley and others that would -- would attend, Pete
31 Nicklin. So there's a number of community reps.
32 There's also hired fisheries staff. From DFO's
33 side of things, our biologists, our resource
34 managers and then depending on the subject matter,
35 we might have subject matter experts there to try
36 to deal with given issues.

37 Q What's the purpose or the goal of the joint
38 technical forum?

39 MR. ROSENBERGER: Two-fold. One is that technical
40 information gets a chance to be explained,
41 debated. First Nations are bringing information,
42 DFO is bringing information into that process so
43 that we make sure we have common understandings
44 and have a chance to have technical challenge on
45 -- from each of the parties. The First Nations'
46 side as well as they're gaining that information
47 so there's -- there's some capacity building side

1 of it but overall that they can take that
2 information then and be able to take it back to
3 their leadership, review the information, have
4 their debates and try to inform their -- their
5 leadership to -- for attending things like the
6 forum processes where they -- or helping them
7 with, you know, letters or other meetings so that
8 they can make their -- provide their input into
9 the decision-making side of it.

10 Q And the forum that you described, who participates
11 in that?

12 MR. ROSENBERGER: From the department's side, I've been
13 the lead for the four years that we've been
14 undertaking the -- both the approach and within
15 Fraser River area, the side of it. We tend to
16 have the chiefs of resource management. Sometimes
17 other area directors participate. Jeff is usually
18 a participant. And we have a number of other
19 resource managers and biologists that come whether
20 they're making presentations on forecasts or
21 dealing with specific issues. Chinook has been a
22 draw card and we've had a number of different
23 people on that side of things.

24 The -- and at times, things like the FRSSI
25 you were talking about earlier, we've had people
26 like contractors like Gottfried Pestal has come
27 and provided presentations. He's the consultant
28 that helped to prepare the model. From the First
29 Nations' side, they tend to have community people,
30 technical people, leadership. In a typical
31 meeting, we'll have 40 to 80 First Nations people
32 of which you might have four to eight chiefs or
33 councillors that identified themselves as -- as
34 their fisheries' representative for a community.

35 Q Is it -- is that forum open to all the First
36 Nations in the Fraser Watershed?

37 MR. ROSENBERGER: It's open to all -- in the Fraser
38 Watershed and in the southern approach areas.

39 Q Okay. And do all First Nations that are within
40 those two areas attend?

41 MR. ROSENBERGER: No, the -- some First Nations don't
42 want to attend because they view it -- or the
43 department has stated that this forms part of our
44 consultation process so some don't want to attend
45 because of that reason. Others have identified
46 lack of technical capacity or funding from the
47 department to attend. If you don't have an

1 Aboriginal fisheries strategy or AROM agreement,
2 we will pay costs of travel. But many groups are
3 looking for something beyond that. So there are
4 some groups that haven't attended and some groups
5 that attend sporadically. There's probably a core
6 of, you know, two-thirds of the First nations that
7 are there on a regular basis or have -- have some
8 type of representation.

9 Q And that forum, I've asked you about the purposes
10 and goals of the technical side of things, the
11 technical group. What are the purposes and goals
12 of the larger forum?

13 MR. ROSENBERGER: We're seeking First Nations input
14 into the management of the various species. The
15 primary focus over the four years has been sockeye
16 and Chinook but we are interested in -- in broader
17 discussions. The -- the -- from the sockeye side
18 of it, we've been -- a key goal of the department
19 has been trying to come up with sharing
20 arrangements for stock groupings when we don't
21 have enough total allowable catch to meet all of
22 the objectives that the First Nations have
23 requested. So within the Early Stuart stock
24 grouping, First Nations accomplished that in a --
25 in a one-year agreement for themselves back in
26 1996. The department has modified that with some
27 input from First Nations since that time so we
28 have -- we have an arrangement that we -- we use
29 and we talk about in the -- in the processes. We
30 don't have any similar such arrangement for Early
31 Summer, Summers or Lates. So that's a key
32 objective.

33 And the overall management of all of the
34 species looking for interactions and input from
35 groups. As Jeff pointed out earlier, we don't
36 have necessarily consensus for things like
37 escapement objectives from First -- from the IHPC
38 side of things. We also at times have not had
39 that from the First Nations. So it's trying to
40 create education and interaction between coastal
41 and Interior groups, which, in the beginning, was
42 -- became a significant part of it. But as we
43 move forward, we're trying to get that input from
44 groups to help to -- to seek as much consensus as
45 we can on -- on input into management decisions.

46 Q Have you, as a department, found this to be an
47 effective forum for receiving input from First

1 Nations?

2 MR. ROSENBERGER: Yeah, I think it's worked out quite
3 well over the period. Definitely much more so
4 after the first couple of years, as groups, you
5 know, gained an understanding amongst themselves
6 and some of their own objectives. So that the
7 education side of it was very important. But I
8 think it's been -- been helpful in a number of
9 aspects but there are a number of areas that we're
10 still -- you know, both parties are trying to move
11 forward with it.

12 Q And how long has this forum been in effect?

13 MR. ROSENBERGER: Four years.

14 Q Okay. You said that not all First Nation groups
15 participate in that process. How do you get input
16 from the First Nations who are not part of that
17 process?

18 MR. ROSENBERGER: We usually write and have some kind
19 of contacts with most of the groups so we're
20 trying to arrange bilateral sessions. Some
21 groups, you know, haven't had -- or haven't been
22 interested in any meetings but there's a number of
23 groups that don't participate in that process that
24 do provide us either verbal or written information
25 from bilateral sessions.

26 Q Okay. Now, we covered quite a lot of the
27 technical information that forms -- that is fed
28 into the IFMP process this morning before you were
29 here and we talked about the IFMP first draft and
30 where that was reviewed at the IHPC's. Are any of
31 the technical data that's prepared in aid of the
32 IFMP reviewed through this process? And is the
33 IFMP itself reviewed in any of these processes?

34 MR. ROSENBERGER: The IFMP is -- is reviewed. That's
35 one of the -- the documents that people are made
36 aware of, as similar to the way Jeff described the
37 Integrated Harvest Planning Committee process, we
38 don't, you know, go through it page-by-page. We
39 tend to look at issues that were raised by the
40 First Nations or by DFO in the January/February
41 session. So before the first draft comes out. So
42 that helps to focus on areas where people are
43 looking for a change or there -- or might be
44 seeking new information.

45 The specific technical items -- there's been
46 some data sets reviewed in different ways around
47 the sockeye, some of the catch information, some

1 of the -- some of the data on the catches in the
2 past were lumped by First Nations groups, not
3 necessarily separated between economic fish and
4 food, social, ceremonial fish, some things like
5 that. Some of the groups have been trying to
6 understand harvests off of ceremonial licenses
7 within the total when you get to some of the small
8 numbers. So that would probably be the focus
9 sockeye-wise. There's a few things Chinook-wise
10 but...

11 Q Okay. All right. Thank you. Now, I'd like to
12 get back to where we were in the -- in the
13 process. So we finished off with the first draft
14 of the IFMP. I wanted to take you a document,
15 which you'll find at Tab 4, and it's CAN 003448.
16 This is a document that's prepared within DFO and
17 it outlines concerns raised by various interests.
18 Who prepares this?

19 MR. GROUT: This is a document that I put together with
20 assistance from the salmon officer and the salmon
21 team. And we also for some of the responses will
22 talk with the relevant area staff that can provide
23 additional analysis or response, as required.

24 Q Okay. And the date on -- on the bottom of this
25 says May 5th, 2009. So would this be basically a
26 summary of all the input you got on the first
27 draft of the IFMP?

28 MR. GROUT: This is a document that we started
29 producing for the IHPC to make the committee aware
30 of the sorts of feedback we were getting from the
31 variety of different groups. In past years, the
32 department would have received feedback but the
33 committee itself would not necessarily have seen
34 all of the suggested revisions. So what we're
35 trying to do here is provide a synopsis of the
36 types of feedback we were getting from the
37 different groups and how we've responded to it, if
38 we've responded to it.

39 Q So who receives this document then? It goes out
40 to the IHPC members?

41 MR. GROUT: This document's tabled at the IHPC for the
42 members to review. And as a general rule, once
43 documents are tabled at the IHPC, then our
44 managers will also then be using them to support
45 any of their consultations where they seem
46 appropriate as well.

47 Q All right. Would this be presented then at the

1 same time the second draft of the IFMP would be
2 presented?

3 MR. GROUT: That's correct.

4 Q Okay. And that document is produced at the
5 beginning of May right around the time this table
6 was finalized?

7 MR. GROUT: The department will be continuing to do
8 analysis and revision of the -- of the document
9 through April leading up to its release about a
10 week before the second IHP -- or the IHPC meeting
11 in May, as draft two.

12 Q Right. Okay. Before I move off of this concern
13 raised document, however you describe it, I'd like
14 that marked, please, as the next exhibit.

15 THE REGISTRAR: Exhibit 324.

16

17 EXHIBIT 324: Concern raised regarding the
18 2009 Draft South Coast Integrated Fisheries
19 Management Plan and initial draft response
20

21

21 MS. BAKER:

22 Q So draft number two is Tab 7 and it's CAN document
23 CAN 004024. This is the second draft. This would
24 have been presented at the May meeting?

25 MR. GROUT: Yeah, that's so -- this is Tab 7, I
26 believe.

27 Q Sorry, Tab 7. Did I say something --

28 MR. GROUT: Okay, yes, that's correct.

29 Q And again, this is sent out to the same people who
30 -- it's posted, is it, online and then it's
31 circulated to the IHPC members?

32 MR. GROUT: For draft number two, we -- I believe we
33 don't post it a second time online. Or do we?

34 Q Why not?

35 MR. GROUT: I'm just trying to recall whether we post
36 it on our -- our secretariat site or not. Well,
37 maybe I'll start here. For the second draft, we
38 don't re-circulate it for another one-month period
39 for comment, just given the amount of time
40 available. We do provide it to the IHPC members a
41 week before the -- the second IHPC meeting. I
42 believe it goes on our consultation secretariat
43 prior to -- the consultation secretariat website
44 prior to the meeting, though.

45 MS. BAKER: This is a question maybe directed more to
46 Mr. Rosenberger.

47 Q Are there decisions by the Fraser River Panel that

1 get integrated into the IFMP?

2 MR. ROSENBERGER: There have been. In 2009, the panel
3 adopted 75 percent -- or the P75 level for the
4 Early Stuart forecast and so we made that as part
5 of the change. A number of the type of issues
6 that we're dealing with at the panel are not
7 necessarily concluded by the time we're trying to
8 get these documents together. A number of our
9 issues -- we're often taking this document to feed
10 into how the panel will be, or at least Canada's
11 bringing its views into how the panel bilateral
12 process will work. There are documents that are
13 prepared for the panel that are also part of this,
14 though. The diversion rate and the timing
15 documents show up in here.

16 Q Okay. What about management adjustments? Is
17 there any input from the Fraser River Panel on
18 management adjustments?

19 MR. ROSENBERGER: The management adjustments are
20 another aspect that do show up in here so people
21 have a sense. At this stage, they tend to be the
22 recent year's averages and not necessarily what
23 we're using at the panel level for our in-season
24 -- our preseason management model.

25 Q So the IFMP is the historical information. It
26 doesn't actually reflect what's being used at the
27 Fraser River Panel?

28 MR. ROSENBERGER: Well, it's just -- it's a series of
29 steps so at this stage we wouldn't have snowpack
30 information, some other -- some other parts of the
31 tools that are fed into the management adjustment.
32 So we would tend to use a recent year average or
33 -- or some period average that would go into this.
34 I'm sure you're going to get into some of that
35 detail with some other folks later so there's an
36 average level that will be put into here now but
37 then the preseason document -- preseason planning
38 model for the Fraser River Panel would be updated.
39 We would have the May and June snowpack
40 information and that would tend to feed into a
41 different number potentially by the time we're
42 getting into the preseason side of things.

43 Q By the time you're getting into the preseason or
44 the in-season?

45 MR. ROSENBERGER: Preseason. In-season, we use the
46 actual data that we get on a weekly basis from the
47 environmental watch group.

1 Q Okay. Are there any -- any implications for
2 domestic harvest from what's been talked about at
3 the Fraser River Panel that needs to get put into
4 the planning process on the domestic side?

5 MR. ROSENBERGER: From our side of it, Canada has the
6 majority of the harvest. So we're trying to make
7 our domestic issues, in particular around First
8 Nations Fisheries, drive the issues that were
9 taken to the panel side.

10 Q So it's more of a DFO into Fraser River Panel
11 decision-making direction rather than Fraser River
12 Panel back to Department of Fisheries and Oceans?
13 Is that what you're saying?

14 MR. ROSENBERGER: At the stage of populating these
15 documents and trying to determine what the issues
16 are so things like Early Stuarts are -- been
17 identified as a priority stock by First Nations.
18 So in Canada's side of things, many years ago,
19 we've said that stock is one that we're going to
20 be trying to have the -- all or the bulk of
21 harvest by First Nations. So it's that type of
22 information we take into the panel and -- and the
23 kinds of rules that we're working with and the
24 discussions we have with the U.S. folks on stocks
25 where -- where we end up as we did in -- in the
26 in-season of 2009. So when you're talking about
27 rules that you might want to use in -- when you
28 have stocks that may not have a harvestable
29 surplus, we try to bring those discussions at the
30 same time into the -- both processes and try to
31 come to a consensus in both places, if we can, off
32 the same information.

33 Q Things that -- for example, the management
34 adjustments, you said that at this time you didn't
35 have -- you wouldn't have the right information at
36 the time of the second draft. Is there updated
37 information that's received from the Fraser River
38 Panel at the time the IFMP is finalized?

39 MR. ROSENBERGER: It's after the time of the --
40 generally, it's after the time or around the time
41 in June that this document's been finalized.

42 Q Okay. So it may be finalized without that current
43 information from the Fraser River Panel in it?

44 MR. ROSENBERGER: It could be, yes.

45 MS. BAKER: I haven't marked this draft number two,
46 which I should do. If I could have that marked as
47 the next exhibit?

1 THE REGISTRAR: Exhibit Number 325.

2
3 EXHIBIT 325: Pacific Region Draft #2
4 Integrated Fisheries Management Plan Salmon
5 Southern B.C. June 1, 2009 to May 31, 2010
6

7 MS. BAKER:

8 Q And as the chair of the Canadian panel on the
9 Fraser River Panel and the chair of the Fraser
10 River Integrated Management Team, you're involved
11 on both sides of that equation, you've involved in
12 the drafting of the IFMP and you're involved in
13 the Fraser River Panel process?

14 MR. ROSENBERGER: That's correct.

15 Q Okay. All right. So I just wanted to go through
16 some of the changes that we see in the draft
17 number two from the first draft. If you turn to
18 pages 68 and 69, this is again the forecast -- or
19 sorry the FRSSI options tables at 50 percent and
20 75 percent probability. We had looked at these
21 tables previously. And in the first version under
22 the late runs, for example, there was a number of
23 options set out. And now it just has a fixed
24 exploitation rate of 20 percent. Why was that
25 change made?

26 MR. GROUT: After our first round of consultations on
27 the first draft of the plan, we recognized that
28 there was quite a bit of confusion among the --
29 our stakeholders that we were talking with around
30 whether we were considering implementing one of
31 the four options or whether we had proposed to
32 implement a fixed 20 percent exploitation rate.
33 So in this version of the escapement plan, we're
34 showing a fixed 20 percent exploitation rate for
35 the late run group to clarify the intention.

36 Q So at this point, there was -- there was no
37 further debate on the late runs? They were
38 determined to be using this 20 percent harvest
39 rate?

40 MR. GROUT: For this draft, this is what the department
41 had proposed to use in terms of the -- the
42 development of the escapement plan. Certainly
43 possible that we would have gotten feedback and
44 views on whether that was appropriate or not.

45 Q Okay. There's another option you see under Early
46 Stuart that says "new option five" that's been
47 added. It's on both the 50 and 75 percent

1 probabilities. What's that in reaction to?
2 MR. GROUT: This was advice we received from the First
3 Nation Forum on Conservation and Harvest Planning,
4 that they'd like to see an option for Early Stuart
5 with an even stronger emphasis on escapement
6 before harvest.

7 Q What was that --

8 MR. ROSENBERGER: And just --

9 Q Sorry?

10 MR. ROSENBERGER: If I could just add to that. It
11 wasn't from the whole forum; it was from some of
12 the groups at the forum.

13 Q Okay. And was that option then debated at the
14 second IHP -- or the fourth IHPC meeting?

15 MR. GROUT: Yeah, we would have had discussion around
16 the addition of the -- the option and potential
17 implications for management.

18 Q Okay. There's a lot of communication back and
19 forth from the different groups and DFO. Are
20 those communications all communicated to the -- to
21 the other members of the process in any way other
22 than that table that we just reviewed, which has
23 now been marked as Exhibit 324?

24 MR. GROUT: We get a range of advice from our various
25 different groups. Some of the advice that's
26 provided at the IHPC is recorded in the minutes
27 and would be available for others to look at. For
28 a number of our other major processes with the
29 Commercial Salmon Advisory Board and the SFAB, we
30 have minutes that are recorded and posted on our
31 consultation website for the department. We also
32 receive correspondence, letters and such, from
33 individuals and groups expressing their views.
34 Some of those are shared.

35 Usually what we would do, if we thought there
36 was a particularly important point raised is I
37 would follow up with the group and just confirm
38 that they were okay with us sharing the
39 information, if it was just addressed to the
40 department. Sometimes the letters we receive are
41 already cc'd to another -- a number of other
42 groups so the groups themselves are also spreading
43 information around. There's another -- emails can
44 also be distributed at times with perspectives on
45 development of the plan.

46 Q But there's not a requirement or an understanding
47 that all communications will be copied by -- to

1 all members or anything like that?

2 MR. GROUT: That's not something that we have formally
3 in place at the moment.

4 Q Okay. Is draft number two of the IFMP the first
5 time that stakeholders or other user groups see
6 the impact of requested changes or comments that
7 have been made by participants to the process?

8 MR. GROUT: The circulation of the second draft would
9 be the first time they'd see a formal response
10 from the department on suggestions that have been
11 made. What we do with this draft as well, and
12 you'll notice in the exhibit there's a
13 considerable amount of highlighting at various
14 spots in the table of contents and throughout the
15 plan. So that's done for the benefit of the
16 various processes so they can quickly find places
17 in the plan where changes have been made.

18 MR. ROSENBERGER: If I could add to that. We also take
19 this information and though we don't have a formal
20 process to take comments specifically from, say,
21 the First Nations' interactions or the sport or
22 commercial, across each one of them, a lot of the
23 key points that we think that we might be
24 considering doing more work on, we're raising
25 those in each of the other meetings. At times,
26 that's been contentious that -- that people's view
27 that we might be promoting some given groups'
28 views, which isn't necessarily the case, but ones
29 that might be getting more consideration, we have
30 been taking those kinds of comments and/or their
31 letters.

32 And so if we're taking something that's
33 formally provided to us, we tend to ask them if
34 it's okay to distribute that to -- you know, in
35 other places, and some of them at times have come
36 to some of the other processes to, you know,
37 present that information themselves. And that
38 happened with some of the changes that went on in
39 '09 and again some -- in '10 in this process here.

40 Q What were the -- what are you referring to there?

41 MR. ROSENBERGER: The -- I think this option 5, there
42 was some First Nations people came to the IHPC and
43 in -- I'm trying to think in general here, not
44 necessarily these specific ones that you raised
45 but at the -- around the Chinook side of things,
46 we've had a number of First Nations who are not
47 participants in the IHPC process that have come to

- 1 present letters that they may have also provided
2 to the department. So they wanted to make sure
3 that it was presented in their words, not us
4 passing on their words.
- 5 Q Okay. I take it by looking at the document when
6 it's presented as draft two there's no way for
7 anybody to know who -- who was the genesis for any
8 changes that were made. Like it's not identified
9 that this was in -- this change was in response to
10 a suggestion made by a particular party.
- 11 MR. GROUT: In the previous exhibit you referred to
12 where we outlined some of the suggested changes
13 that have been made by various individuals, there
14 may be cases in the plan where you can see that
15 the department has implemented a specific change.
- 16 Q Mm-hmm.
- 17 MR. GROUT: It's not specifically labelled as such,
18 though, throughout the plan.
- 19 Q Okay. After the May IHPC meeting, what happens in
20 terms of the planning process?
- 21 MR. GROUT: The May IHPC meeting is the last formal
22 chance for the Integrated Harvest Planning
23 Committee to -- to comment on the draft of the
24 IFMP. The department reviews the -- the final
25 changes or considerations that we've been asked to
26 look at. And then we begin the -- the process of
27 finalizing the plan and development of the
28 briefing materials to get the IFMP ultimately
29 approved by the minister for release for the
30 coming year.
- 31 Q Is there any -- although the IHPC process has
32 concluded at that point, is there any other
33 further comments received from parties after the
34 May IHPC meeting?
- 35 MR. GROUT: We certainly have received comments in some
36 years often well into June and even July. And
37 those are obviously a challenge to try and
38 incorporate given the -- the time when they're
39 received.
- 40 Q Okay. Now, we took -- we've marked the final IFMP
41 when we opened today. That's Exhibit 317. So if
42 we could just look at that. And that's in the
43 binder you have there at Tab 8. What's the
44 internal process for finalizing the IFMP?
- 45 MR. GROUT: As a department, I would take the -- or in
46 the department, I'd take the lead on coming to
47 terms with any final decisions that we need to be

1 made around the plan that we've received. For
2 example, for Fraser sockeye, I'd -- I had worked
3 with Mr. Rosenberger and others around confirming
4 the final options we were going to propose in the
5 -- in the final plan. That process would occur
6 through a number of meetings. There may be
7 briefings with various individuals in the
8 department, as we move towards finalizing the --
9 the plan. I then -- at the same time I'd be
10 working on briefing materials so this would be a
11 briefing note to the minister for approval of the
12 IFMP outlining some of the key issues that we --
13 that came up in the consultations and the feedback
14 we got from the various groups and the
15 consultations.

16 We also identify the key constraints around
17 fisheries planning for the coming year and in the
18 additional analysis that would need to support
19 that. And from there, the -- the briefing note
20 and the plan would go to the regional director of
21 Fisheries and Aquaculture Management and then to
22 the RDG. We also send the version of a plan
23 around to a number of our directors for review of
24 specific sections related to their programs as
25 well. I would -- I'm directly responsible for
26 providing briefings to the director of fisheries
27 management and the RDG.

28 Q Okay. Thank you. I'm going to come back to the
29 briefing note in a bit. But before we get there I
30 wanted to have a look at the actual final
31 document. When we looked at the drafts, you'll
32 remember we saw those tables that had the
33 different FRSSI options contained in them. In the
34 final report, it looks a bit different. So if we
35 turn to pages 67 and 68 -- or sorry -- it's just
36 67. No, I'm sorry, no, that's right, 67 and 68.
37 So 68 has Table 10(a). Sorry. I'm getting my
38 page numbers mixed up. 67, 10(a). So this sets
39 out the Fraser River sockeye escapement plan
40 options for 2009 at 50 percent probability
41 forecast. Can you just review for us how this
42 relates to what we saw earlier when we had the
43 FRSSI tables and the options?

44 MR. GROUT: Okay. In this table, what you're seeing is
45 the single harvest rule chosen among the four
46 options for each of the stock groups or management
47 units, so Early Stuart, Early Summer, Summers and

1 Late run. The first column for Early Stuart, the
2 number is 255. So that's the -- the run size, the
3 forecast probability level. The run size
4 reference points are simply the two points that
5 describe the shape of the harvest rule so the no-
6 fishing reference point at 156,000 and the upper
7 reference point, which we refer to as the cutback
8 point, is 390,000. So for Early Stuart, this
9 corresponds to option four from draft two and one
10 of the plan. We provide the total mortality rate
11 guidelines for each of those run size ranges.

12 In this case, the preseason forecast at
13 255,000, it falls in the range of 156 to 390. In
14 that range, we've got the fixed escapement
15 strategy of 156,000 for the fixed escapement. So
16 any additional harvest or any difference between
17 that and the run size is available for harvest.
18 And that allows us to determine the total
19 allowable mortality rate. From that, we also
20 consider the management adjustment and any fish
21 that would be added to the escapement target do
22 account for that so the buffer. And any remaining
23 exploitation after the management adjustment's
24 applied is in the final column. So in this case,
25 it's 3 percent.

26 Q Okay. And so if we look at the run size reference
27 points, we've got -- it's a bit hard to read
28 perhaps but there's one line that goes across the
29 top that's got a bullet, which would be zero, I
30 guess, to 156. And it says that the town
31 guideline is going to be zero percent if the run
32 size comes in at that level. Is that how we read
33 this?

34 MR. GROUT: That's correct.

35 Q And then the next line down has 255, which is the
36 run size estimate, in fact, but that shows the
37 number of fish that are expected, correct?

38 MR. GROUT: The 50P forecast --

39 Q Right.

40 MR. GROUT: -- probability, yes.

41 Q And then the 156 to 390 shows that if the fish
42 come in, in that range you're going to harvest
43 them at zero to 60 percent and that's the curve
44 that we saw earlier?

45 MR. GROUT: That's right.

46 Q Okay. And then --

47 MR. GROUT: It's easier to think of it as we've got --

1 over that range, we've got a fixed escapement
2 target of --

3 Q Right.

4 MR. GROUT: -- 156,000.

5 Q Okay.

6 MR. GROUT: And you're going to harvest the difference
7 between or -- total allowable mortality is the
8 difference between that and the run size.

9 Q And then the last one is 390 or greater. It will
10 be harvested at 50 percent?

11 MR. GROUT: That's correct.

12 Q And sorry. I might have used the word "harvest"
13 but it's actually the total allowable mortality,
14 which would include en route mortality and
15 everything else?

16 MR. GROUT: Correct.

17 Q Okay. Then the next page, which is page 69, shows
18 the run timing -- or it actually starts on 68. It
19 talks about run timing and it -- there's a graph
20 on page 69 that sets out the run timing. What is
21 that -- what is the run timing information in the
22 IFMP used for?

23 MR. ROSENBERGER: It's just to give people a general
24 sense of which stocks come in, in which order. If
25 you understand the four stock groupings, you can
26 take a look and see which ones might be
27 amalgamated or which ones we might be taking
28 actions. Within a stock grouping, we -- we often
29 have individual populations that we might be
30 taking extra actions for within Canada. So it's
31 schematic to show the relative expected timing of
32 the stocks, as they pass through area 20, which is
33 in Juan de Fuca Straits.

34 Q And why do you use area 20?

35 MR. ROSENBERGER: Probably historical more than
36 anything. That's the original test fishing area
37 that the old Salmon Commission established as the
38 key focus point. Before the mid-'70s, you
39 typically had 80 to well over 90 percent of the
40 Fraser sockeye migrated through Juan de Fuca on an
41 annual basis with a much limited -- more limited
42 portion coming into Johnston Straits, what we now
43 call the northern diversion. So it has that
44 historical factor. It's -- it's one place where
45 we make an assessment, the Fraser Panel and with
46 the Salmon Commission staff, an assessment of all
47 of the populations. For example, Early Stuart

1 rarely migrate down through Johnston Straits so
2 they're not present in that location.

3 And because we have some stocks that hold
4 like the lates in some years, if you used a place
5 like Mission, the -- the late run information
6 would move around drastically depending on the
7 actual return in a given year. So this -- for the
8 marine fisheries it's a constant. We have
9 prepared tables over time that we've handed out to
10 people to show timing periods between area 20 to
11 the mouth of the river to Mission to, you know,
12 Hope and Lytton and a number of different places
13 so people can make that sense for themselves. So
14 the graph could be moved easily to any other
15 location. The -- other than the lates, the -- it
16 wouldn't necessarily change except for the dates
17 at the bottom.

18 MR. GROUT: Wendy, I might add a couple points to what
19 Barry has said. And one of the things you can use
20 the figure for, if you look at the -- the screen,
21 it's giving you the daily abundance for each of
22 these groups. And the -- the Salmon Commission
23 has provided the department these curves based on
24 our forecast information and historical
25 information about run timing.

26 So at the top point of one of these curves
27 gives you the peak expected for the migration
28 through this area. What this curve shows you is,
29 if you look at the top curve, which is the total
30 sockeye curve, you can see that most of the
31 abundance in this particular year is expected to
32 come from Chilko and Quesnel and actually be able
33 to harvest those stocks at the rate your might
34 like to, you have to keep in mind that there's a
35 number of less abundant stocks down lower here
36 that are overlapped with that migration.

37 So it helps our -- our stakeholders and
38 others see the potential constraints around trying
39 to harvest more abundant populations when we have
40 smaller ones in the mix. In this particular year,
41 because 2009 is an odd year, we also have pink
42 salmon returning to the Fraser. So it also gives
43 you a sense of how you might have to structure
44 your fisheries to access pink salmon given that
45 you have less abundant late runs that were also
46 trying to protect the pink salmon can overlap
47 with. So it's also used for that purpose.

1 Q We've talked a lot about the consultation process
2 with different groups and feedback that different
3 groups can bring to the table to the department,
4 as they develop the final IFMP. Do you think that
5 the processes that we've talked about today and
6 that the department undergoes provide all the
7 different interested groups with an opportunity
8 for meaningful input into the process?

9 MR. GROUT: Well, the department has established a lot
10 of these processes based on past recommendations
11 to improve the -- to improve our consultation
12 process. We've set up a number of committees to
13 improve the way that we do that and provide
14 multiple opportunities for -- and ways for people
15 to provide feedback to the department. So in
16 general, I think we've got quite a comprehensive
17 approach for obtaining feedback on the fishing
18 plan as we develop it.

19 Q Okay. Do you have anything to add to that?

20 MR. ROSENBERGER: Not -- I mean there's -- there's also
21 been studies and, you know, other -- other
22 commissions and other processes looking into the
23 Fraser sockeye over the years so that, you know,
24 there's been a number -- the centre out of UVic
25 that did a lot of work on, you know, what kinds of
26 structures you need to establish and how you need
27 to -- to select people.

28 You know, I don't think that we've got to the
29 point to meet all of the recommendations in all of
30 these groups where you have people that are there
31 that are, you know, appointed or elected or
32 whatever, you know, the appropriate process might
33 be for all the places and for all the groups. But
34 I think that the structure is there to make it
35 work and it's -- hopefully some day it gets --
36 continues to make some improvements.

37 Q Do you think there's some gaps that need to be
38 addressed still?

39 MR. ROSENBERGER: We don't have representative --
40 elected representatives at all of the processes.
41 So it's very difficult to make -- work towards
42 consensus agreements when you might have an
43 individual that has one given objective that might
44 be very contrary to others both within their group
45 or from another group. So it's fairly -- in some
46 places, it's difficult for people to make those
47 kinds of trade-offs. And then I think that the

1 First Nations are in a very difficult position
2 without having land claim treaties settled to --
3 to come to these kinds of processes and try to say
4 that, you know, I'm willing to -- you know, want
5 to make these kinds of trade-offs or do certain
6 things when they're still trying to have some of
7 their rights affirmed in different places.

8 Q Do you think that the stakeholder groups that you
9 do engage in the process have the capacity to
10 understand the issues that are being presented to
11 them for decision or for feedback, including some
12 of the technical work that we've just touched on
13 today?

14 MR. ROSENBERGER: The level of technical capacity of
15 some of the groups varies for sure. I think it
16 depends on the groups and individuals you're
17 talking about. Some of them definitely want and
18 expect the department to have that capacity, bring
19 that information and them to be able to give
20 input, you know, based on what they -- they see as
21 the -- the impacts or the results of whether it's
22 a model or -- or, you know, some other -- the
23 policies, you know, how well is -- is the sharing
24 arrangement between rec and commercial and
25 whatever working.

26 Other groups are trying to have people that,
27 you know, understand all the models to the same
28 level that, you know, we might have a scientist
29 somewhere working on. So you know, I wouldn't say
30 that, you know, all of them think that they have
31 the capacity that they want to have. But I think
32 if the department is able to bring the -- you
33 know, various technical information and present it
34 in a way that people can make trade-offs around
35 the issues that affect their fisheries and they
36 bring their expertise into that process, I think
37 the structure is there that it can work.

38 Q Do you think that the participants need to
39 understand the technical workings of things like
40 the FRSSI model or the preseason forecast model in
41 order to provide meaningful input?

42 MR. ROSENBERGER: I do not. I don't know how all the
43 technical workings of those models for myself, you
44 know. You have -- we can't all have PhDs and all
45 have the same expertise. We're not all going to
46 be geneticists and -- and you know, modellers and
47 whatever. We have to be able to get that

1 information from somewhere and I don't think it's
2 effective to expect that you're going to have, you
3 know, ten or 15 different people developing their
4 own models and, you know, having discussions
5 around them. But I think we have to have enough
6 understanding -- if you have a model and it tends
7 to become fairly obvious and FRSSI is one -- I'm
8 not certain how much data you're going to do
9 earlier but I mean it's changed drastically in the
10 last version that went through our science peer
11 review process because of inputs that we receive
12 from people earlier.

13 And it wasn't changes just because the
14 department had their modeller saw something, you
15 know, wrong or the person that we'd contracted.
16 So I think what you see out of that is if the
17 results don't make sense, if it's -- you know, if
18 you've -- it's based on assumptions and if there -
19 - you know, if it's obvious they're incorrect, you
20 need to make some adjustments for it. And I think
21 that's what people see as the results of those.
22 If they're not consistent with what you would
23 expect in your area, then you know you need to
24 make some adjustments.

25 Q I've heard that the members of the Commercial
26 Salmon Advisory Board have requested funding from
27 DFO for technical assistance. First of all, do
28 you -- is that -- is that your memory? Do you
29 agree with that?

30 MR. ROSENBERGER: I think they have, over time.

31 MR. GROUT: We haven't had the request made of us
32 recently. I believe that we provided some of that
33 assistance when we were doing the work on the --
34 the Cultus Sockeye Recovery Team.

35 Q Okay. Other than that, has funding been provided
36 for technical issues to the Commercial Salmon
37 Advisory Board or its members?

38 MR. GROUT: In the terms of reference for the
39 Commercial Salmon Advisory Board, it outlines that
40 in most cases the department will be providing the
41 technical support to help the -- the group
42 function.

43 Q And is that the same for this Sports Fishing
44 Advisory Board as well?

45 MR. GROUT: Yes, the department would primarily be
46 providing expertise on interpretation of
47 information, assessment of options to -- to that

1 group as well.

2 Q And we talked about the technical forum that is
3 available for First Nations to support that -- the
4 other forum that they're engaged in. Is that
5 funding provided by the department for the
6 technical forum?

7 MR. ROSENBERGER: Yes, it is.

8 Q Okay. What about the Marine Conservation Caucus?
9 Has it made requests for a technical fund --
10 funding for technical assistance?

11 MR. ROSENBERGER: I don't believe that -- well, that
12 request has not been made to me. They seem --
13 there seems to be a certain amount of technical
14 capacity within the group to -- to do their own
15 work.

16 MS. BAKER: Okay. Mr. Commissioner, it's 3:04. I'm
17 going to move to the briefing notes section now,
18 so perhaps this would be a good time to break.

19 THE COMMISSIONER: Okay.

20 THE REGISTRAR: The hearing will now recess for 15
21 minutes.

22

23 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

24 (PROCEEDINGS RECONVENED)

25

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

27 MS. BAKER: Thank you.

28

29 EXAMINATION IN CHIEF BY MS. BAKER, continuing:

30

31 Q Right now I'd like to move to the briefing note
32 process, which you've already touched on, Mr.
33 Grout. First of all, it's your group that
34 prepares a briefing note and you're the sort of
35 lead person for the briefing note?

36 MR. GROUT: Yes, I take the lead on drafting the note,
37 but I do solicit feedback from others as I'm doing
38 that.

39 Q And that would be -- include people from the
40 salmon working group; is that right?

41 MR. GROUT: It can include members of the salmon
42 working group, the Fraser panel chair and FRIMT
43 chair for Canada, technical individuals
44 potentially, as well, if there is additional
45 analysis in the note.

46 Q And let me take you to the briefing note that you
47 prepared for this year, which is CAN 065902, which

1 is, I think, Tab 26. I might have the -- maybe
2 I've got the CAN number wrong on that. Sorry,
3 just a moment.

4 MR. GROUT: It might be in one of these --

5 Q Sorry, I have the wrong CAN number. It's CAN
6 285384. Okay, so that is a copy. Now, I know
7 that the briefing note that goes to the minister
8 has a number of attachments -- has a number of
9 attachments to this cover document, but this is
10 the document that you would have prepared; is that
11 right, with all the attachments beneath it as
12 well?

13 MR. GROUT: Sorry, am I at Tab 26 here?

14 MS. BAKER: No, sorry, it's Tab 26.

15 MR. LUNN: Thank you.

16 MS. BAKER: Okay, there. And I think if you just
17 scroll down. There.

18 Q Is it?

19 MR. GROUT: Yes, this is the note.

20 Q All right. And what is the intent of the briefing
21 note, what are you trying to cover in it?

22 MR. GROUT: For salmon fisheries in B.C., the
23 Integrated Fisheries Management Plans are approved
24 by the Minister. A number of our other fisheries
25 in the Pacific region are not approved at the
26 ministerial level, but salmon is one of the plans
27 that is.

28 So the note is seeking approval of the
29 Integrated Fisheries Management Plans for the
30 coming year. It also seeks to identify the key
31 issues, and we are able to remind the minister on
32 a number of those by referring to briefing notes
33 that have been sent previously. So as the
34 management plan is being developed there are
35 opportunities to update the minister along the way
36 on some of the issues.

37 And we also provide attachments to this plan
38 summarizing some of the consultations. Sorry, I
39 just want to make sure I referred to all the
40 attachments. Yeah, summary of the consultations
41 and then also issues that are impacting on the
42 fishing opportunities.

43 Q Do you attempt to set out different points of view
44 that you've received from constituent groups?

45 MR. GROUT: The templates for the management -- or,
46 sorry, the template that the government uses for
47 these briefing notes are quite short. There's

1 only three to four pages provided in the primary
2 note. In terms of setting out some of the views
3 we've received from others, we have to append that
4 and attach it separately.

5 MS. BAKER: Okay. Now, Mr. Commissioner, we have a
6 full copy of the IFMP with all of the documents
7 that would be attached. Unfortunately, it's just
8 been sent over in electronic form from the
9 Commission's office - we just had a bit of a mix-
10 up - so what I propose to do is I will take, at
11 some point in my next questions, I'll go to the
12 briefing note that comes from Ottawa, and I will
13 not mark them, though, I will wait until I have
14 the final electronic document and we'll mark them
15 at that time.

16 Q Okay, so this briefing note, as we identified,
17 covers a number of documents which we are going to
18 bring forward. Just for reference, while we wait
19 for that document to come forward, if you turn to
20 Tab 20, there's a reduced version of this briefing
21 note that has the attachments in it. So if you
22 need to look at something, that can be used as
23 reference until we get our final electronic
24 document.

25 So once you've prepared the briefing note
26 which covers all the documents, where does that
27 package go? When it leaves your hands, where does
28 it go?

29 MR. GROUT: Typically, the briefing note would go from
30 myself through the salmon team lead for a review
31 and approval, and then to the Regional Director of
32 Fisheries and Aquaculture Management.

33 Q Who was the salmon team leader at this time?

34 MR. GROUT: In 2009, when this note was prepared, it
35 was Paul Ryall.

36 Q Okay. So it goes to Paul Ryall and then it goes
37 to where, sorry?

38 MR. GROUT: The Regional Director of Fisheries and
39 Aquaculture Management and when this note was
40 prepared it was Sue Farlinger.

41 Q Okay. And are further comments communicated to
42 you at that point?

43 MR. GROUT: Yes. It's possible that the salmon team
44 lead and/or the regional director could ask me for
45 -- to make further revisions.

46 Q Okay. And after it goes to Regional Director of
47 Fisheries and Aquaculture Management, where does

1 it go?
2 MR. GROUT: From there, the regional director usually
3 sets up a meeting to brief the RDG, and usually
4 the regional director attends, as well as myself.
5 Q Okay. So you're involved in the briefing of the
6 RDG?
7 MR. GROUT: That's correct.
8 Q Are further changes made at that stage?
9 MR. GROUT: Yes, the RDG quite often will ask for
10 changes to be made.
11 Q And are those changes that you would put into the
12 document, or would they be done at some other
13 level?
14 MR. GROUT: No, I would -- usually I would make the
15 changes and have the document resubmitted.
16 Q Okay. And once it's gone through that process
17 here on the Pacific coast, does it eventually get
18 sent to Ottawa?
19 MR. GROUT: That's correct.
20 Q All right. And what happens there? Like it gets
21 sent to who in Ottawa?
22 MR. GROUT: I don't usually deal with the briefings
23 that occur in Ottawa, that would, at that point,
24 would become the RDG's responsibility, but there
25 should be a transmittal slip here which indicates
26 who's seen the note.
27 Q Does it go directly to the minister, or is there
28 another level within the Department of Fisheries
29 and Oceans it goes to in Ottawa?
30 MR. GROUT: No, it would be -- it would go to fisheries
31 management and -- or ecosystems and fisheries
32 management, now in Ottawa, and then to the deputy
33 minister before going to the minister.
34 Q Okay. At the - sorry, how did you describe the
35 fisheries and oceans group in Ottawa? You had a
36 title that -- I dismissed it.
37 MR. GROUT: They've just recently reorganized
38 themselves to, I believe it's, ecosystems and
39 fisheries management.
40 MR. ROSENBERGER: Essentially, it's going to go to the
41 assistant deputy minister of what's Fisheries and
42 Aquaculture Management, so whatever the title
43 might be, that person's going to get it and brief
44 with the deputy, and then that's -- it'll go from
45 there to the minister.
46 Q All right. And is it at that point another
47 briefing note cover is prepared from the Ottawa

1 branch up to the minister? And in asking that
2 question, I'm asking if you could look at Tab 24
3 of the binder in front of you. And this is CAN
4 285370. Is this the final version of the briefing
5 note that makes its way up to the minister?

6 MR. GROUT: Yes, that looks like it.

7 Q Okay. Would changes be made in Ottawa to the plan
8 as it was presented from the Pacific region? Has
9 that ever happened?

10 MR. GROUT: There have been cases where changes have
11 been made in Ottawa and occasionally I'll be
12 called to clarify what a specific point might mean
13 and some wording changes can be inserted to
14 further clarify.

15 Q Okay. And then if you look at the -- sorry, when
16 does your salmon team, or your salmon working
17 group here in B.C.'s involvement end in the IFMP
18 approval process? Are you involved right up to
19 the very end, when it goes to the minister, or
20 does it stop when it goes to Ottawa?

21 MR. GROUT: Typically, I would not be involved after
22 the note has been signed off by the RDG and it
23 goes to Ottawa, although, as I stated, there are
24 -- can be occasions where I'm called to clarify
25 specific comments in the note.

26 Q Okay.

27 MR. GROUT: Then we are keeping an eye on when the note
28 is signed off, and once that's done we work with
29 our -- to get our IFMP posted on the public
30 internet site once it's approved.

31 Q All right. Have you received changes by the
32 minister herself, or himself, whatever it may be
33 at the time, once the recommended IFMP has been
34 advanced through this briefing note to the
35 minister?

36 MR. GROUT: Not personally, no.

37 Q Are you familiar with changes being made by the
38 minister?

39 MR. ROSENBERGER: I'm not aware of any changes.

40 Q All right. If we look at the last page of this
41 document CAN 285370, there's a signature by the
42 minister, Gail Shea, and there's a little asterisk
43 and it says:

44
45 Need to ensure we maximize opportunities for
46 commercial fisheries.
47

1 What does that mean to you, when you received this
2 back, or what did that mean to you?

3 MR. GROUT: Well, my personal view is that that's
4 something that we'd be looking at doing within the
5 constraints identified in the Integrated Fisheries
6 Management Plan.

7 Q Is it a change to the plan? Is that a direction
8 which is a change to the plan?

9 MR. GROUT: I didn't take that to provide a specific
10 direction to change something that was in the
11 Integrated Fisheries and Management Plan.

12 Q So there were no changes made, I guess, based on
13 that comment? Or you saw no changes being
14 required and you didn't make any changes?

15 MR. GROUT: Not to the Integrated Fisheries Management
16 Plan document.

17 Q What about in terms of management in-season? Did
18 it change the process of management in-season?

19 MR. ROSENBERGER: No, it didn't.

20 MS. BAKER: Okay. Mr. Lunn, has that document found
21 its way to you, yet?

22 MR. LUNN: Yes. It's just about... Sorry, it's just
23 saving through. It should be available shortly,
24 but I don't have it right now, if you want to keep
25 going, or...

26 MS. BAKER:

27 Q It's the document that we just referred to, which
28 is the one with the minister's signature on it,
29 which is being sent to Mr. Lunn right now.

30 MR. LUNN: I think this is it --

31 MS. BAKER: Oh. And can you just go through some of
32 the -- see how many -- if we've got all of the
33 schedules attached? All right, so what I'd like
34 to do is mark the briefing note, which is just a
35 five-page document that covered the schedules that
36 Mr. Grout prepared, and that's right now in -- as
37 the next exhibit.

38 THE REGISTRAR: Exhibit number 326.

39

40 EXHIBIT 326: Fisheries and Oceans briefing
41 note, dated May 28, 2009, re: Approval of the
42 2009/2010 Integrated Fisheries Management
43 Plans for Salmon in Northern and Southern
44 B.C.

45

46 MS. BAKER: And then the next exhibit would be the
47 document you just received electronically, which

1 has the briefing note that's been signed by the
2 minister and has attached to it all of the
3 schedules that actually form the full briefing
4 note document. That's the next exhibit.
5 THE REGISTRAR: 327.

6
7 EXHIBIT 327: Fisheries and Oceans Canada
8 Memorandum for the Minister, signed and dated
9 June 16, 2009, re Approval of the 2009/2010
10 Integrated Fisheries Management Plans for
11 Salmon in Northern and Southern B.C., with
12 attached schedules
13

14 MS. BAKER: All right.

15 Q Now, I'd like to move to the in-season process.
16 I'll just ask you, once you receive back the sign-
17 off from the minister of the IFMP, you're in a
18 position to start the in-season decision-making
19 process; is that fair?

20 MR. ROSENBERGER: That's correct.

21 Q Okay. Have there been instances where you've had
22 to make in-season decisions before that IFMP sign-
23 off was obtained from the minister?

24 MR. ROSENBERGER: Just about every year.

25 Q Okay.

26 MR. GROUT: Usually, in that case, we're providing a
27 separate briefing note outlining where those
28 instances may occur.

29 Q All right. And how far into the season would you
30 be before IFMP was signed off? Was it just a
31 couple of weeks, or what are you looking at?

32 MR. GROUT: Typically, there's some fisheries that
33 occur in June, where we'd be identifying to the
34 minister that these could be going ahead prior to
35 the formal sign-off of the IFMP.

36 Q And, of course, we're talking here about Fraser
37 River sockeye. You'd actually be making fishing
38 decisions on other species long before this was
39 signed off; is that fair?

40 MR. GROUT: Yes, sorry, I should clarify. I was
41 referring to all fisheries in the Pacific region
42 that might be covered by the IFMP's and not Fraser
43 River sockeye, specifically, as my remark.

44 Q Okay. And Fraser River sockeye, do you ever have
45 to make in-season decisions on it before the IFMP
46 comes back from the minister?

47 MR. ROSENBERGER: We regularly have potentially some

1 small First Nations fisheries that have either
2 sockeye-directed fisheries or significant sockeye
3 incidental harvest in the Chinook that would be
4 occurring before the sign-off.

5 Q Okay. There's a transfer of -- there's regulatory
6 control that is a transfer authority from DFO to
7 the Fraser River Panel for in-season management of
8 Fraser River sockeye and pinks, correct?

9 MR. ROSENBERGER: That's correct.

10 Q All right. And when that happens, does that
11 really signify the beginning of the in-season
12 phase of the year?

13 MR. ROSENBERGER: That's one way to characterize it,
14 yes.

15 Q Okay. Does the Department of Fisheries and Oceans
16 consult directly with -- sorry, let me back up.
17 First of all, we have spent a lot of time, today,
18 talking about all the different meetings and
19 interactions that the department has with
20 different groups in the planning process. Does
21 any of that -- do any of those meetings or
22 opportunities for feedback continue during the in-
23 season phase of the year?

24 MR. ROSENBERGER: Yes.

25 Q Okay. Can you describe what kinds of meetings and
26 communication happen during the in-season phase?

27 MR. ROSENBERGER: With the Sports Fish Advisory Board
28 we typically have an in-person or a larger meeting
29 late June, early July, which will lay out all of
30 the expectations of the year, or key issues, and
31 then every Tuesday afternoon throughout the season
32 until mid September. So there's a weekly
33 conference call over most of that period.

34 Q That's with the sport fishing group?

35 MR. ROSENBERGER: Sports fishing group, that's correct.
36 So that's what they call the sockeye pink working
37 group, so it's there to handle sockeye and pink
38 fisheries across the south coast areas.

39 There also can be local area committee
40 meetings to try to deal with any issues, you know,
41 which might focus, for example, on the southern
42 interior group on a Thompson River fishery around
43 sockeye. So there could be smaller, specific
44 issues. They tend to be called either by the
45 department or the co-chair from the Sports Fish
46 Advisory local committee.

47 First Nations meetings and process, there's a

1 few things. One is that we've established that
2 there's what's called an open line, but we have --
3 First Nations groups have access to listen to all
4 panel meetings. They can't talk, at least they
5 can't talk to the panel. They may be able to talk
6 amongst themselves; I've never been on that side
7 of the phone. So they can listen in on all the
8 panel sessions.

9 On Thursday afternoon there's a session
10 that's set up through the Fraser River Aboriginal
11 Fisheries Secretariat, generally chaired by Mike
12 Staley, other sockeye biologists or one of their
13 salmon biologists, so he's also a member of the
14 Fraser Tech Committee, so he has that specific
15 information. He participates in all the panel
16 meetings and the tech meetings. So he provides an
17 overview of all of the information that would be
18 current date of Thursday afternoon, given that
19 Friday is often key time for panel decisions.

20 DFO participates in those processes.
21 Initially, when they were set up, it was more of a
22 joint process, but the First Nations were seeking
23 to have more of their own people providing the
24 information and their own interpretations of the
25 data, but DFO does participate to make, you know,
26 if there are any clarifications or issues that we
27 want to raise.

28 If there are special issues, which occurred
29 in 2009, which is the focus of the documents we
30 were just looking at, then we might call other
31 meetings, in which case we did in 2009, trying to
32 deal with issues that weren't covered off in the
33 Integrated Fisheries Management Plan.

34 There also has been meetings from some of the
35 sub regional groups that I mentioned before. In
36 particular, almost the last two or three years
37 I've been more actively involved in this, the
38 Upper Fraser Fisheries Conservation Alliance has
39 held a meeting, quite often in July or later July,
40 wanting to work through more specifics around some
41 of their areas.

42 And then the local area bilateral meetings,
43 First Nations to DFO, have a number of meetings.
44 Some of them are set up as -- some of them are
45 called fisheries working group meetings, some of
46 them are the -- may not have a title, but if there
47 are any planned fisheries changes, then the groups

1 would get together with the department to work
2 their way through whatever the specifics might be
3 of the fishing plan.

4 So in the lower Fraser area that occurs
5 weekly, and sometimes multiple times a week. In
6 the B.C. interior, much less so. And the same on
7 the marine approach areas, where often the
8 communal licenses cover larger periods of time and
9 they don't necessarily change much with run size
10 changes or anything like that. The lower Fraser
11 area there's often meetings once or twice a week
12 to work through fishing plan issues.

13 From the commercial side of things, the area
14 harvest committees tend to meet, and quite often,
15 for some of the committees with the department
16 getting the same type of -- all of these groups
17 are getting the same type of information that's
18 coming out from the Fraser River Panel, so there's
19 information sheets that occur -- that are provided
20 by the Pacific Salmon Commission before each
21 meeting, which typically is Tuesday and Friday.
22 And that's not necessarily all worked through and
23 all the details, but the key points that might
24 affect a given group's interest, whether it's
25 their catch to date and how much allowable catch
26 they have left, or changes in run sizes, or
27 whatever it might be.

28 So at that level the commercial folks have
29 sessions, and they -- a number of them are as
30 called either by a co-chair from the area harvest
31 committee or by the department.

32 And then we have, on Thursdays -- Wednesday
33 or Thursday at five o'clock - there's a schedule
34 of these things, we've got them laid out for the
35 season - all of the commercial harvest groups meet
36 with the department and that session is generally
37 led by the Fraser panel co-chair for all the
38 commercial groups.

39 Q The Fraser Panel co-chair, would that be you?

40 MR. ROSENBERGER: No, Randy Brahniuk over the last two
41 seasons.

42 Q And all of these meetings, are they on the DFO
43 side, where do the people come from? Are they
44 from FRIMT, from the integrated management team?

45 MR. ROSENBERGER: They would all be members of the
46 Fraser River Integrated Management Team. Some of
47 them are also panel members, and some of them are

1 from the tech committee.

2 Q Once the season has started and fishing has
3 started, what responsibilities does the Department
4 of Fisheries and Oceans have?

5 MR. ROSENBERGER: Is the question trying to split the
6 Fraser panel decisions --

7 Q Right.

8 MR. ROSENBERGER: -- from the department's in-season?

9 Q Yes.

10 MR. ROSENBERGER: The department has responsibility
11 that the panel does not for management of the
12 recreational and First Nations fisheries in all
13 waters and commercial fisheries outside of panel
14 waters.

15 Q Okay. And within season, what are the
16 responsibilities of the Fraser River Panel?

17 MR. ROSENBERGER: So the panel, in Canadian waters, has
18 the responsibility for commercial fisheries within
19 panel waters.

20 Q Okay. Does the Fraser River Panel make decisions
21 with respect to run size and management
22 adjustments, timing, those sort of things?

23 MR. ROSENBERGER: That's correct. So the Fraser River
24 Panel is responsible for making the decisions. In
25 this case, the Pacific Salmon Commission staff
26 will, with tech committee, will develop a number
27 of different options potentially around different
28 aspects of run timing, management adjustments and
29 the run sizes, and the panel is responsible for
30 making the decisions. Whether, you know, which of
31 those they adopt or other information that we
32 might seek to have analysis done before there's
33 anything adopted.

34 Q Who makes decisions with respect to food, social
35 and ceremonial fisheries for First Nations?

36 MR. ROSENBERGER: The Department of Fisheries makes
37 those decisions.

38 Q And is any information about those decisions
39 provided to the Fraser River Panel Canadian caucus
40 or the panel itself?

41 MR. ROSENBERGER: Yeah, that's right. We review, in
42 our own caucus meetings, review all of the
43 proposed fisheries and options. The caucus is
44 not, in this case, there to debate the food,
45 social and ceremonial fisheries. We do have
46 discussions around order of fisheries, for
47 example, in First Nations economic or

1 demonstration fisheries that are on the equal
2 allocation footing with commercial fisheries. So
3 there's some discussion on that side of things.

4 But all of the potential fisheries and, you
5 know, which stocks -- we're looking to move stocks
6 from the lower river to the upper river or which
7 ones may be harvested, that type of discussion
8 occurs so that we have a fulsome plan.

9 Q And that, sorry, that happens at the Canadian
10 caucus level?

11 MR. ROSENBERGER: That's correct.

12 Q And are there discussions in the Canadian caucus
13 with respect to recreational fisheries Canadian
14 caucus of the Fraser River Panel? You've
15 identified that rec fisheries are dealt with by
16 DFO, so is there a crossover of information into
17 the Canadian caucus?

18 MR. ROSENBERGER: That's correct. We review all of the
19 recreational fisheries -- all the fisheries,
20 commercial, recreational and First Nations, so
21 that there's an understanding of them all and what
22 the implications are to the various stocks.

23 At the panel level, though, as far as, you
24 know, more decisions side of things, as I
25 mentioned, that doesn't include the FSC side.

26 Q In case this hasn't been clear, yet, what is the
27 Canadian caucus of the Fraser River Panel?

28 MR. ROSENBERGER: Well, it's Canadian membership of the
29 Fraser River Panel. So each country has -- is
30 entitled to have six members and six alternates,
31 so there's potentially 12 people in the Canadian
32 side, and it's representatives from the Department
33 of Fisheries and Oceans, commercial interest
34 processors, recreational and First Nation, and we
35 have two observers, which are not panel members,
36 from the Marine Conservation caucus.

37 Q So on the Canadian side, it includes all of those
38 people for the Canadian caucus, and then those
39 people join with the U.S. equivalent for a
40 bilateral Fraser River Panel?

41 MR. ROSENBERGER: That's correct.

42 Q Okay. And commercial fisheries in non panel
43 waters, I take it from what you said that they
44 would also be discussed within the Canadian caucus
45 so that there's an understanding of all the
46 fisheries that are ongoing?

47 MR. ROSENBERGER: That's correct.

1 Q Okay. And then is there reporting out from the
2 Canadian caucus to the bilateral processes to the
3 numbers of fish that are intended to be caught in
4 these other fisheries, or is that simply
5 information that is useful for the Canadian caucus
6 alone?

7 MR. ROSENBERGER: No, catch from all fisheries is
8 provided to the Pacific Salmon Commission staff.
9 They incorporate that into all of their analysis
10 and into the reporting documents, so that that
11 information is essential to make run size
12 projections for the model -- in-season models to
13 operate. So all of our catch data provided, you
14 know, the department collects from various
15 sources, is provided into the Pacific Salmon
16 Commission.

17 Q Okay. And in season, how often does the Fraser
18 River Panel meet? And I guess maybe if there's a
19 difference between how often the Canadian caucus
20 meets, as opposed to the bilateral meetings, you
21 could explain that as well?

22 MR. ROSENBERGER: Yes, so panel meetings first, which
23 is the bilateral process. Whenever we refer to
24 the "panel" we mean the bilateral process. The
25 panel meets at least twice a week. We tend to
26 start late June or early July, but it's almost
27 always late June and has been since I've been
28 there. The sessions are every Tuesday and Friday
29 as a minimum, and we often will hold other
30 meetings as needed. If there's, you know, we're
31 waiting for a piece of information or something.
32 So over the last two years there's been four or
33 five other meetings required, like two or three in
34 a season. Those meetings carry on twice a week
35 until about mid September, or essentially until
36 the vast majority of the sockeye and pink have
37 migrated through the system. In 2009, with the
38 pink run, we went through until late September.

39 And then we will hold a final in-season
40 meeting, we called it, which is usually late
41 September or early October. There might be,
42 though, a week or two break from the ending the
43 twice a week calls.

44 On the caucus side of things, we'll meet
45 before all of those panel meetings, often
46 immediately after those panel meetings. We often
47 caucus during those panel meetings. And the tech

1 committee meets usually Tuesday and Thursdays, and
2 so after the tech meeting on Thursday we often
3 hold a conference call of the caucus as well, to
4 prep ourselves for the Friday morning session.

5 So in-season that's generally the meetings
6 that we would have. There's other caucus meetings
7 that we hold in preparation. Like, for example,
8 we were meeting last week on some things, and
9 we'll hold those periodically through the spring,
10 but not on a -- not a formal schedule, but there
11 would be three or four meetings to get ourselves
12 into the start of the season in June.

13 Q All right. So you've beat me to the punch on one
14 of my questions, which is how often does the tech
15 committee meet? So that's good. Tuesday and
16 Thursday, you said?

17 MR. ROSENBERGER: That's in-season.

18 Q In-season.

19 MR. ROSENBERGER: And they also hold -- they'll be
20 meeting -- well, the tech committee meets during
21 the annual PSC total process, so that's one week
22 in January, one week in February. So they'll hold
23 meetings during that time. They typically hold a
24 two or three-day meeting in March, where they're
25 going through a number of their technical issues,
26 usually data-type issues. And then we'll hold a
27 one-week meeting, about four days, where two days
28 of tech and two days of panel, usually one in
29 April and one in June, or May/June, that kind of
30 thing, as we -- things like populating the model,
31 getting updates on some of the data we talked
32 about earlier here, of run timings, management
33 adjustment, in-season information, and trying to
34 confirm our pre-season model that we would use to
35 help to frame the Canada/US fisheries in-season.

36 Q All right. And just in terms of breaking up the
37 witnesses that have come for the first part of the
38 harvest management hearings, we have -- we will be
39 dealing with a lot of those meetings when Mike
40 Lapointe is here, so I've tried to let him carry a
41 lot of that burden and try and free you up to talk
42 about other things, so I haven't, so far, talked
43 about some of those processes during the pre-
44 season, but we will definitely be dealing with
45 that tomorrow.

46 In terms of in-season timing, you've said in-
47 season the panel meets two times a week and the

1 tech committee meets two times a week as well.
2 And then you talked about the caucus meeting
3 around those meetings.

4 The tech committee, I just want to understand
5 how that works. You have -- the tech committee
6 meeting reviews the technical data that's going to
7 be used for decision-making at the panel level; is
8 that right?

9 MR. ROSENBERGER: That's correct.

10 Q And so that meeting happens right before you meet
11 as a panel on the Tuesdays; is that right?

12 MR. ROSENBERGER: That's correct.

13 Q And then is there a longer meeting on Thursday?
14 Why is it Thursday/Friday? Why are they not on
15 the same day? Is it a longer meeting on Thursday
16 and a longer panel meeting?

17 MR. ROSENBERGER: We tend not to start the Tuesday
18 meeting until 10:00, 11:00, because we do it by
19 conference call. The Friday meetings generally
20 start -- we strive for 10:00, but we rarely start
21 on time, just in case you want to call in later
22 on. On the Friday session, there's not enough
23 time, generally, to get things together, and they
24 spend more time, I think, going through, you know,
25 model deliberations and things like that, to
26 understand the implications to them. So the end
27 of the week is generally the larger meeting, and
28 during the season we'll hold four to five,
29 sometimes six of those panel meetings in person,
30 so there's not an opportunity for staff to do
31 their work and get to those sessions and be lined
32 up for that.

33 MS. BAKER: Okay. Mr. Commissioner, what I was going
34 to do, next was go to some of the materials that
35 are used in-season, but I see it's at -- it's five
36 minutes to 4:00. I'm wondering if you want me to
37 start down that process? I can, but we are
38 probably going to get interrupted by four o'clock,
39 so what would you like to do?

40 THE COMMISSIONER: No, I think we should adjourn and
41 then we can get underway tomorrow morning.

42 MS. BAKER: Okay. These witnesses will be back on
43 Friday, but --

44 THE COMMISSIONER: All right.

45 MS. BAKER: But I think that will work well, because
46 we'll have Mr. Lapointe come in and talk about
47 some of the processes that Mr. Rosenberger just

1 talked about.

2 Now, before we close, though, I do have some
3 housekeeping notes I was making about -- so I
4 think we'll -- if that's fine with you --

5 THE COMMISSIONER: Yes.

6 MS. BAKER: -- we'll end with these witnesses for
7 today, thank you very much, and they'll come back
8 on Friday to continue.

9 There was some question in the room about
10 whether we had a -- that's fine. There was some
11 question in the room about whether there was a
12 counsel meeting scheduled for tomorrow morning,
13 and I understand there's not, just so if everybody
14 -- if anyone had any questions, we're just
15 starting our session at ten o'clock as normal
16 tomorrow.

17 And I wanted to let counsel know, as well,
18 that looking at where I am in my notes, they
19 should be ready to start cross-exam on Friday. I
20 think I'll be finished before lunch on Friday,
21 with Mr. Rosenberger and Mr. Grout.

22 And I also wanted to ask counsel if they
23 could talk to me about what their plans and timing
24 is for cross-examination, because we have two days
25 set aside for these witnesses on Monday and
26 Tuesday, and I'm sure they'll be half a day on
27 Friday available as well for cross-examination,
28 and immediately after these witnesses we'll move
29 to more of these panels that we have set up. And
30 if we're not going to need all that time, I would
31 kind of like to know sooner rather than later so
32 that I might be able to reorganize some of those
33 panels, as I'm worried a little bit about how much
34 time we have set aside for them.

35 So if people could get back to me as soon as
36 you can about what your expectations are, I might
37 be able to reorganize some of the panels to start
38 a bit earlier, if that's the likelihood.

39 So those are all my housekeeping matters for
40 today. Thank you.

41 THE COMMISSIONER: Thank you very much, Ms. Baker. So
42 I understand we'll adjourn until tomorrow morning.
43 And is it Mr. Lapointe who will be in the witness
44 box tomorrow morning?

45 MS. BAKER: That's correct.

46 THE COMMISSIONER: Thank you very much.

47 THE REGISTRAR: The hearing is now adjourned until ten

1 o'clock tomorrow morning.
2

3 (PROCEEDINGS ADJOURNED AT 3:57 P.M. UNTIL
4 TUESDAY, JANUARY 18, 2011, AT 10:00 A.M.)
5

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

14 _____
15 Patricia Kealy
16

17 I HEREBY CERTIFY the foregoing to be a
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.
23
24

25 _____
26 Irene Lim
27

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

Karen Hefferland

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